

Report to: Standards Panel

Date: 10 March 2021

Title: Hearing in relation to allegations that Cllr Gauntlett failed to comply with the Code of Conduct for Members

Report of: Monitoring Officer

Purpose of report: To outline the allegations against Cllr Gauntlett; and to set out the procedure for the Standards Panel hearing

Officer recommendation(s):

- (1) To consider the investigation report set out in Appendix 1.
- (2) To hear the investigator's findings and the submissions of the complainant and Cllr Gauntlett.
- (3) To determine whether Cllr Gauntlett did in any respect fail to comply with the Code of Conduct for Members; and, if he did so fail, whether to impose a sanction in respect of that failure.

Reasons for recommendations: To comply with the Council's Hearings Procedure for code of conduct matters

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1 Introduction

- 1.1 In accordance with s.28 of the Localism Act 2011, the Council has arrangements under which allegations that a Member has failed to comply with the authority's Code of Conduct can be investigated and decided.
- 1.2 These arrangements include provision for allegations to be assessed and, where necessary, formally investigated. The Council's Independent Person, a statutory appointment under the Localism Act, advises the Council at the required steps during this process.
- 1.3 The role of the Standards Panel, as a sub-committee of the Council's Audit and Standards Committee, is, on a referral from the Monitoring Officer, to hear and determine allegations that a member has failed to comply with the Code of Conduct.

2 Information

- 2.1 In June 2020, Karen Rigby-Faux, a member of the public, submitted a written complaint to the Monitoring Officer (MO) that Cllr Stephen Gauntlett had failed to comply with Lewes District Council's Code of Conduct for Members.
- 2.2 The MO followed the Council's Arrangements for Dealing with Complaints about Councillor Conduct. In consultation with the Independent Person, the MO considered that the complaint would, if proven, engage the Code of Conduct and that the serious and complex nature of the allegations merited formal investigation. In July 2020, the MO commissioned ch&i associates to conduct the investigation on her behalf. The investigator's report, based on extensive interviews and evidence gathering, is set out at Appendix 1. For data protection reasons, certain personal data has been redacted from this version.

3 Summary of Allegations

- 3.1 Ms Rigby-Faux alleged that between February and June 2020, Councillor Gauntlett orchestrated a malicious campaign against her which improperly maligned her character and caused her considerable anxiety. Ms Rigby-Faux also alleged that Councillor Gauntlett, while working with her on the committee of the Greenhavens Network, consistently failed to declare or indeed manage his various conflict of interests at various meetings; these included his being Chair of the Council, a Council observer on the board of 3VA and a Director of Seaford Community Partnership. Ms Rigby-Faux also complained that Councillor Gauntlett used his position on the Council and as Chair of the Greenhavens Network to improperly advantage himself and disadvantage both her and the Greenhavens Network.

4 Investigator's Recommendation

- 4.1 In light of their investigation, ch&i associates recommend that Councillor Gauntlett be found to have failed to comply with paragraph 6(a) of the Council's Code of Conduct because, in emails he sent on 3 April, 1 May, and 30 May 2020, he sought to improperly use his position as Chair of the Council to influence an internal dispute within the Greenhavens Network in a manner that advantaged him and disadvantaged Ms Rigby-Faux. The investigator does not, though, recommend that any other aspects of Ms Rigby-Faux's complaint be upheld.
- 4.2 The Council's Code of Conduct is set out at Appendix 2.

5 Supplementary Evidence

- 5.1 The Hearings Procedure permits the Subject Member (Cllr Gauntlett in this instance) to provide the MO with any evidence they wish to rely on at the hearing.
- 5.2 Cllr Gauntlett requested that the Panel be provided with a copy of the three emails (dated 3 April, 1 May and 30 May 2020) to which ch&i associates refer in paragraph 6.1 of their report, where they recommend that he be found to have

failed to comply with paragraph 6(a) of the Code of Conduct. Cllr Gauntlett considered it important for the Panel to know what question or event he was responding to in each case.

- 5.3 I consider that it would assist the Panel to see these emails and the associated threads. A copy of them is provided at Appendix 3, 4 and 5 respectively.

6 Hearing – Order of Proceedings

- 6.1 The order of proceedings for the Panel's hearing is set out at Appendix 6.

7 Scope of Panel's Determination

- 7.1 The scope of the Panel's determination is limited to the conduct of Cllr Gauntlett when acting in his capacity as a member of the Council (whether as Chair of the Council or as a Council member in any other capacity). It is in these circumstances that Cllr Gauntlett is bound by the Council's Code of Conduct. It is not the Panel's remit to consider his conduct in a personal capacity, for example when acting solely as a committee member of the Greenhavens Network, an organisation with which the Council has no formal links.
- 7.2 The Panel must seek and take into account the views of the Independent Person before it makes its decision on the allegations concerning Cllr Gauntlett.

8 Potential Sanctions

- 8.1 If the Panel determines that Cllr Gauntlett failed to comply with any aspect of the Code of Conduct, it may have regard to the failure in deciding–
- (a) whether to impose a sanction in relation to that failure; and
 - (b) what sanction to impose.
- 8.2 The factors the Panel should take into account before deciding on any sanction, and the actual sanctions they are permitted to impose, are set out in the Hearings Procedure at Appendix 7.
- 8.3 The Panel must seek and take into account the views of the Independent Person before it makes any decision on whether to impose a sanction and what any sanction should consist of.

9 Financial appraisal

- 9.1 The Panel's determination of the allegations against Cllr Gauntlett and the imposition of any sanctions is unlikely to involve any significant expenditure by the Council. Ch&i's fees (£8,300 + VAT) for carrying out the investigation, the Independent Person's fees in connection with the hearing, and officers' staff costs are met from the Council's corporate budget.

10 Legal implications

- 10.1 The legislative framework for local authorities' codes of conduct for members

and arrangements for dealing with alleged failures to comply is provided by Part 1, Chapter 7, of the Localism Act 2011. Both this report and the investigation report refer to the relevant parts of the Act.

11 Appendices

- Appendix 1 – Investigation report
- Appendix 2 – Code of Conduct for Members
- Appendix 3 – Cllr Gauntlett's email of 3 April 2020
- Appendix 4 – Cllr Gauntlett's emails of 1 May 2020
- Appendix 5 – Cllr Gauntlett's email of 30 May 2020
- Appendix 6 – Order of Proceedings
- Appendix 7 – Hearings Procedure

12 Background papers

The background papers used in compiling this report were as follows:

- Localism Act 2011, section 28:
<https://www.legislation.gov.uk/ukpga/2011/20/section/28>
- Arrangements for Dealing with Complaints about Councillor Conduct:
https://www.lewes-eastbourne.gov.uk/_resources/assets/inline/full/0/261279.pdf
- Investigations procedure: https://www.lewes-eastbourne.gov.uk/_resources/assets/inline/full/0/261281.pdf