

John Austin Associates

Teignmouth Town Council

Investigation Report

Complaints by Mr J Prior and Councillor Robert
Phipps against Councillor Alison Eden

June 2020

Investigation Report

Teignmouth Town Council

Complaints by Mr J Prior and Councillor Robert Phipps against Councillor Alison Eden

1. Introduction

1.1 I was commissioned by Karen Trickey, Solicitor and Monitoring Officer at Teignbridge District Council, to investigate complaints by Mr J Prior and Councillor Robert Phipps against Councillor Alison Eden. Councillors Phipps and Eden are members of the Teignmouth Town Council. Mr Prior is a member of the public.

1.2 The combined complaints are as follows:

- (a) Councillor Eden entered into an altercation with Councillor Matthews and then Mr Prior using foul language in a very aggressive and irate manner following a meeting of the Town Council's Finance & General Purposes Committee on 12 November 2019.
- (b) Councillor Eden showed disrespect by swearing at Mr Prior twice in an aggressive manner in a public meeting.
- (c) She acted in an intimidatory manner by waiting for Mr Prior in a dark car park with an unknown gentleman not to apologise but to justify her behaviour.
- (d) She failed to treat Mr Prior with courtesy or respect.
- (e) She publicly insulted and embarrassed Mr Prior by telling him to "go f..k himself" in front of his wife, Teignmouth Council, its staff and members of the public.
- (f) Mr Prior was intimidated as a potential complainant by being accosted in a dark car park by Councillor Eden and one other person.

1.3 The Town Council's Code of Conduct was agreed in May 2015.

2. Summary of Findings

Below is a summary of my findings. They, together with reasons, are set out in more detail in section 10 of this report.

2.1 I find that the allegation in paragraph 1.2(a) above has been proven but only in relation to swearing at Councillor Matthews. There is no firm independent evidence to show that Councillor Eden swore directly at

Mr Prior. He was however in earshot of her words. (see paragraph 2.2 below). I have taken into account the upset and anger that Councillor Eden said she was feeling at the time but she ought to have been more controlled as a councillor in a public environment. There is sufficient evidence in this element of the complaint to show breaches of the Council's Code of Conduct as follows, but only in relation to Councillor Eden's exchange with Councillor Matthews

(a) Member Obligations

1. Failing to behave in such a way that a reasonable person would regard as respectful.

(b) General Obligations

- 6 (a). Failing to treat others with courtesy and respect.
7. (h) Behaving in such a way so as to give a reasonable person the impression that she has brought her office or the Council into disrepute.

2.2 With regard to paragraph 1.2 (d) above, Councillor Eden failed to treat Mr Prior with courtesy and respect by swearing in his company. Whether the exact expletives as alleged were directed at him is inconclusive but Councillor Eden's words were offensive and expressed at a public meeting within his earshot. I therefore find the allegation in 1.2 (d) above proven and a breach of Paragraph 6(a) of the Council's Code of Conduct (Failing to treat others with courtesy and respect).

2.3 I do not feel that the allegations in paragraphs 1.2 (b) and (e) have been sufficiently proven to justify a finding of a breach of the Code of Conduct.

2.4 I do not find any conclusive evidence to support the allegation contained within paragraphs 1 (c) and (f) above.

3. Terms of Reference

I conducted my investigation in accordance with the Town Council's Members' Code of Conduct dated May 2015 and Teignbridge District Council's Arrangements and Procedure for dealing with standards complaints under the Localism Act 2011.

4. Documents Reviewed

In the course of my investigation, I reviewed the following:

- (a) The complaints from Councillor Phipps and Mr Prior

- (b) The Town Council's Code of Conduct
- (c) Teignbridge District Council's Arrangements and procedure for dealing with standards complaints under the Localism Act 2011.

5. Evidence Gathering and Comments on the Report

5.1 I interviewed Councillors Eden and Phipps on 13th January 2020, and Mr Prior on 17th January – all by telephone – see paragraphs 6, 7 and 8 below. The contents of all three paragraphs represent what they told me during their respective interviews.

5.2 I also spoke to:

- (a) Councillor Andrew MacGregor – Teignbridge District Councillor
- (b) Councillor Peter Williams – Town Councillor
- (c) Councillor Ian Palmer - Town Councillor
- (d) Tracey Higgs – Parish Clerk
- (e) Councillor David Cox – Town Councillor
- (f) Councillor Andrew Henderson – Town Councillor

5.3 Councillors Eden and Phipps together with Mr Prior were sent copies of my draft report. Their comments are attached in Appendix 1.

6. Interview between myself and Councillor Eden - 13 January 2020

6.1 I began by asking Councillor Eden for her response to the allegations. She denied swearing at Mr Prior. She agreed that she swore at Councillor Matthews. She did not recall Mr Prior telling her not to swear as there were ladies present. She admitted to shouting at Councillor Matthews but she said she did not scream. She regarded him saying that she screamed as a sexist term. She certainly didn't scream in his face. Nor did she say "go and fuck yourself." She was adamant that such language was not within her vocabulary. She did admit to saying to Councillor Matthews "how fucking dare you..." The target of her anger and distress was Councillor Matthews. She said she was not going to cower to bullying behaviour.

6.2 I asked Councillor Eden if she had a conversation with Councillor Phipps before the Council meeting on 12th November. If so what was said? She queried why this was relevant. She said she sat next to him during the meeting. She said to me that his complaint was vexatious. He has history in her view. She said he posted a Britain First graphic of a dog dressed up to look like a Muslim woman on Facebook. He was interviewed by Devon Live. She told me that the local MP was suspended from the Conservative Party for racist comments. Councillor Eden said she therefore views Councillor Phipps' complaint as possible revenge for the Devon Live incident where he gave an interview saying the only thing he'd done wrong was have a sense of

humour. He blames her for Devon Live finding out about the post although it was, in fact, a different councillor.

- 6.3 I asked Councillor Eden if she waited for Mr Prior in the dark car park after the meeting (with an unknown gentleman) not to apologise but to justify her behaviour. Councillor Eden said that their car was parked immediately left of the door. She and Councillor MacGregor did not wait outside for Mr & Mrs Prior as alleged. She was waiting for Councillor MacGregor to move the car as it was close to the one adjacent and Councillor Eden couldn't access the passenger door. Mr Prior was shouting at her when he came out. She recalled saying to them that she was being bullied. It was absurd in her view for them to say that she was acting in an intimidatory manner.
- 6.4 I said that the allegations referred to the fact that her altercation with members of the public carried on into the hallway leading from the council chamber to the main doors and into the car park. I asked Councillor Eden if this was true. She said she didn't recall the altercation moving from one place to another. There is no CCTV coverage in the Chamber. She felt emotionally punched in the stomach. Mr Prior came out shouting at her. She said she was being bullied.
- 6.5 In conclusion, Councillor Eden said it was rubbish to say that Council staff left the room in order to be out of harms way. The only person in the Chamber at that point was Tracey Higgs. Councillor Eden said she feels strongly that this was a co-ordinated complaint linked to her status as a Liberal Democrat parliamentary candidate for the General Election campaign in a neighbouring constituency. She referred to the letter from Mr Prior in the local newspaper which was published during the election campaign and made accusations about her integrity. This potentially was an offence against Section 6 of the representation of the People Act which forbids allegations against candidates based on opinion. She was offended that her integrity as a candidate was called into question. She added that she understood he was asked by the Monitoring Officer not to go to the press. He did anyway. For this reason, she argued that the complaint should be regarded as vexatious. Councillor Eden said that Councillor Cox heard Councillors Phipps, Russell and Palmer saying "we've got her now" when he saw and overheard them in Teignmouth at a café some days later.

7. Interview between myself and Councillor Phipps – 13 January 2020

- 7.1 After his interview and having been consulted on the draft notes, Councillor Phipps clarified that he did not witness points (c) and (f) above within the complaint (the allegations relating to the car park altercation). See also paragraph 7.7 below. He confirmed that the other parts of the complaint were accurate in his opinion.

- 7.2 I asked Councillor Phipps to explain the sequence of events on 12th November and his reasons for making the complaint. He said that he sat next to Councillor Eden during the meeting. He asked how she was doing. She said she was very busy travelling for work. The meeting layout was a horseshoe. Councillor Eden was to the left of him with Councillor Matthews as chair two seats away to his right. He added that Councillor Eden wears a hearing aid so he tends to speak loudly to her. Councillor Matthews probably heard their conversation. The meeting discussed funding for the air show. He said that Councillors Matthews is chair of the air show committee and he is the vice-chair. Both he and Councillor Matthews declared interests in the item and sat in the public area. Councillor Eden spoke against the funding and the Council decided not to approve the grant.
- 7.3 After the meeting, he said that members sometimes have a chat and banter. Councillor Matthews said something to Councillor Eden which Councillor Phipps said he only heard part of. It was along the lines of “how did you get back from Switzerland?” Councillor Eden went ballistic and started swearing. A member of the public, Mr Prior asked her not to use bad language in front of his wife and in a public meeting. Councillor Phipps recalled Councillor Eden saying “fuck off “ to which Mr Prior replied “how dare you”. She then said “go and fuck yourself” In Councillor Phipps’ view, she was totally out of order. She brought the Council into disrepute. She should resign in his view. She said Councillor Matthews had threatened her and asked for the events to be filmed. He emphasised that he hadn’t spoken to Mr Prior before this incident. They are not friends or acquaintances.
- 7.4 Councillor Phipps reiterated that he didn’t really hear the conversation between Councillors Matthews and Eden. He thinks Councillor Matthews may have said something about a flight to Switzerland but he couldn’t swear to it. Councillor Matthews spoke quietly and didn’t raise his voice.
- 7.5 I asked whether he definitely heard Councillor Eden say the words “go and fuck yourself”. He replied “Yes 100%.”
- 7.6 I asked Councillor Phipps for his response to Councillor Eden’s claim that his complaint was vexatious (seeking revenge for her voting against the funding of the air show) and politically motivated to damage her general election campaign? He replied “No. She is totally wrong”. He said he never mentioned it in Council or during her campaign, including on social media. Mr Prior sent a letter to the local paper. Councillor Phipps stressed to me that he had no axe to grind with Councillor Eden.
- 7.7 Councillor Phipps said that he didn’t go out into the car park after the meeting. He could hear what was going on though. Mr Prior repeated to Councillor Eden that she had told his wife to fuck off in the hallway.

Councillor Phipps added that Tracey Higgs and the other council employees were not present for the whole of the time of the verbal altercation, only the start of it. To the best of his knowledge they left promptly at the start of the altercation. He said he recalled Councillor MacGregor coming back into the meeting room and saying that Councillor Matthews had bullied Councillor Eden. Councillor Phipps said he could hear an argument and shouting outside but could not make out who was making the noise and who was talking. In his words “all hell broke loose”.

8. Interview between myself and Mr Prior – 17 January 2020

- 8.1 I asked Mr Prior to explain the sequence of events on 12th November and his reasons for making the complaint. He said it was all to do with the air show. The build up to the one in 2019 had been problematic. He wasn't involved but it was played out in the press. Some Council members were against the show but it happened and it was a success. He volunteered for this year's show. The Committee applied to the Council for funding and he was interested in what the Council would do. He went to the meeting on 12 November as a bystander. Councillor Eden was very opposed to funding the show on environmental grounds. The meeting voted against the funding.
- 8.2 After the meeting, Mr Prior said he was talking to another councillor. He could see a group of councillors also talking. This included Councillors Eden and Matthews. There was no shouting and he didn't know what they were talking about. It then kicked off and Councillor Eden started screaming and shouting 'fuck off' a number of times. Mr Prior said that she lost the plot and her temper just three yards away from him and his wife. They just watched her for 10 to 15 seconds and then he said something to her along the lines of "please don't swear like that, there are ladies present". She told him to 'Fuck off'. Mr Prior said he then replied to her "you can't speak to me like that". She said in response "go and fuck yourself".
- 8.3 He recalled that Councillor Eden and her partner disappeared to another room. Councillor Matthews came up to Mr Prior saying that all he said to her was that we were going to put the outcome of the meeting on Facebook. He said he also asked her how she got back from Switzerland this morning. Mr Prior said Councillor Eden went off like a firework. He added that she spends half her life on a plane but she opposes air travel
- 8.4 Mr Prior said that everyone was shocked. He and his wife decided to go home. They went to the car park. Councillor Eden approached him and said aggressively she was being bullied. Mr Prior said that she couldn't speak to him in that way. He then subsequently read in the paper that he had been aggressive to her.

- 8.5 I asked Mr Prior if he actually heard Councillor Eden say the words “fuck off” and “go and fuck yourself”? He replied ‘Yes’.
- 8.6 I put it to Mr Prior that some people have said that Councillor Eden was provoked by Councillor Matthews after the meeting and he intimidated her by invading her space. I asked for Mr Prior’s comments. He replied that wasn’t true. As far as he was aware, Councillor Matthews did not invade her space. The comments he made to Councillor Eden were in a group.
- 8.7 I then asked what he would say to Councillor Eden’s claim that the complaint is vexatious (seeking revenge for her voting against the funding of the air show) and politically motivated to damage her general election campaign? From his point of view, he said he was clear that the complaint was not politically motivated. He said he personally is apolitical and not aligned to one political party. He has no political bias. So therefore he was not in his view politically motivated. If she hadn’t done what she had done after the meeting, nobody would have had reason to complain. His honest opinion was that she adopted a ‘best form of defence is attack’ approach. She is throwing shit in his opinion and some of it will stick. There was absolutely nothing wrong at the meeting. She has gone on the attack.
- 8.8 I asked whether, in his view, Councillor Eden’s expletives were aimed at him or Councillor Matthews. He replied that she definitely directed comments at him. He had no doubt about that. Previously, her initial swearing was not directed at him.
- 8.9 I asked whether Councillor Eden was on her own or in a group when Councillor Matthews approached her. Mr Prior replied that Councillor Matthews didn’t approach her individually – they were all in a group – they had been talking in the group for about 5 minutes. He couldn’t hear what they said but Councillor Matthews told him within minutes what he said to her.
- 8.10 I then asked what happened when he went out into the car park. He said that when you come out of the main door you are in a dark car park. Councillor Eden left the room within 5 or 10 minutes. In his view, she realised she had dropped a clanger. Mr Prior said that he never approached her. He didn’t want to speak to her. If he had wanted to do so, he would have followed her out the building. She wasn’t waiting for anybody – her partner was with her outside – not in her car. She said in the paper that Mr Prior had to be dragged away by his wife. He is 17 stone and an ex rugby player. His wife couldn’t drag him anywhere.
- 8.11 In conclusion, Mr Prior said that it was quite simple. He wasn’t in a room by himself with Councillor Eden. There were up to 25 people in the room. If she had apologised afterwards, that would probably have

been the end of it. Her comments in the press were mud throwing and lying. That's not right in his view. Thus the complaint.

9. Evidence Gathered

- 9.1 Councillor Eden admitted to shouting at Councillor Matthews but she said she did not scream. She feels that him saying she screamed was a sexist term. She said she certainly didn't scream in his face. Nor did she admit to saying "go and fuck yourself." She was adamant that such language was not within her vocabulary saying it was vulgar and common; she would never tell anybody to go and masturbate. She did admit to saying several times to Councillor Matthews "how fucking dare you..." He was the target of her anger and distress. Councillor Eden was supported by a witness who said she did swear but she did not say the words "go fuck yourself". She would in their view never use those words.
- 9.2 Councillor Matthews on the other hand testified that Councillor Eden told both him and Mr Prior to "fuck off". Mr Prior stated in his evidence that when he heard Councillor Eden swear he said something to her (along the lines of) "please don't swear like that, there are ladies present". He said she told him to 'Fuck off'. Mr Prior said he then replied to her "you can't speak to me like that". She said in response "go and fuck yourself". There was no doubt in his mind that Councillor Eden was swearing at him, albeit not initially.
- 9.3 Councillor Phipps recalled Councillor Eden saying "fuck off " to which Mr Prior replied "how dare you". He added that he was 100% sure she then said "go and fuck yourself"
- 9.4 One witness said that when Mr Prior and his wife approached Councillor Eden to say they were not happy with her conduct or swearing, she told them to fuck off or something along those lines. The same witness said they definitely heard Councillor Eden say "go fuck yourself" but this was in their view directed at Councillor Matthews and not Mr Prior. Councillor Matthews himself couldn't recall if her alleged words were directed towards him or Mr Prior. A second witness confirmed that, in their view, Councillor Eden told Mr Prior to "fuck off". Another witness said that they saw Councillor Eden go into Councillor Matthew's face swearing and saying how dare he criticise her. She invaded his space and used the 'f' word on several occasions. Councillor Cox tried to get between them. She said "go and fuck yourself" to Councillor Matthews. She was in his face. Another said that Councillor Eden was distressed and used the 'F' word but not towards Mr Prior. She didn't show disrespect towards him in their view.
- 9.5 All agreed that Councillor Eden swore during her exchange with Councillor Matthews. There is however disagreement as to exactly what she said and to whom she directed her comments.

- 9.6 The complaint also alleges that Councillor Eden acted in an intimidatory manner by waiting for Mr Prior in a dark car park with an unknown gentleman not to apologise but to justify her behaviour. It further alleged that Mr Prior was intimidated as a potential complainant by being accosted in a dark car park by Councillor Eden and one other person.
- 9.7 Councillor Eden refuted the allegations in 9.6 above. She said that she was standing in the car park whilst Councillor MacGregor moved his car so she could get in the passenger door. She denied waiting for Mr and Mrs Prior to appear. This was confirmed by Councillor MacGregor and one other witness.
- 9.8 Mr Prior said that he never approached her. He didn't want to speak to her. If he had wanted to do so, he would have followed her out the building. She wasn't waiting for anybody in his view. Her partner was with her outside. She wasn't in her car.
- 9.9 Councillor Phipps in his evidence said he could hear an argument and shouting outside but could not make out who was making the noise and who was talking. In his words "all hell broke loose".
- 9.10 One witness said that Councillor Eden did not pursue Mr Prior out of the building, adding that it was a misunderstanding on his part. If anything, Mr Prior pursued her. None of the other witnesses interviewed said they saw the events in the car park. One said that he heard raised voices.
- 9.11 Councillor Eden told me that Councillor Cox overheard Councillors Phipps, Russell and Palmer saying "we've got her now" when he saw and overheard them in Teignmouth at a café some days later. Councillor Cox in his evidence said that he saw the above councillors and one of them said something along the lines of "we've got her now" and "Sshh there's David". Councillor Cox said he got the impression they were gossiping about Councillor Eden but he couldn't be certain. One of the councillors concerned stated that he has never "gone out to get Councillor Eden" and he denied saying those words. Another said he had no recollection of that incident.

10. My Evaluation of the Evidence and Findings

- 10.1 Paragraphs 1.2 (a), (b) (d) and (e) in this report relate to those elements of the complaint that allege the use of foul language on the part of Councillor Eden towards Councillor Matthews and Mr Prior and a lack of courtesy and respect towards Mr Prior. They are:

- (a) Councillor Eden entered into an altercation with Councillor Matthews and then Mr Prior using foul language in a very aggressive and irate manner following a meeting of the Town Council's Finance & General Purposes Committee on 12 November 2019.
 - (b) Councillor Eden showed disrespect by swearing at Mr Prior twice in an aggressive manner in a public meeting.
 - (d) She failed to treat Mr Prior with courtesy or respect.
 - (g) She publicly insulted and embarrassed Mr Prior by telling him to "go f..k himself" in front of his wife, Teignmouth Council, its staff and members of the public.
- 10.2 There is no disagreement that Councillor Eden swore during the exchange with Councillor Matthews and in the company of Mr Prior after the Council meeting on 12th November. There is conflicting evidence however in terms of what she said precisely and to whom she was directing her words. She denied using the words "go fuck yourself" and witness testimony is not conclusive.
- 10.3 Councillor Eden was clearly angry and upset at his approach and the content of their conversation. She had undoubtedly endured a very difficult time previously with serious threats of violence against her and the consequent impact of that on herself and her daughter. I can understand her therefore being upset and reacting angrily if she once again felt threatened.
- 10.4 However this does not excuse the language she used in the aftermath of the Council meeting when councillors and members of the public were present. Swearing of any kind by a holder of public office in such a setting is not acceptable whether it is directed at a councillor, a member of the public or in the company of a member of the public.
- 10.5 Witness testimony is not conclusive on the content of Councillor Eden's altercation with Mr Prior. She certainly swore in his and other people's company. You could argue to a point that the words she particularly used are not totally important. She used offensive language. Whilst her saying "go fuck yourself" to Mr Prior is not in my view proven, the words she admits to using show a lack of courtesy and respect for those around her, including Mr Prior.
- 10.6 For the above reasons, I find that the allegation in 10.1(a) above has been proven but only in relation to swearing at Councillor Matthews. There is no firm evidence to prove that Councillor Eden swore directly at Mr Prior. He was however in earshot of her words and for a

councillor to use such language in a public setting after a Council meeting shows in my opinion a general lack of respect. I have taken into account the upset and anger she was feeling at the time but she ought to have been more controlled as a councillor in a public environment.

10.7 Therefore, with regard to paragraph 10.1(a) above, I find that there is sufficient evidence in my view to show breaches of the Council's Code of Conduct as follows, but only in relation to Councillor Eden's exchange with Councillor Matthews:

(c) Member Obligations

2. Failing to behave in such a way that a reasonable person would regard as respectful.

(d) General Obligations

6 (a). Failing to treat others with courtesy and respect.

7. (h) Behaving in such a way so as to give a reasonable person the impression that she has brought her office or the Council into disrepute.

10.8 In paragraph 10.5 above, I state that whilst the evidence does not prove the exact words spoken by Councillor Eden, and that there is no firm evidence to prove that Councillor Eden swore directly at Mr Prior, the words were offensive and were expressed in the company of Mr Prior, a member of the public. Any member who uses offensive language at a public meeting shows in my view a lack of courtesy and respect for those around them – in this case including Mr Prior. I therefore find the allegation in 10.1 (d) above proven and a breach of Paragraph 6(a) of the Council's Code of Conduct (Failing to treat others with courtesy and respect).

10.9 I do not feel that the allegations in paragraphs 10.1 (b) and (e) have been sufficiently proven to justify a finding of a breach of the Code. There is no firm evidence to show that Councillor Eden swore directly at Mr Prior or that she said "go fuck yourself".

10.10 Paragraphs (c) and (f) of the complaint relate to the following:

(c) Councillor Eden acted in an intimidatory manner by waiting for Mr Prior in a dark car park with an unknown gentleman not to apologise but to justify her behaviour.

(f) Mr Prior was intimidated as a potential complainant by being accosted in a dark car park by Councillor Eden and one other person.

10.11 I do not find any conclusive evidence to support the allegation contained within paragraphs (c) and (f) above. No independent witnesses have said that they saw or heard anything to corroborate these allegations. I have no doubt that some words were exchanged between Councillor Eden and Mr Prior but I do not believe that Councillor Eden acted in an intimidatory manner. I also find no conclusive evidence that Mr Prior was intimidated as a potential complainant by being accosted in a dark car park by Councillor Eden and one other person. Mr Prior, by his own admission, is 17 stone and an ex rugby player. I find it hard to imagine him being intimidated by Councillor Eden in the way alleged. With the lack of witness testimony, it is Councillor Eden's word against Mr Prior's. I therefore find no evidence of breaches of the Council's Code of Conduct in either instances.

June 2020