

Hoey Ainscough Associates Ltd

Supporting Local Governance

Dear Cllr Ralph

REPORT INTO THE GOVERNANCE OF CHILHAM PARISH COUNCIL

I am writing to you as chairman of Chilham Parish Council to send you the final version of our report into the workings and governance of Chilham Parish Council.

As you will see the report makes a series of recommendations for the Council as to how we think they can work more effectively in future. These are broadly in line with the recommendations we made when we fed back to the Council last month, although they do take accounts of comments made that evening.

I hope the report helps Chilham to move on and work more effectively in future. Can I reiterate how grateful we are at the frank and positive way in which everybody at Chilham engaged in the process and wish you the best of luck in the future. We would of course be very happy to help you further in the future should the need arise.

I am copying this letter and the report to Geoff Dear as clerk of Chilham and also to Terry Mortimer, the Monitoring Officer at Ashford Borough Council.

Best wishes

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Review of Governance of
Chilham Parish Council

September 2014 – February 2015

Natalie Ainscough & Paul Hoey - Hoey Ainscough Associates Ltd

Martin Dolton - Wilkin Chapman LLP

9 February 2015

Background summary

- 1.1 Chilham Parish Council is a council in the area of Ashford Borough Council. The parish council covers three settlements – Chilham, Old Wives Lees and Shottenden. It has 9 councillors who represent the entire parish as it is unwarded. The population of the parish is less than 2,000 people.
- 1.2 In common with many town and parish councils, Chilham Parish Council councillors do not represent political parties. The current council's term of office began in May 2011. The May 2011 elections were uncontested.
- 1.3 The Parish Council's Clerk is the only member of staff.
- 1.4 Relationships within the Parish Council have become strained over recent times, with difficult working relationships in particular between the majority of members and the Clerk on the one hand and a minority of members on the other hand. These relationship difficulties seem to have their origins in disputes around the way certain decisions have been handled, in particular the Parish Council's involvement on proposals for redevelopment of the main square in Chilham. The local Borough Ward Member is also critical of the way the Parish Council operates.
- 1.5 The minority group of councillors claim that the Parish Council does not follow proper process, act transparently or represent the views of the majority of residents. Their criticisms are made very forcefully and on occasions this has led to meetings being difficult to manage, becoming protracted and descending into strong disagreements as passions run high. The majority of councillors feel that this behaviour has made working relationships unmanageable.
- 1.6 This has at times resulted in complaints being made to the Monitoring Officer at Ashford Borough Council, Terry Mortimer, about alleged member misconduct in particular, and has also meant that the Parish Council has become frustrated in the way business is conducted and has sought to use procedures and policies to regulate the way the Council's affairs are run to minimise disruption. Mr Mortimer approached us initially in August 2014 to discuss whether we could assist him in supporting Chilham Parish Council and seeking to help them move forward more constructively and effectively. Chilham Parish Council agreed to accept Ashford Borough Council's offer of support and we were formally commissioned by the Borough Council to carry out this review in August 2014.
- 1.7 This review has not been about investigating any particular complaints or grievances, including any specific past incidents. Our focus has always been on working with the Parish Council to address the way they could operate more effectively in the future, not to adjudicate on things that may have happened in the past.

- 1.8 The review team consisted of three people – Paul Hoey and Natalie Ainscough, who are co-directors of Hoey Ainscough Associates Ltd, and Martin Dolton, a consultant with Wilkin Chapman LLP working on behalf of Hoey Ainscough Associates for this review.
- 1.9 Hoey Ainscough Associates Ltd was set up in April 2012 to support local authorities in managing their arrangements for handling councillor conduct issues and wider governance issues. The company was co-founded by Paul Hoey, who had been Director of strategy at Standards for England from 2001 until its closure in 2012, and Natalie Ainscough who had worked as his deputy.
- 1.10 Martin Dolton was until recently Town Clerk to a large Town Council, has investigated numerous cases of alleged breaches of the local government code of conduct for councils, conducted chief officer disciplinary investigations and undertaken training and conciliation with a particular emphasis on supporting the town and parish sector. Previously he was a former Police Superintendent who held senior posts in CID and Operations, lectured at the Police Staff College and conducted sensitive police misconduct investigations for other police forces in the UK.
- 1.11 In carrying out this review, we had the full cooperation of everybody that we spoke to at Chilham and we would like to thank them for the open and constructive way in which they approached the review and were willing to answer our questions and provide us with all relevant information we requested.

Methodology

- 2.1 Our proposal set out five aims:
- To review the Council's processes and procedures to ensure that the right tools are in place to allow the Council to operate effectively;
 - To understand what their underlying issues are and help the Council consider how they can work more effectively;
 - To help the Council's reputation through demonstrating that there is a culture of high standards and good governance;
 - To ensure there is a good understanding of the different roles of members and officers of the Council and that both can do their job effectively; and
 - To develop an action plan to help the Council resolve its difficulties and allow the Borough Council to monitor progress over time.
- 2.2 In order to carry out a review we divided our work into five phases. These five phases were:

- To have an informal discussion with representatives from the two different sides to understand the background to the Council and some of the underlying issues and ambitions of the Council;
- To carry out a confidential online survey of councillors and officers to get a greater in-depth picture of the Council and some personal perspectives on the key issues;
- To spend a day in the Council having individual interviews with councillors and officers to develop understanding of the key issues emerging and to spend time reviewing the policies and procedures and ways of working of the Council;
- To present some interim findings to the Council and invite discussion on those conclusions;
- To prepare a report and action plan for Chilham Parish Council and Ashford Borough Council setting out ways in which the Council could move forward.

2.3 The meeting for Phase One was held on 25 September 2014. The questionnaire for Phase Two was subsequently developed and open for responses through the autumn. In total, we had 8 responses to the questionnaire. We should note that these responses were all from one side of the divide.

2.4 We then spent the day in Chilham speaking to individuals as Phase 3 of the work on 11 December and Martin Dolton spent a separate day 'shadowing' the Clerk on 17 October. We also spoke to the Ward Member Cllr Marriott via Skype on 14 January. This was followed up by a presentation to the Parish Council for Phase 4 on 20 January 2015.

2.5 We should also note for the record that during December we received three unsolicited communications from residents of the parish who had attended a council meeting and felt that the behaviour of a particular member had been unacceptable and had caused significant disruption to the running of the Council. During the course of our review we were also copied in to a number of communications between the Ward Member, Ashford Borough Council and Chilham Parish Council about a number of issues.

Findings and Recommendations

3.1 Based upon the written and oral comments and responses which we received, Natalie Ainscough, Paul Hoey and Martin Dolton gave feedback to a meeting of members and officers of Chilham Parish Council, together with the Monitoring Officer and Deputy Monitoring Officer of Ashford Borough Council, Terry Mortimer and Colin Mawston, on the evening of 20 January 2015 as Phase 4 of the methodology set out in the section above. The Ward Member Cllr Marriott was unable to attend the presentation but did listen in to the presentation via Skype.

- 3.2 We indicated that we would then make detailed recommendations for the consideration of Ashford Borough Council and particularly Chilham Parish Council as Phase 5. These are set out in this report.
- 3.3 There is a high degree of consistency as to issues affecting Chilham Parish Council as identified in the responses to the questionnaire and the interviews we conducted at Phases 2 and 3.
- 3.4 In our view, the key issues are:-
- A breakdown in working relations between the two “sides”, characterised by mistrust, suspicion, disrespectful behaviour and an inability to have any constructive dialogue at some meetings;
 - The need to review some existing policies and procedures and how they operate
 - The need to review the Council’s approach to community engagement and setting of strategic priorities;
- 3.5 Having considered the information available to us, we therefore set out a series of recommendations and an action plan to address each of these issues in the sections below.
- 3.6 However, these recommendations should be seen in the light of our concerns about the way the Council will operate between now and when its term comes to an end in May 2015. We should place on the record the fact that we are aware that the Parish Council has undertaken much valuable work on behalf of the community and has been able to make decisions and consider issues of importance. However, although we have not attended meetings of the Parish Council, all the evidence we have seen points to a number of meetings being disrupted due to the underlying antagonism and challenges to the way the meetings are run. We did not feel the need to attend meetings to obtain confirmation of this as it was not within the scope of our work and we felt our presence would in any case change the dynamics. However, we accept fully comments we received from both sides of the Council that they feel, as currently constituted the Council is often finding it very difficult to run effective meetings ahead of any changes to its composition which may come about in May. We have therefore given a separate set of options which the Council should consider now to minimise disruption in the period up to May 2015
- 3.7 We therefore set out what we believe the Council needs to consider now to support it until the new Council is elected in May before making wider policy and strategy recommendations to help it build on its existing foundation and to improve governance arrangements of the Council post-May, with the aim to put it in a stronger position to consider the option of seeking ‘Quality’ status in future.

Options between now and May 2015

- 4.1 For reasons set out above we believe significant moderation to behaviour which disrupts meetings is required if the Council is to be able to run fully effective meetings even in the short period up to May. We therefore believe the Parish Council, in consultation with Ashford Borough Council as appropriate, has a series of options it should consider:
- It could decide to carry on as things are. There are only 3 more Parish Council meetings prior to the elections and the councillors may wish simply to see their term of office out on the basis that they have operated for nearly 4 years in the face of the current difficulties and managed to transact business, albeit in strained, stressful and unsatisfactory circumstances. However, that will not make meetings easy and we would be concerned if the levels of personal stress to individuals continued for any length of time.
 - The Council could decide to continue but with very limited agendas for all remaining meetings up to May on the basis that this will minimise the risk of disruption and antagonism. Those agendas could be limited to statutory and essential business only or areas where there will be unanimous agreement. This would be workable but may mean the Council was not carrying out its full functions and operating normally.
 - The Council could seek independent external support for its meetings. This could be somebody to chair the meetings or to support the chair to ensure business is conducted without inappropriate disruption. This could be achieved either by filling any casual vacancy arising by reason of resignation with a co-opted person who would then be able to vote and thus chair the meetings. Alternatively an 'honest broker' independent person could be co-opted as an additional non-voting member of the Council or somebody simply invited to attend meetings on an agreed basis to offer support and guidance informally. In this latter case, although the individual could not vote or chair the meeting, this person's presence and guidance could possibly assist in ensuring meetings are conducted with less disruption and therefore more effectively.
 - Given the stresses a number of councillors were feeling, they may be considering resigning en masse or in sufficient numbers to render the Council inquorate. In that case Ashford Borough Council would need to consider making interim appointments of persons to fill vacancies to enable it to carry out those minimum functions which could not be delegated to the Clerk until other councillors were elected to take up office.

Recommendation

- R1 The Council, in consultation with Ashford Borough Council if appropriate, needs to consider as a matter of priority how it will run its meetings between now and May 2015.**

Recommendations – governance framework

5.1 The following recommendations are made to reflect issues we picked up in our review which the Parish Council should consider putting in place regardless of the options above. We believe the Parish Council does generally have good arrangements in place and, if it were able to resolve the relationship issues, is capable of managing its affairs effectively. These recommendations therefore simply reflect recommendations for some improved practices which could be put in place rather than highlighting fundamental weaknesses in existing governance. As these options are for longer-term good governance we will leave it for the Council, in consultation with Ashford Borough Council and others where appropriate, to decide if it is necessary or possible to pursue any of these ahead of May or leave the issues as priorities for the incoming Council.

A. Policies and procedures

5.2 Overall, we found that Chilham Parish Council has the policies and procedures we'd expect in place and they were well maintained. In particular, the Council's standing orders and financial regulations, which are the key documents, are good, well maintained, accessible and up to date.

5.3 As part of our review, two policies were highlighted however which we do believe need to be reviewed. These were the 'grievance/disciplinary policy' and the 'need to know' policy. We have to reiterate we have not investigated how they may have been used in the past. Our focus has been on whether the policies are 'fit for purpose' for the future.

5.4 Looking first at the grievance and disciplinary policy, we did not think the Council was clear enough about which procedures it would invoke were there a grievance made either against the Clerk or against a member. There are basic statements set out in the Clerk's contract of employment about disciplinary procedures against the Clerk and grievance procedures should the Clerk raise or be subject to a grievance. These are fine as far as they go as broad terms and conditions. However, we did not see any evidence of any formal policy adopted by the Council as to how disciplinary and grievance procedures should work in practice. We therefore recommend that the Council needs to formulate and adopt a proper detailed grievance and disciplinary policy to ensure any issues are handled consistently and fairly in future.

5.5 In addition, we did not find any clear rules about what happens if a grievance is brought against a councillor. While the law is clear that if an allegation is made against a councillor that they may have breached the Council's code of conduct matters must be dealt with in the first instance by Ashford Borough Council, there is an overlap in the law between code of conduct matters, employment grievance issues and the Council's inherent powers to regulate its own affairs. The Council has a duty of care towards its employees and, if a grievance is raised by a member of staff against a

councillor or vice versa, the Council needs to be clear what steps it would take to address that grievance. It therefore needs to include this in any policy. The Council may wish to contact the Society of Local Council Clerks and the Kent Association of Local Councils who may be able to assist with developing a suitable policy.

Recommendation

R2 The Council needs to adopt a grievance policy which sets out clearly how grievances and disciplinary matters against staff are to be handled and also the procedure where a member of staff has a grievance against a member with a clear statement agreed by the Council of what is to be treated as a grievance and what is a code matter for Ashford Borough Council. This should be a priority for consideration and adoption by a new Council.

5.6 Concerns were also expressed to us about Chilham's 'need to know' policy. We need to state that of course it is entirely appropriate to have a policy which sets out access to information provisions. There will always be circumstances where a council is legally entitled to regard certain information as confidential. The law itself sets out grounds for certain business to be considered in private by the council and it is widely recognised through case law and elsewhere that not all councillors are entitled to see all information at all times, as some personal information for example has to be regarded as confidential unless there is a demonstrable need for an individual to have access to that information to carry out their duties.

5.7 We therefore think it entirely appropriate that Chilham Parish Council has a 'need to know' policy. However, we do not think that the Council's policy is articulated well enough so that all have a common understanding of where the boundaries of confidentiality and access to information might lie. The section in the Council's standing orders dealing with the need to know is a statement of principle but it does not constitute detailed guidance as to how it should be operated.

5.8 Again we are not commenting on how it may have been used in the past, but we recommend the Council needs to adopt a more detailed stand-alone policy on its approach to councillors' access to information so that all are clear where the boundaries lie and it can be applied consistently.

Recommendation

R3 The Council needs to review its 'need to know' policy to ensure it sets out in detail what information is to be treated confidentially, and who is properly entitled to information. This policy should be adopted as a priority by the new Council after May.

B. Meetings

- 5.9 We have commented above on how difficult some meetings have been to run because of the conflict in the meeting and the disruptive behaviour arising from this conflict. This section, however, looks more broadly at some good practice recommendations for future governance.
- 5.10 While meetings generally seemed to focus on the appropriate issues we would expect a council to focus on, we felt from a review of agendas that in some respects they could be more specific in outlining the detailed matters the Council were due to discuss. This would assist the community in deciding whether they wanted to attend any particular meeting and indeed take part in it. As a particular example, when the Council, in its role as statutory consultee on planning matters, was considering relevant planning applications, agendas simply tended to refer to these generically rather than listing which particular applications are to be considered at the meeting. We believe it would be helpful, where practicable, to list applications individually on the agenda as an aid to the community and on the council noticeboards and website so the public were aware of when they could attend and/or make representations to the Parish Council. Such lists may not be comprehensive at the time of publication but maybe a mechanism for updating (e.g. on the website) could be agreed and in any event some further information would still be a helpful addition in our view.

Recommendation

R4 Future agendas should, where practicable, include greater detail about specific issues to be dealt with under generic headings.

- 5.11 Another issue which came up during our review was the role of the Borough Ward Member in attending Parish Council meetings. A key aspect of a ward member's role in relation to parish councils includes drawing the parish's attention to any matters of relevance to the parish which may be under consideration at borough level, and in turn to receive representations from the parish on borough matters which he or she can feed into the borough.
- 5.12 Most parish councils have a specific slot on their agenda to allow the ward member to perform this two-way bridging role with the borough. Even where the ward member is also on the parish council, it is important to have this separate space on the agenda to differentiate between the role as ward member and role as parish councillor. We recommend that Chilham Parish Council should in future have a specific agenda item to allow the Ward Member to fulfil this role as ward member at meetings. We are aware that the Ward Member is critical of some Parish Council decisions and processes and this has caused resentment in some quarters. Therefore, we also recommend that an agreement is reached between the Ward Member and Parish Council so that both sides are clear what are matters for the Ward Member and what are matters within the jurisdiction of the Parish Council as we do not believe this has been clear in the past.

Recommendation

R5 The Council should have a specific agenda item to hear the views of the Ward Member on Borough issues and to allow representations to be made to the Ward Member. The Parish Council and Ward Member should also have an agreed understanding of each other's jurisdiction. These arrangements should be put in place as soon as possible in the life of the new Council.

B. Governance and strategy

- 5.13 The role of councillor, at whatever tier of local government, can be a difficult and daunting role, particularly to those who come new to the role. We would therefore expect all councils to provide comprehensive induction and ongoing development to councillors to support them in their job. Given the challenges and difficulties Chilham Parish Council has faced and the likely changes in the make-up of the Council, we believe it is even more important that they have a comprehensive training package for members which should be developed in consideration with the Kent Association of Local Councils, the Society of Local Council Clerks and Ashford Borough Council.
- 5.14 The areas we would expect to see covered in this training programme must include the following: understanding the role of a parish councillor; understanding the role of the clerk; understanding delegated authority and standing orders; chairing and meeting skills; understanding the code of conduct; and understanding financial regulations.
- 5.15 We would also expect members to undergo regular refresher training throughout their term of office. We believe that it is vital councillors have a full understanding of their roles and responsibilities before they start to discharge their functions, and, while training cannot be made mandatory, the Council should therefore consider what training members must undergo as soon as possible after their election. They should also consider what training they would require of members before they are allocated permanent seats on any committees to ensure members understand fully their role and responsibilities on a particular committee, though transitional arrangements would be needed to allow committees to function while a training programme is put in place.

Recommendations

- R6 The Council should, in consultation with Ashford Borough Council and others, have a comprehensive training and induction package agreed for the new council in May.**
- R7 The Council should agree a strategy for ongoing councillor development and consider the minimum training required before committee roles are allocated permanently.**

- 5.16 Training alone cannot of course ensure a councillor understands their role nor how to work collectively as part of a parish council to ensure the parish council operates effectively. Given the relationship problems within the Council at present, as well as the need to work towards greater consensus, the new Council therefore needs from the outset to have a proper understanding about how it will operate, an agreement about the way meetings will be conducted and an agreement about ensuring business is conducted with mutual respect. The Council should therefore adopt as a matter of priority agreed protocols about the way they will work together, acceptable levels of behaviour and a protocol outlining member-clerk relations and member-member relations.

Recommendation

R8 The Council should agree a series of protocols about how they will work together in future.

- 5.17 While Chilham Parish Council has achieved a number of key outcomes for the community over recent years, we consider that the Council should strengthen its relationship with the community by developing a shared vision and strategy for delivering priorities. It is always a difficult issue for any council at this level and with limited resources to ensure it is sufficiently strategic and engaged with its community, but we think it particularly important given current circumstances that Chilham is seen to have consulted widely on its priorities and to have engaged as fully as possible with the community about its work. Some of the underlying difficulties facing the Council stem from a concern on one side that the Parish Council is not sufficiently engaged with its community and has lacked a long-term vision. The Council should therefore consider how these concerns are best addressed – for example through one or a series of open days where the community are invited to help shape priorities and agree objectives.
- 5.18 Consideration should also be given with the community as to how parish council meetings could be better conveyed to the public to enhance understanding of the Council, for example through looking at how public attendance might be better encouraged or records of meetings be made more accessible. While Council minutes are already available and there can be costs attached to enhancing public access, there is strong encouragement from Government for councils to seek greater public participation. Our experience is that enhanced public accessibility both opens up a parish council further to its community and can also have a beneficial effect on the way people behave at meetings.
- 5.19 However, while it is vital to consult the public on priorities, the Council collectively will need to have ownership of these priorities so will separately need to develop an agreed plan setting out its strategic objectives and financial planning for its term of office.

Recommendation

R9 The Council should during the summer consider ways of engaging with the community to explain its work, to encourage greater participation and to better understand the needs and priorities of its community.

R10 The Council should have put in place a strategic plan for its term of office by the end of 2015, to be agreed by the Council collectively.

5.20 We believe that all councils should be aspirational and demonstrate to their public that they are working effectively. We think it is particularly important for Chilham Parish Council in future given the concerns that have been expressed by some about the way it has engaged with the community that it aspires to demonstrate its effectiveness. In our view there is no reason why, with its existing foundations, Chilham should not be capable of becoming an outstanding council for their size and receiving external validation for their work. We therefore recommend both that the new Council Chair (post-May) and Clerk actively seek opportunities to share best practice with outstanding councils in their vicinity. This, together with implementation of the recommendations in this report should lead to the Council seeking Quality Council accreditation to demonstrate that it is working to the highest quality standards.

Recommendation

R11 The Council Chair and Clerk should look to share best practice with outstanding local councils.

R12 The Council should investigate the process of seeking Quality Parish Status and embark on it at an appropriate stage of its implementation of the action plan.

D The future

5.21 The recommendations in this section have been aimed at a new Council from May which is able to move away from its current operational difficulties. We are confident that Chilham is able to do this. Indeed it must do so if it is to be able to be fully effective and remove the unacceptable stresses and disruption.

5.22 Of course if working relationships do not improve in a new Council, and if disruption and disrespectful behaviour continues or indeed worsens, further action will need to be considered. The Council will need to consider how it uses mechanisms such as the Code of Conduct to regulate its behaviour and to avoid the Council being brought into disrepute. Ultimately, however, the Borough Council may have to consider whether a formal community governance review could bring about the necessary changes, so it will need to continue to monitor the situation at Chilham Parish Council.

Recommendation

- R13** Ashford Borough Council should continue to monitor the situation at Chilham Parish Council. In the event that working relationships do not improve, or worsen, it should consider what further action should be taken to address the situation.

Appendix A

Summary table of recommendations

- R1** The Council, in consultation with Ashford Borough Council if appropriate, needs to consider as a matter of priority how it will run its meetings between now and May 2015.
- R2** The Council needs to adopt a grievance policy which sets out clearly how grievances and disciplinary matters against staff are to be handled and also the procedure where a member of staff has a grievance against a member with a clear statement agreed by the Council of what is to be treated as a grievance and what is a code matter for Ashford Borough Council. This should be a priority for consideration and adoption by a new Council.
- R3** The Council needs to review its 'need to know' policy to ensure it sets out in detail what information is to be treated confidentially, and who is properly entitled to information. This policy should be adopted as a priority by the new Council after May.
- R4** Future agendas should, where practicable, include greater detail about specific issues to be dealt with under generic headings.
- R5** The Council should have a specific agenda item to hear the views of the Ward Member on Borough issues and to allow representations to be made to the Ward Member. The Parish Council and Ward Member should also have an agreed understanding of each other's jurisdiction. These arrangements should be put in place as soon as possible in the life of the new Council.
- R6** The Council should, in consultation with Ashford Borough Council and others, have a comprehensive training and induction package agreed for the new council in May.
- R7** The Council should agree a strategy for ongoing councillor development and consider the minimum training required before committee roles are allocated permanently.

- R8** The Council should agree a series of protocols about how they will work together in future.
- R9** The Council should during the summer consider ways of engaging with the community to explain its work, to encourage greater participation and to better understand the needs and priorities of its community.
- R10** The Council should have put in place a strategic plan for its term of office by the end of 2015, to be agreed by the Council collectively.
- R11** The Council Chair and Clerk should look to share best practice with outstanding local councils.
- R12** The Council should investigate the process of seeking Quality Parish Status and embark on it at an appropriate stage of its implementation of the action plan.
- R13** Ashford Borough Council should continue to monitor the situation at Chilham Parish Council. In the event that working relationships do not improve, or worsen, it should consider what further action should be taken to address the situation.

