



**Independent investigation into
allegations concerning**

**Councillor Stephen Gauntlett
of
Lewes District Council**

**Report into a complaint by
Ms Karen Rigby-Faux**

27 January 2021

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1: Executive Summary

- 1.1 On 15 June 2020, Ms Karen Rigby-Faux submitted a complaint to the Monitoring Officer at Lewes District Council ('the Council') alleging that Councillor Stephen Gauntlett had failed to comply with the Council's Code of Conduct for members ('the Code').
- 1.2 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.
- 1.3 We recommend that Councillor Gauntlett be found to have failed to comply with paragraph 6(a) of the Council's Code 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. We do not, though, recommend that any other aspects of Ms Rigby-Faux's complaint be upheld.

2: Councillor Gauntlett's official details

2.1 Councillor Gauntlett has been a member of the Council since May 2011. He is a member of the Liberal Democrat group and currently serves the Seaford Central Ward. Councillor Gauntlett was the Chair of the Council from 2017 until September 2020.

2.2 Councillor Gauntlett currently sits on the following Council committees:

- Audit and Standards Committee (Vice-Chair)
- Employment Committee
- Licensing Committee
- Licensing Sub-Committee
- Policy and Performance Advisory Committee

3: Relevant legislation and protocols

The Localism Act 2011

- 3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant Authority must promote and maintain high standards of conduct by members and co-opted members of the Authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity. For the purposes of this investigation, the relevant Authority is Lewes District Council.
- 3.2 Section 28 of the Act provides that the Authority must secure that its Code of Conduct is, when viewed as a whole, consistent with the following principles: - Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership.
- 3.3 Under 28(6) of the Act, Local Authorities must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made. By section 27(7), arrangements put in place under subsection (6)(b) must include provision by the appointment of the Authority of at least one “independent person” whose views are to be sought, and taken into account, by the Authority before it makes its decision on an allegation that it has decided to investigate. For the purposes of this investigation, the relevant Authority is Lewes District Council.
- 3.4 Section 28(11) of the Act provides that if a relevant Authority finds that a member or a co-opted member of the Authority has failed to comply with its Code of Conduct it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take.

Lewes District Council's Code of Conduct

- 3.5 Under Section 27(2) of the Localism Act, the Council established a Code of Conduct for members (the Code).
- 3.6 The Code adopted by the Council includes the following paragraphs:

3. General Obligations

(1) You must treat others with respect

(2) You must not-

(b) bully or harass any person

(Bullying means offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Harassment means unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)

6 You –

- (a) *must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage*

European Convention on Human Rights (ECHR)

3.7 Section 3 of the Human Rights Act 1998 (HRA) requires that primary and subordinate legislation must, as far as possible, be read and given effect in a way which is compatible with the Convention rights. By virtue of section 6, it is unlawful for a public authority to act in a way that is incompatible with Human Rights.

3.8 Article 10 of the ECHR provides:

Freedom of expression

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interest of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary

3.9 In considering these matters it is important to note the words of Collins J in the standards case of *Livingstone v The Adjudication Panel for England* [2006] EWHC 2533 (Admin) [at para.39]:

“The burden is on [the Adjudication Panel for England] to justify interference with freedom of speech. However offensive and undeserving of protection the appellant’s outburst may have appeared to some, it is important that any individual knows that he can say what he likes, provided it is not unlawful, unless there are clear and satisfactory reasons within the terms of Article 10(2) to render him liable to sanctions.”

We have provided relevant Case Law on Article 10 in Annex A

4: Summary of the Evidence Gathered

Our appointment

- 4.1 The Council's Monitoring Officer appointed ch&i associates to conduct the investigation into the complaints on 17 July 2020. This investigation was conducted by Alex Oram and Mark Hedges. Alex has been conducting member conduct investigations since 2003. He was previously employed by Standards for England as its principal investigator who was responsible for conducting many of their most complex, politically sensitive and high-profile investigations into member conduct. Mark has worked for ch&i associates since 2017; prior to this he was a Detective in the Police Service for 21 years. He has considerable experience in investigation, interviewing, report writing and dealing with confidential/sensitive information.

The investigation

- 4.2 During this investigation we have carried out interviews with Ms Karen Rigby-Faux, Councillor Stephen Gauntlett, Councillor Julie Carr, Councillor Steve Saunders, Councillor Matthew Bird and Mr Andrew Frost. We have considered documentary evidence supplied to us by the Council, Ms Rigby-Faux and Councillor Gauntlett; the main bulk of this documentary evidence was email communications. Following investigation, a draft report was issued to Councillor Gauntlett and Ms Rigby-Faux for their response. We received substantive comments from both and have reflected them in this report.

The complaint

- 4.3 On 15 June 2020, Ms Rigby-Faux submitted a complaint to the Council's Monitoring Officer about the conduct of Councillor Gauntlett. The focus of Ms Rigby-Faux's concerns centred on Councillor Gauntlett's role as Chair of the Greenhaven's Network. Ms Rigby-Faux stated in her complaint:

"This is a formal complaint against Councillor Stephen Gauntlett, whose conduct has failed to comply with the councillor codes of conduct standards and the seven principles of public life. The code of conduct applies to Stephen Gauntlett when acting as both in his capacity as a Councillor and as Chair of Lewes District Council. There are numerous occasions where Cllr Stephen Gauntlett has stated he is acting as both Chair of Lewes District Council and as Chair of Greenhavens Network, thus bringing LDC business and affairs into the business of Greenhavens Network and vice versa.

Cllr Stephen Gauntlett has targeted Karen Rigby-Faux over a sustained period of 4 months, deliberately slurring her character to numerous stakeholders in the community, systemically ruining her reputation with his malicious campaign against her. This has resulted in causing Karen Rigby-Faux considerable stress and anxiety, making her quite ill. Furthermore,

this misrepresentation of character has affected her working environment significantly, damaging relationships and Stephens's actions have resulted in Karen feeling isolated and excluded from her environment and the communities she normally works in. The continued bullying has resulted in Karen's job security being threatened, a deliberate targeted intention of Stephens all of which was to further his own political career.

This document highlighted why Stephen Gauntlett has failed to comply with the 7 pillars of public office, broken GDPR regulations as well as the LDC councillor code of conduct. He has not only systematically targeted and bullied Karen Rigby-Faux, he has also caused significant damage to people in the community and their relationships with each other. Destroying a community group and their relationships in order to meet his own ends is not in the best interest of the constituents he represents. Stephen deliberately set out to remove Karen Rigby-Faux from the lottery partnership and the Greenhavens Network in order to further his own political career, this was done in a targeted malicious systematic approach spreading numerous rumours to destroy Karen Rigby-Faux reputation."

4.4 Ms Rigby-Faux's allegations against Councillor Gauntlett can be summarised as follows:

- a. That over the four months from February up to the 15 June (when she made her complaint), Councillor Gauntlett orchestrated a malicious campaign that improperly maligned her character and caused her considerable anxiety. Councillor Gauntlett's bullying behaviour resulted in Ms Rigby-Faux's job being threatened and damaged the work of the Greenhavens Network; and
- b. That Councillor Gauntlett consistently failed to declare or indeed manage his various conflicts of interests at meetings of the Greenhavens Network. These included being Chair of the Council, a Council observer on the board of 3VA and a Director of Seaford Community Partnership.

4.5 During the investigation, we explained to Ms Rigby-Faux that the requirement for councillors to declare any personal / pecuniary interests only applies to meetings of the Council or its Committees; she maintained though that Councillor Gauntlett failed to declare the relevant interests when meeting with councillors on Council premises about the Greenhavens Network. She also asserted that he failed to manage his inherent conflict of interest and instead used his position improperly to advantage himself politically while disadvantaging both her and the Greenhavens Network.

Background

4.6 In May 2017, when Councillor Gauntlett became Chair of the Council, he announced that the theme of his chairmanship would be to encourage and affirm wildlife conservation, especially amongst young people.

- 4.7 From July 2017, Councillor Gauntlett worked with an employee of SCDA¹ on setting up a series of meetings loosely based on the idea of creating a network of local community groups who were volunteering to protect and develop green spaces in the area. Councillor Gauntlett told us at interview about how he became actively involved in the project; *“The theme of my chairmanship caused some eyebrow raising among the Council. I wanted to encourage and affirm wildlife conservation especially with young people. It took a while to find some way of expressing it. I got a few things kicked off, but not very much. During the first three months of my term, I worked closely with Theonie Outram, who is the Head Ranger for Parks and Open Spaces... In early July 2017 she held an event called ‘Marine and Clean’ in Newhaven. I went to the event, which was being jointly funded by the Council and SCDA. I got talking to SCDA’s project officer. Jessie Rodrigues and we began to realise that what she was up to, something she was loosely calling Greenhavens, was actually a direct way of expressing support for my theme. So we both said there would be mutual benefit in developing the Greenhavens, whose aim according to Jessie was to make friends of each of the green spaces in our area and create a club to provide mutual support to each other. The idea was to have a quarterly meeting with a speaker to encourage people. This was largely it. In the first year we did have some very good meetings. It was fairly informal, but we had talked about having a written constitution and so we involved a group called 3VA, who are a voluntary support agency. They started to draft a constitution; a bit like an angling club - no more sophisticated than that. This was the start of Greenhavens”*.
- 4.8 During the period relevant to this complaint, Ms Rigby-Faux was employed by ‘Idverde’², an international company who provide grounds maintenance services and landscape creation projects. As part of an ongoing contract that Idverde had with the Council, Ms Rigby-Faux carried out work on behalf of the Council as a Community Liaison Officer (‘CLO’). Her role primarily involved working with community groups in green spaces in the area. She was line managed by Mr Mark Taverner, an employee of Idverde. Idverde’s contract with the Council was overseen by Mr Andy Frost, the Council’s Parks and Cemeteries manager.
- 4.9 In January 2018, Idverde and the Council agreed that 10% of Ms Rigby-Faux’s time as the Council’s CLO could be spent on setting up what became the Greenhavens Network.³ Ms Rigby-Faux proceeded to community asset map and create/set up a network of groups with support from community group members, this included community asset mapping to find out who was operating in the area and whether they would like to be part of a network.
- 4.10 In June 2018, the Greenhavens Committee was formed. Councillor Gauntlett was appointed Chair and Ms Rigby-Faux was appointed as a member of the Committee. The rest of the Committee was made of Mr Gibbons (Secretary), Ms

¹ Sussex Community Development Association: a charitable organisation who support and run a range of community-based projects and services across East Sussex.

² Idverde are the parent company of Burleys.

³ In her evidence Ms Rigby-Faux’s initially said that Idverde had told her that she could spend 1-2 days a week on the project. In her comments on the draft report, she told us that they had agreed 2-3 days of her working week. While both differs from what we have seen in writing, it is common ground that Ms Rigby-Faux did commit at least 2-3 days a week to the project.

Gallagher (Treasurer) and Ms Paul. The Council did not provide any funding to Greenhavens or have any formal connection to it; this has been stressed throughout by Ms Rigby-Faux, who told us: “*Greenhavens Network conducts NO COUNCIL BUSINESS*”. Councillor Gauntlett did though donate part of his ‘Chairman of the Council’ discretionary fund which, alongside other funding, allowed a website to be created and maintained.

- 4.11 As the Greenhavens Network became established, Mr Frost informed Idverde that the Council was no longer prepared to allow Ms Rigby-Faux to dedicate any more of her time as CLO to supporting Greenhavens. On 30 January 2019, the Council’s Director of Service Delivery emailed Councillor Gauntlett to let him know that while Ms Rigby-Faux could still attend Greenhavens meeting, she would no longer be offering any other support as part of her professional role⁴. However Ms Rigby-Faux remained on the Committee and continued to support the Greenhavens Network.
- 4.12 In May 2019, Ms Gallagher and Ms Paul were both elected to Peacehaven Town Council; they both left the Greenhavens Committee around this time. By this time Mr Gibbons had sadly passed away, leaving Ms Rigby-Faux to take on the role of Committee Secretary. Ms Gallagher and Ms Paul publicly stated that they left the Committee due to being elected to Peacehaven Town Council.
- 4.13 During the summer of 2019, the Greenhavens Committee decided to secure some funding to employ a part-time coordinator. After agreeing to submit a joint bid to the National Lottery along with South Downs National Park Authority (SDNPA), Ms Rigby-Faux and Councillor Gauntlett met with Councillors Carr and Bird to obtain the support of the Council. Ms Rigby-Faux wanted permission to work on the Lottery bid as part of her role as CLO. The Councillors suggested that they meet with the two organisations who had been turned down - OVESCO and Transition Town Lewes - and they subsequently joined the Lottery bid.
- 4.14 In her complaint one of the allegations made by Ms Rigby-Faux is that that despite this being a Council meeting, Councillor Gauntlett did not declare a conflict of interest as both Chair of the Council and Chair of Greenhavens.
- 4.15 Councillor Carr, the Council’s Cabinet member for Waste Recycling and Open Spaces, told us that she first became aware of what Greenhavens were seeking to achieve in August 2019, when she met Ms Rigby-Faux at a conference on parks and open spaces. Councillor Carr said that she was impressed with Ms Rigby-Faux’s passion and knowledge. Councillor Carr said that she knew that Councillor Gauntlett was also involved with the project; she had not spoken with him about it though prior to their meeting about the Lottery Bid. Councillor Carr said that she and Councillor Bird (Cabinet Member for Sustainability and Biodiversity) were keen to get funding for various projects that particularly focused on sustainability.

⁴ Ms Rigby-Faux told us in her comments on the draft report neither her employer or Councillor Gauntlett told her that this was the case. She did though tell us that Mr Frost “*wanted me to try and get the group to be self-sufficient so that in my working capacity I was not spending as much time on it, whilst accepting that I could do what I wanted in a personal, voluntary capacity.*”

- 4.16 In October 2019 Hannah Shearman joined the Committee as treasurer; Ms Shearman was an employee of SCDA, however she joined the Greenhavens Committee in a voluntary capacity. Ms Hornsbury and Ms Pepper also joined the Committee around this time.
- 4.17 In November 2019, at Councillor Carr's request, Mr Frost told Idverde that Ms Rigby-Faux could dedicate up to four days of her contracted hours as CLO to work on the Lottery bid between then and February 2020.
- 4.18 Councillor Gauntlett confirmed that the change in the Council's administration had led to some important changes: *'When the [Council's] administration changed to the Alliance [July 2019], of which I am now a part, they produced a corporate plan which incorporated for the first time a separate thread on sustainability, the environment and green spaces. This thread was tailor made for Greenhavens as it was talking about the possibility of using a network group to steer the budget, rather than officers making decisions... I was pleased and felt that it offered Greenhavens the prospect of long-term stability.'*
- 4.19 Ms Rigby-Faux told us that Councillor Gauntlett's involvement with Greenhavens suddenly changed at this point. Whereas prior to this he had taken a very 'hands-off' approach to providing Greenhavens with any leadership, leaving all the organisation to Ms Rigby-Faux, he now started attending meetings with the Council, SDNP and the other lottery partners, Ms Rigby-Faux stated in her complaint: *"He could see that this lottery project had a lot of potential for the Greenhavens Network. I had no realisation at this juncture that actually it was about him furthering his own political career, to the detriment of the communities he represents and to the volunteers he works with."*
- 4.20 It appears common ground that the joint lottery bid, which successfully got through the first round of the process in January 2020, triggered a deterioration in the relationship between Councillor Gauntlett and Ms Rigby-Faux. Both told us that prior to this point, their working relationship had been good and their vision for Greenhavens aligned.

Stage two of the Lottery bid

- 4.21 Having successfully navigated the first round of the Lottery bid process (in January 2020), Emma Allen (SDNPA's Statutory Funding Officer) and Ms Rigby-Faux worked to ensure that the next part of the submission would be completed by 6 April 2020. In her comments on the draft report Ms Rigby-Faux clarified that she was given responsibility for heading up the Council part of the Bid and so it was her responsibility to understand and include what they wanted from it.
- 4.22 On 7 February 2020, Ms Rigby-Faux emailed Councillors Carr and Bird to ask them to clarify what the Council hoped to achieve from the Lottery bid. She made it clear that she did not have much time to get the bid prepared and asked for a response as soon as possible. When neither party made contact, Ms Rigby-Faux chased them for a response on 11 February 2020.

- 4.23 Ms Rigby-Faux told us that during this period the Greenhavens Network and its member organisations became concerned that the Council's vision for the Lottery bid no longer reflected what they had set out to achieve. Councillor Gauntlett emailed Councillors Carr and Bird (in his capacity as Greenhaven's Chair) to indicate their concern that Greenhavens' requirements, which he saw as central to the bid, were getting 'watered down' by the involvement of so many other organisations.
- 4.24 On 12 February 2020, Councillor Gauntlett texted Ms Rigby-Faux to let her know that Councillor MacCleary (the Leader of the Council) had told him that Mr Frost had spoken to him about the lottery bid and indicated that it felt like Greenhavens had '*parked its tanks on his lawn*' and that Councillor Gauntlett had reported finding [REDACTED] .
- 4.25 Ms Rigby-Faux replied to Councillor Gauntlett later that day to express the concern that there was problem with relations between Greenhavens and the Council. As part of this she referenced the lack of response from Councillors Carr and Bird to her emails, stating: *"If we rewind for a moment in time, Greenhavens were confidently working towards a reaching communities' application, having had the endorsement of our local lottery officer, Angie. We had no reason to go into this particular climate stream of funding other than we recognised working with SDNP gave endorsement and credibility to my work that I have developed and that we can achieve much more for our communities and biodiversity much more quickly by this climate fund being a catalyst for our groups. Furthermore, there was an existing strong relationship between the two original partners i.e. SDNP and Greenhavens. We as partners approached LDC amongst others to see if they would want to be part of the bid and to endorse some of my working week to support the bid. If LDC do not wish to communicate with me then I feel that we have a partnership/relationship breakdown and if unresolved I will need to communicate to that effect to the Greenhavens Network because at the moment I have gone out of my way, above and beyond to ensure members feel that LDC do endorse Greenhavens (which effectively is my work) as well as my own company [Idverde]. It now puts me an untenable position both going forward with my job, how do I say to them I'm spending all this time that they have endorsed for their client but the client won't communicate to me!!! and I question how the lottery bid develops as a result. I'm afraid, it is unacceptable to treat me in this manner and for reasons unfathomable to me, I think we need to talk about this."*
- 4.26 Councillor Gauntlett tried to reassure Ms Rigby-Faux that the political administration of the Council still supported Greenhavens being central to the Lottery bid. Emma Allen was also initially supportive toward Ms Rigby-Faux and suggested that things could be slowed down by their entering a development Lottery bid instead. Ms Rigby-Faux suggested that Greenhavens pull out of the bid altogether and instead obtain funding through a different route. She said that what had been a wonderful project was becoming toxic. She added that 3VA⁵

⁵ 3VA are a Voluntary Action organisation for the three districts of Wealden, Eastbourne and Lewes in East Sussex, they support and develop local voluntary groups and organisations in the three districts. They are partly funded by all three authorities and Councillor Gauntlett had been appointed by the Council as their representative on 3VA's Board of Directors.

(who had also become partners on the bid) appeared to have aims utterly at odds with the aims of Greenhavens.⁶

On 15 February 2020, Ms Rigby-Faux emailed Councillors Bird and Carr again seeking a response to her earlier emails. Councillor Bird responded the following day that he had been very busy and had been under the impression that Emma Allen from SDNPA was coordinating the bid. Ms Rigby-Faux told Councillor Bird that she was baffled by his response (because the Council had explicitly agreed that she could use some of her time as CLO to work on the bid. She also reminded him that the bid had been conceived by SDNPA and Greenhavens and they should therefore be seen as equal partners. She told Councillor Bird that she didn't understand why he would not engage with her so that she could carry out the role being asked of her within the bid.

- 4.27 It is evident that by mid-February, Ms Rigby-Faux's attitude was causing some concern to a few people (both officers and members) within the Council⁷. Councillor Gauntlett was initially supportive of Ms Rigby-Faux and he too had started questioning whether it was in Greenhavens best interests to remain part of the Lottery bid.
- 4.28 On 19 February 2020, Councillor Gauntlett texted Ms Rigby-Faux to let her know that Councillor Carr had phoned him to plead with him to keep Greenhavens involved in the lottery bid. He texted "*...the credibility of the bid falls apart without you/us. I think by 'threatening' to walk away (which Julie [Councillor Carr] said was very disappointing) we may have strengthened our position*". Ms Rigby-Faux responded "*I can't stress strongly enough, I need LDC to work directly with me, I need to be at the table, my company wouldn't understand it any other way.*"
- 4.29 On 20 February 2020, the Council's Strategy & Partnership Lead (Quality Environment) informed Mr Frost that she had met with Councillor Carr, Councillor Bird and Ms Allen about the Lottery bid. She told him that they had reported that Ms Rigby-Faux's conduct was hampering the progress of the bid; that she was difficult to work with and that her communications with councillors and partners were being perceived as aggressive. She asked Mr Frost to raise the matter with Idverde.
- 4.30 On 23 February 2020, Ms Rigby-Faux sent an email to all the community groups in the Greenhavens Network reminding them that there was a meeting to be held on 4 March 2020; asking for any further projects that they wanted included in the Lottery bid; and highlighting that a meeting had been scheduled for 4 April 2020 to decide the future of Greenhavens.
- 4.31 Ms Rigby-Faux also emailed the members of the Greenhaven Committee highlighting her concerns about the way the Lottery bid was progressing. She asked Committee members to consider whether Greenhavens should withdraw

⁶ Ms Rigby-Faux stated in her comments on the draft that she feels the presentation of this to be misleading – she wanted it noted that she was speaking on behalf of the entire Greenhavens Committee and key stakeholder groups, with whom she has consulted extensively.

⁷ It should be noted that it is not part of our role to comment on Ms Rigby-Faux's conduct or whether these concerns were justified; we simply refer to the fact that they existed.

from the bid and find their own funding to support the employment of a coordinator. Ms Rigby-Faux mentioned the possibility of the bid changing to a development bid, to allow for more time. In her email, she expressed the view that the Council had never supported the Greenhavens Network and of deliberately having her role redefined so that their support was withdrawn. Ms Rigby-Faux asserted that she had been bullied by the Council (and Mr Frost in particular) and appeared to advocate Greenhavens distancing themselves from both the Council and the Lottery bid.

- 4.32 Councillor Gauntlett replied to this email by confirming that the Council was deciding on its Corporate Plan the following evening and that each member of the Cabinet would need to explain what was planned; for sustainability and greenspaces, this would mean setting out what they might do if the Lottery bid was successful. Councillor Gauntlett acknowledged that he had been unable to shift the Cabinet members from their view that the bid was a Council and SDNP initiative, as opposed to what it actually was; a Greenhavens and SDNP bid. He confirmed though that despite this, the Council intended to use the Greenhavens model to provide an example to the rest of the District as to how communities can take more ownership of their greenspaces. Councillor Gauntlett confirmed that this left him in a rather odd position and suggested that the Greenhavens Committee move carefully over the next few days. He thanked Ms Rigby-Faux for focusing the Committee's thinking so clearly.
- 4.33 On 24 February 2020 Councillor Gauntlett emailed Ms Rigby-Faux to say that he had spoken with a representative of 3VA⁸, who were substantially funded by three local authorities including the Council. 3VA were concerned that, after a conversation with Ms Rigby-Faux, that they had not been supporting Greenhavens sufficiently; Councillor Gauntlett asked what the problem was. Ms Rigby-Faux said that she had already told him the problem; when she signposted groups to 3VA they often don't get any response.
- 4.34 On 25 February 2020 Ms Rigby-Faux emailed the members of the Greenhavens Committee to state that she was aware that Councillor Gauntlett supported Greenhavens remaining in the Lottery bid (because the Council were now framing their sustainability plans around it), that Ms Pepper was undecided, and that Ms Shearman wanted to 'see how it goes'. Ms Rigby-Faux confirmed that she was also undecided but that she would be able to make a decision following her meeting with Emma Allen the following day. She ended: *"We all seem to have accepted that Greenhavens model is being used to elevate various peoples egos and that we no longer have control over our destiny but if we still don't get the projects then there really is not point continuing especially if it is as a result of it heading Lewes way which isn't what our groups wanted from the outset. There is also the issue of my own personal health, I have been used and abused and now blackmailed and the pressure of the amount of work I have to do is horrendous. I'm not a machine that LDC can chain to my desk to churn out projects for them, especially as they have refused to engage with me, not speak to me but dictate from behind the scenes. I am feeling under enormous pressure*

⁸ Councillor Gauntlett is a Council observer at 3VA Board meetings, a position that was included in his Register of Interests but which Ms Rigby-Faux says was never disclosed to her or any members of the Greenhavens Network.

and it's affecting my health. I should never have to be treated like this and this raises questions for me as to my own job security following submission date."

- 4.35 On 27 February 2020, Ms Rigby-Faux wrote again to members of the Greenhavens Committee to say that she had met with Emma Allen and that there had been much discussion over the increased involvement of the Council into what was supposed to be a community led project. Ms Rigby-Faux stated that this had highlighted Councillor Gauntlett's unique position as Chair of both the Council and of the Greenhavens Network. Ms Rigby-Faux expressed concern that Councillor Gauntlett was now too conflicted to remain involved in the decision-making process; and that his potential elevation to a Cabinet position on the Council in May would only make it more difficult. (Ms Rigby-Faux was clear in her evidence that Councillor Gauntlett had told her and others that he intended on securing himself a Cabinet position once his terms as Chair to the Council had ended).
- 4.36 Councillor Gauntlett did not respond directly to Ms Rigby-Faux's email. He did though, on 28 February 2020, email Councillor Carr as follows: *"I am at a point now where if you see fit, I would be prepared for you to ask the contract manager to speak / write formally to Idverde to ask why their employee is behaving as if Greenhavens were their own personal fiefdom and bad mouthing LDC. She has sent me an email about the NL bid (which I think aligns perfectly with this administration's objectives) and using the personal pronoun all the way through tells me that I must 'step aside' from Chair of Greenhavens because of a conflict of interest and 'you are not in a position anymore to make a decision on our behalf'. Not only is this an insult to my integrity but on what authority is she saying this? Her employer who pays her salary through an LDC contract? She copied the Committee who don't know what to make of it. There is a terrible paradox because of the fantastic work she has and is doing (except on the bid where she seems to resent every partner) and now appears to want to bite the hand that feeds! It's come to a head because she left me a phone message last evening referring to LDC as a "political cesspit".⁹..is that what her employer wants I wonder? Obviously, I have no remit or authority to contact Andy Frost (assume it's him), but I will if you felt I should. Otherwise, I just intend to not respond to increasingly strange emails and messages! Hope you don't mind me "unloading"! I would be happy for you to forward this email to Andy if necessary."* In a follow up email to Councillor Carr, Councillor Gauntlett apologised for sending the above email to her personal email account. He also confirmed that his previous email had been sent wearing 'both hats', in his capacity as Chair of the Council and as Chair of the Greenhaven Network.

⁹ In her comments on the draft report, Ms Rigby-Faux pointed out that that during the same voice mail, which she left in a state of high emotion, she had informed Councillor Gauntlett that she had got her line manager's approval to remove herself from working on the Lottery Bid for the Council. She told us that she asked to be removed because she had a 'breakdown' as a direct result "of the conflict-of-interest LDC (Councillor Julie Carr, Councillor Matthew Bird and Councillor Steven Gauntlett) were putting on her".

- 4.37 Councillor Carr forwarded Councillor Gauntlett's email to Mr Frost, stating that she was concerned that Ms Rigby-Faux's increasingly erratic behaviour was distracting Emma Allen from her work on the Lottery bid. Mr Frost confirmed that he had been made aware of concerns about Ms Rigby-Faux's conduct from other parties and that he intended to tell Idverde that the Council no longer wanted her involved in the Lottery bid. Mr Frost subsequently forwarded Councillor Gauntlett's email of 28 February to Ms Rigby-Faux's line manager at Idverde. Mr Frost's accompanying email read: *'Please see below an email from one of our Councillors concerning unacceptable behaviour from Karen. This certainly does not help with the strong relationship we are developing between LDC and Idverde. I would be grateful if you could look into this as soon as possible please'*.
- 4.38 On 29 February 2020, Ms Rigby-Faux emailed Councillor Gauntlett as follows: *"I haven't had your thoughts yet on your position in the Committee on the project? We have a network meeting on Wednesday, and it is the appropriate time to bring this conflict to the members and protect your integrity and the committee. There have been some more developments which you may be aware of, that 3va are now asking for resources directly from the funding to support a staff member in the havens. This is at odds with what Greenhavens wanted i.e. to have a training budget and broker in services from the various providers as driven by the community need. There is then relationship issues to be considered with SCDA as funding 3va staff would change the dynamics of the relationships. I have raised this with SDNP who are now seeing SCDA next week to discuss further, however it raises yet again the partners within this project not understanding the communities we are working with and LDC imposing their preferred partners. 3va were brought into the partnership by LDC without any consultation with Greenhavens, they appeared at the table before Christmas offering support. This has now changed to wanting direct funding. As partners ourselves, it is increasingly clear that we don't have any influence over how this project develops and who are the partners, this is now completely led by SDNP and LDC. The dynamics of our position within the partnership has shifted considerably and we are there to merely provide the community projects, which is fine providing it doesn't cause conflict to our existing relationships. LDC have clearly indicated that they do not want to work with Greenhavens or Idverde directly. Having discussed this at length with my own line manager, he is of the view, if LDC don't want to work with Idverde, then I should step back from the project as they don't want our services. The way this has developed has put considerable strain on our relationships and Idverde cannot be put in this sort of situation. To Idverde, it is as simple as they offered a service (my time) and that if LDC don't want to work with us then the service is no longer required. SDNP are considering just putting in for a development grant to fund a full time post to work these projects up as they don't have the time to cost these projects that are coming forward. This would be hosted by them and would work across the partners to develop the projects more fully over 12 months, ironically you would think that LDC would provide some resource to support or perhaps the other partner TTL. This is something that would have to be discussed with committee and the network as to whether we want to continue in this partnership and how that works going forward. The rapid developments of the last few weeks and how SDNP has managed the relationships has been very damaging to Greenhavens and Idverde and most of that can be placed at LDC door handling of this. I look*

forward to hearing from you in regard to your conflict of interest scenario and how we manage that before we have our network meeting on Wednesday.”

- 4.39 Councillor Gauntlett replied that there was no conflict in his Chairing both the Council and Greenhavens; that the Council intended on having formal discussions with her employers about her recent behaviour; that the Lottery bid was going ahead regardless, and he did not want Greenhavens to miss out on what was a massive opportunity for them. His email ended: *“I cannot stress enough that the incoming LDC administration sees Greenhavens as a key partner. LDC does want to work with Idverde but will not be told what to do by one of their employees who is ultimately paid through the contract between LDC and Idverde. I had not intended to reply to you until I had had more conversations with LDC especially as you left me a voicemail describing LDC as “a political cesspit”. I am the Chair of LDC and am not prepared to have it described as this. I don’t intend to enter into email exchanges this weekend but in my opinion, it would be unnecessary and ill advised to bring the “conflict” as you describe it, to the attention of the network at the meeting on Wednesday”.*
- 4.40 On 2 March 2020, Emma Allen from SDNP asked for the views of the Greenhavens Committee about changing the Lottery bid to a developmental bid. Councillor Gauntlett responded in favour of this change and questioned whether Greenhavens were sufficiently progressed as an organisation to handle the finances or whether it would be prudent to make them a Community Interest Company. Ms Rigby-Faux responded that the other three members of the Greenhavens Committee also agreed, subject to some clarifications about whether Greenhavens would remain a main partner and whether they could still influence how the bid looked; both of which were confirmed by Emma Allen to be the case.
- 4.41 On 2 March 2020 Councillor Bird emailed Councillor Carr, Mr Frost and Ms Allen about the concerns raised in relation to Ms Rigby-Faux: *“Julie [Councillor Carr] and I spoke on the phone on Friday about this situation and I hope this email represents our shared response. It’s really sad this has arisen and I am confused as to why it has got so toxic and personal. If it is possible I think we need to separate Karen’s contractual work with LDC from her input/work on the climate bid. Obviously this is tied up with her Greenhaven’s role also. At this moment in time as far as I’m concerned our priority is the success of the bid and I think this may well be sabotaged if Karen is removed from the bid. Our involvement with the bid was intended to help facilitate broader partnership working and the strongest submission possible. I don’t doubt that Karen would promote this entirely the other way if she is removed from the process.”* Councillors Bird and Carr suggested that they arrange a meeting with Ms Rigby-Faux to discuss how all parties might move forward.
- 4.42 The following day Ms Rigby-Faux’s manager at Idverde emailed Mr Frost: *“Karen spoke with me in length last Thursday (27.02.2020) and again yesterday (02.03.2020) expressing her concerns and I asked her to withdraw from the bid until I had spoken with LDC about the matter. Karen expressed that she did not want to continue with it anyway and requested a sensitive but quick withdrawal (02.03.2020)”.* Mr Frost acknowledged the email and asked what Ms Rigby-

Faux's intentions were regarding Greenhavens: *"As you are aware, Karen's involvement with this group was only intended as short term, whilst the group was set up."*

- 4.43 Mr Frost updated Councillor Carr, Councillor Bird and Emma Allen. Emma Allen asked if Councillor Gauntlett was aware as she wanted to ensure that Greenhavens still played a central role in the Lottery bid and that she would discuss how best to do that with Councillor Gauntlett. She added: *"Note that all other parties involved are happy to go for development funding. For info I've pasted below the rationale I sent to the Greenhavens committee last night, which they have all agreed with and SDNPA will prepare a suitable statement for Karen to take to the network meeting about it tomorrow"*.
- 4.44 On 5 March 2020 Councillor Gauntlett emailed the Greenhavens Committee stating that he had taken advice from friends with a deeper understanding of how community projects prosper in the long term and he felt that the size of the Committee should be increased, adding governance and an advisory capacity. Councillor Gauntlett said that he felt that this should be done before the Committee's AGM and therefore wanted the visioning day to be postponed. Ms Rigby-Faux responded that she disagreed with cancelling¹⁰ the visioning day that Greenhavens Network should be led by its community. The following day Ms Judy Pepper replied that she also thought the visioning day should go ahead.
- 4.45 Ms Rigby-Faux saw this as the point where it became clear that Councillor Gauntlett was no longer acting in the best interests of the Greenhavens Network, because he clearly had no further interest in discussing what its members wanted from the Lottery bid. In her comments on the draft report, she stated (with her emphasis) *"Councillor Steven Gauntlett cancelled the workshop **WITHOUT the consent of the committee** who disagreed to the cancellation without any consultation as they felt the community groups should have a voice, furthermore the key stakeholder groups wanted it to go ahead thus complying with the constitution. Councillor Steven Gauntlett stated that a new committee should set the direction of Greenhavens, this was following a meeting he had with SCDA and 3VA and SDNP and was the first anyone had heard of this new idea considering he had helped organise the vision workshop in the first place, it therefore came as a huge shock. The investigator does not make this clear in this summary point. **IT WAS NOT JUST [Ms Rigby-Faux]** that disagreed with the cancellation, it was a number of community groups and the Greenhavens committee, Ms Rigby-Faux was just doing her job as secretary."*
- 4.46 On 9 March 2020, Councillor Gauntlett emailed the Greenhavens Committee to confirm that he had identified some volunteers who were willing to join, though he commented that a conflict between Greenhavens and the Council, and Ms Rigby-Faux's insistence that councillors be excluded as potential members, would not help the situation. Ms Rigby-Faux told us that at this time Councillor Gauntlett also asked her to step down as Committee secretary. In her complaint

¹⁰ In his comments on the draft report, Councillor Gauntlett told us that Ms Rigby-Faux's reframing of his suggestion – from 'postpone' to 'cancel' – demonstrates her intent to paint him as having no interest in discussing what Network members wanted from the Bid. He told us that this was her assumption and not fact.

she stated that Councillor Gauntlett wrote to members *“From the Chair, I am asking that there is vote of confidence as to the impartiality of Karen Rigby-Faux to best represent the future wellbeing of Greenhavens. It is beyond doubt that her immense hard work has advanced the cause and profile of Greenhavens immensely, even beyond expectations but her recent interventions have caused much questioning and I feel that the time is right to take stock”*

4.47 During this period, Councillor Gauntlett and Ms Rigby-Faux¹¹ also had a disagreement over the role played by Hannah Shearman on the Committee after Ms Shearman had indicated that she would in the future be representing her employer’s¹² interests on the Committee. Ms Rigby-Faux told us: *‘Hannah works for SCDA but she was on the Committee in her personal capacity, however once it became clear that SCDA were involved in the [Lottery] bid she told us that she was now representing SCDA on the Committee and insisted on using her SCDA email address and phone number. I told Hannah that she had not been voted onto the Committee in her professional capacity and she then stood down from the Committee. This caused issues amongst the committee as Lizzie¹³ felt that Hannah should step down, but Judy was upset about it. Hannah had insisted she knew nothing about the new Lottery bid or that her company were going to be receiving substantial amounts of money from it. I have since seen emails from Councillor Gauntlett to the Chief Executive of SCDA and Hannah which indicate that she was aware of this fact.’*

4.48 At interview Councillor Gauntlett told us: *‘This all happened when the details of the bid came out that showed SCDA were involved. Karen wrote to the Committee saying that we should not communicate with Hannah (the Treasurer who works for SCDA) because she has too much interest in the bid. I felt this was weird. I could not see how this made any difference at all to Hannah being there. SCDA were a member of Greenhavens and Hannah was there with her boss’s blessing. Hannah had been told by her boss to be on the Committee as a representative of SCDA as opposed to in her private capacity. I thought this was fine. It had been written into the development bid that SCDA would manage the post that the bid would fund at Greenhavens.’* This issue resulted in Hannah Shearman resigning from the Greenhavens Committee.

4.49 On 11 March 2020, Councillor Gauntlett met with Ms Rigby-Faux’s line manager from Idverde so that he could share the *‘political cesspit’* voicemail with them¹⁴.

4.50 On 16 March 2020, Councillor Gauntlett emailed Andy Frost to tell him that he had met with Ms Rigby-Faux’s line manager at Idverde. He told Mr Frost that Ms

¹¹ In her comments on the draft Ms Rigby-Faux again states that she is only acting on the wishes of most of the Committee and Greenhaven’s member organisations.

¹² SCDA

¹³ Lizzie Hornsbury had recently become a member of Greenhavens Committee,

¹⁴ Mr Frost told us at interview that following his earlier email expressing concern about Ms Rigby-Faux’s conduct, Idverde had requested a copy of the answerphone recording. Mr Frost said that he contacted the Council’s Information Governance Manager to see if the message could be passed on; she confirmed that it could. Mr Frost said that he then contacted Councillor Gauntlett and he agreed to provide it to Idverde. Mr Frost was clear that it was Idverde who sought the information and that they instigated the meeting with Councillor Gauntlett.

Rigby-Faux had called an emergency AGM of the Greenhavens Network for 6 April 2020, with the intention of ensuring that the Greenhavens Network had a new Committee without members who were also involved with the Council or SCDA.

- 4.51 Mr Frost replied that he intended to write to Idverde very soon to make it clear that she should no longer be involved with Greenhavens or the Lottery bid in a professional capacity. He pointed out though that this did not stop her continuing with Greenhavens in a voluntary capacity. Councillor Gauntlett replied to confirm that he had blind-copied Ms Rigby-Faux's manager into his previous email, commenting that she was trying to remove him.
- 4.52 On 31st March 2020, Ms Rigby-Faux sent an email to Emma Allen to remind her that the deadline for the Lottery bid was approaching and that no one from the Greenhavens Committee had been able to review it. Emma Allen confirmed that she had been liaising directly with Councillor Gauntlett on the matter as Chair of Greenhavens.
- 4.53 Ms Rigby-Faux asked to be sent a copy of the draft bid, telling Ms Allen that Councillor Gauntlett did not have authority to represent the Greenhavens Network; that he had numerous conflicts of interest; and that many of the community groups in the Network were not happy with him.
- 4.54 Ms Allen responded to confirm that Greenhavens were at the heart of the bid and that Councillor Gauntlett had indicated that they were happy with it. Ms Allen added that Councillor Gauntlett had told her that Ms Rigby-Faux was no longer involved in the Lottery bid and therefore she suggested that Ms Rigby-Faux contact Councillor Gauntlett for further information. When Ms Rigby-Faux said that she intended to inform all the Network community groups that the Lottery bid application was going to be submitted without their input, Ms Allen asked her not to cause unnecessary alarm and again suggested that Ms Rigby-Faux discuss the matter with Councillor Gauntlett.
- 4.55 Councillor Gauntlett, who had been copied into the above email exchange, responded that his priority now was working with Emergency Team Covid. He did express the view though that Greenhavens remained at the centre of the bid and that he had signed it off on behalf of the Greenhavens Committee because he had been informed by Mr Frost that Ms Rigby-Faux was no longer working on it.
- 4.56 Ms Rigby-Faux asked Councillor Gauntlett to circulate the Lottery application properly so that all interested parties could see it. Councillor Gauntlett sent it to Committee members late on 3 April 2020; he also informed members of the Network that Ms Rigby-Faux had stepped back from her role with the Lottery bid.
- 4.57 On 3 April 2020, Ms Rigby-Faux emailed members of the Committee to express the view that the application was not representative of the proposal Greenhavens had sent to its members. She also made the point that Councillor Gauntlett had not been authorised to sign the bid off on their behalf as he had not consulted with the Committee. She said that in her view Councillor Gauntlett's actions

demonstrated that his focus was on securing what was in the best interest of the Council rather than on doing what was best for the members of the Greenhavens Network.¹⁵

- 4.58 Ms Rigby-Faux also made it clear that while she had stepped away from the Lottery bid in her professional capacity as CLO, she had not done so in her voluntary capacity as secretary to the Greenhavens Committee. Ms Rigby-Faux went on to assert that Councillor Gauntlett had repeatedly failed to attend meetings of the Greenhavens Committee or engage with them electronically and that she was disappointed at the way he had treated her both personally and professionally.
- 4.59 In response to this email, Ms Pepper resigned as a Greenhavens Committee member; this left only three remaining (including Ms Rigby-Faux and Councillor Gauntlett). In her resignation email, Ms Pepper said she thought that Councillor Gauntlett had consulted with the Committee before the Lottery applications was signed off and that it appeared to be an excellent bid. Ms Pepper did though stress that the Greenhavens Network would not be where it was without the tireless efforts of Ms Rigby-Faux. Ms Rigby-Faux responded to Ms Pepper's resignation by writing that she understood, and she hoped that once a new committee could be formed this would restore her faith in Greenhavens. Ms Pepper did agree to continue working on the Greenhavens website.
- 4.60 On 3 April 2020, Ms Rigby-Faux emailed Ms Emma Allen to let her know that there were errors in the Lottery bid, both with regards to the Network's proposed projects and its stated history. She pointed out that there was no employee post for Greenhavens in the bid, which was the reason for Greenhavens entering the bid process in the first place. Ms Rigby-Faux also pointed to governance concerns within Greenhavens that meant that she could not consider it as 'approved' by the Greenhavens Committee. She stated that further consultation with their members was required.
- 4.61 Ms Allen replied that the bid had to be submitted within 48 hours; that it was a developmental bid only and that any niggling errors could be sorted out later. Ms Allen explained that employee posts would be established in the developmental phase, stating: *"there will obviously need to be a role to support the delivery of the Greenhavens elements – but whether that post can be hosted by Greenhavens relies on Greenhavens being an entity that is in a position to host staff. This is something that I have been informed is not the case at present.* Ms Allen said that the information about the origins of Greenhavens had been given to her by Councillor Gauntlett and Penny Shimmin (Director of SCDA); that she had tried her best to make sense of the information Ms Rigby-Faux had sent her (much of which she found incoherent) and bring it together in a meaningful way to everyone's satisfaction. Ms Allen finished by stating that Ms Rigby-Faux's unpleasant attitude towards her and other people in the project was making her

¹⁵ In his comments on the draft report, Councillor Gauntlett stressed that *"the bid was signed off by me on the basis that it was NOT the final bid but the Development phase and that members of Greenhavens (there is no formal membership - the Committee is their representation), would be involved fully in the process of working up the final bid through 2021. The Greenhavens Committee was below its constituted strength at the time."*

ill and she asked that Ms Rigby-Faux stop contacting her both personally and professionally.

- 4.62 Councillor Gauntlett, who had been copied into the above email trail, forwarded it to Councillor Carr, Councillor Bird, Idverde and others. Councillor Gauntlett wrote: *"I need to echo what Emma has said. I have had discussions this morning with several people who feel most upset with the attitude Karen is taking towards this bid and towards me personally. As Chair of Greenhavens I am clear that there is no time for further amendments. The Committee is presently dysfunctional due to two overnight resignations caused in part by Karen's recent interventions. After the bid is submitted, I will meet with the other partners to consider how best to regroup the Greenhavens Network. For example, I have been contacted by individuals who are immediately willing to join the Committee but not with Karen exercising her present interventionist role. I have copied the Chief Execs of SCDA and 3VA because I am not prepared to see this first class bid jeopardised, together with the LDC Cabinet Members. Because I'm not sure how all this relates to Karen's present furlough from Idverde, I am copying them for information. This is a fundamental and critical bid and I write this wearing both my Lewes District Council Chair and Greenhavens Chair hats."*
- 4.63 Councillor Gauntlett told us at interview: *'There was only about a week between Karen not working on the bid anymore and the bid details being announced, but during this time I was making decisions on behalf of Greenhavens. I was aware that SCDA had been installed in the bid to manage the employee posts that were proposed, but I did not see this was an issue because again it was a development bid only and not the whole bid, so there was time to consult with members about the details. My feeling is that Greenhavens is a loose affiliation of like-minded people and it is not a common voice. I feel it is unlikely that every group will agree to a particular course of action. I know that Karen believes that many of the members of the Greenhavens Network did not like SCDA. I think this would be hard to prove. SCDA is the nursery for start-up ideas in the voluntary sector. They started Greenhavens. Putting SCDA into the bid was a good thing. They have a proper board with directors. It was only when they were placed into the bid that Karen took offence at them.'*
- 4.64 In response to reading this in the draft report, Ms Rigby Faux stated: *"KRF removed herself from the lottery bid on 28 February. The bid was submitted on the 6 April. KRF remained as secretary of Greenhavens during this time. KRF did not at any time take offence to SCDA; the community groups did not want to work through them and this was not part of what Greenhavens lottery bid had developed with them. Their feedback was submitted on the 23/04/20. The investigator fails to supply the information that highlights VERY CLEARLY that the community groups DID NOT want to work with SCDA, **that it was not an opinion of KRF but that of the groups**. That Councillor Steven Gauntlett DID NOT have the buy in of the groups to proceed with a lottery bid on completely different parameters that was put before the Greenhavens committee at such a late hour – even the Greenhavens address on the forms was written down as c/o SCDA! He had made no committee member or group aware of these fundamental changes given that he had had all over March to convey the changes he had made and agreed to."*

4.65 The second stage of the Lottery application process was completed without further alteration on 6 April 2020. At the time of submission, the Greenhavens Committee consisted of Councillor Gauntlett, Ms Rigby-Faux and Ms Lizzie Hornsbury¹⁶.

Events leading up to the submission of the complaint.

4.66 On 6 April 2020, Mr Frost informed Idverde that the Council no longer required them to provide a CLO and asked that the position be removed from their contract. The reasons given in the letter were that:

- since the original contract had been signed in 2015, the District Council had joined forces with Eastbourne Borough Council, developed an effective Neighbourhood First community team and that this team was carrying out a lot of the work previously carried out by the CLO.
- this team was carrying out meetings with local park users, which was previously a role of the CLO.
- there were a number of tasks in the original contract that were meant to be carried out by the CLO which had not materialised, such as organising events, supporting Green Flag applications, working with sports groups and carrying out sample inspections of contract sites.
- Idverde's take-over of Burleys (the original contract was with Burleys) meant that they (as a larger company) had the ability / capacity to assist the Council with potential funding bids on an ad hoc rather than fulltime basis.
- that the role of the CLO in attending housing tenant groups was being carried out by the Contract supervisor.
- that the Council had to find significant savings in their budget due to the current financial position.

Mr Frost was adamant at interview that the decision to remove the CLO position from the Council's contract with Idverde had nothing to do with the concerns that had been made about Ms Rigby-Faux personally or been influenced in any way by Councillor Gauntlett. It should be noted that Ms Rigby-Faux was unaware of Mr Frost's letter at this time and that she continued to be employed by Idverde during the period relevant to this investigation (during this period she was furloughed due to the Covid-19 pandemic).

4.67 On 6 April 2020 Leslie Boniface (a Newhaven Town Councillor and a member of Councillor Gauntlett's political group) contacted Councillor Gauntlett urging him to resolve the difficulties the Greenhavens Committee was facing. She also asked him to address some concerns she had about the involvement of SCDA. Councillor Gauntlett responded by providing a history of SCDA's involvement in Greenhavens; stating that Greenhavens remained central to the Lottery bid and that Ms Rigby-Faux's comments and conduct towards him and others had left the Council with no choice but to make a complaint to Idverde about her conduct. Ms Boniface responded that she had been unaware that SCDA were still so

¹⁶ Greenhavens Constitution states that there should be a minimum of seven Committee members.

involved and that she thought Hannah Shearman's involvement had been in her private capacity. She commented that she had previously told Ms Rigby-Faux that she was prepared to join Greenhavens Committee, however had been told that that Greenhavens was non-political and had suffered in the past from the involvement of too many politicians.

- 4.68 On 11 April 2020, Ms Hornsbury sent an email to all the community groups in the Greenhavens Network. She informed them that the Lottery bid had been submitted with unprecedented changes including that the funding allocated for a member of a staff to run Greenhavens had gone to SCDA; this could mean that effectively SCDA would now be running the Network. The email also informed members of two resignations from the Greenhavens Committee and that one of the community groups, on behalf of several other groups, had asked Ms Rigby-Faux as secretary to call an Emergency Committee meeting to discuss why the Chair of Greenhavens (Councillor Gauntlett) had cancelled the Future of Greenhavens workshop; allowed the Treasurer to go from being a personal member on the Committee to being a representative of SCDA; called for Ms Rigby-Faux to step down; and why he now wanted Greenhavens to become a Community Interest Company. The email asked that the community groups let her know whether they wanted the Network to continue as it is; whether they would be prepared to be on the Committee; and whether they would prefer Greenhavens to be run by a professional organisation (SCDA). The groups were also asked if they would like an EGM held via Zoom and whether they would be part of a new Network if it was necessary and possible to form one.
- 4.69 On 15 April 2020, Ms Rigby-Faux emailed Councillor Gauntlett to ask whether he intended to remain as Chair of Greenhavens. She also let him know that five members of the Network had offered to join the Greenhavens Committee and that she was aware, through a third party, that he had proposed two new members.
- 4.70 Councillor Gauntlett responded with a warning that Ms Rigby-Faux's actions were creating an unbridgeable divide between SDNP, 3VA, SCDA and the Council, all of whom he wanted to assist Greenhavens in the future.
- 4.71 On 20 April 2020, Councillor Steve Saunders emailed Councillor Gauntlett, having been told by Ms Rigby-Faux that Councillor Gauntlett had arbitrarily signed off on a Lottery bid that would effectively see SCDA takeover Greenhavens without even consulting the Greenhavens Committee or Network members. Councillor Saunders called on Councillor Gauntlett to convene a meeting of the Greenhavens Committee to resolve these issues.
- 4.72 Councillor Gauntlett responded to Councillor Saunders by arguing that it had been an excellent Lottery bid which did not propose that Greenhavens be taken over by SCDA. Councillor Gauntlett acknowledged that Ms Rigby-Faux fundamentally disagreed with him on this; he asserted though that four Committee members had resigned either partly or wholly because they could not work with Ms Rigby-Faux.

- 4.73 Councillor Sean Macleod, who had been copied into the email trail, responded to Councillor Gauntlett to question his conflict of interest. He stated that he was appalled by the way in which Ms Rigby-Faux had been treated and understood that pressure was being put on Idverde to terminate her contract, even though she only worked with Greenhavens in a voluntary capacity. He suggested that the only people who had a 'problem' with Ms Rigby-Faux were Councillors Gauntlett and Bird.
- 4.74 On 23 April 2020, Ms Rigby-Faux emailed Councillor Gauntlett and Ms Emma Allen, copying in Ms Allen's line manager, among others. In her email, Ms Rigby-Faux referenced Ms Allen's email of 3 April (which ended in Ms Allen asking Ms Rigby-Faux not to contact her again) and emails from Councillors Gauntlett and Bird. Ms Rigby-Faux said *"The unfounded and uncalled for emails below have caused me great anguish, particularly as I worked incredibly hard to get the majority of projects cited into this funding application of which there is absolutely no note of. I cannot accept the way you have all spoken about me and the subsequent appalling defamation of character emails that have I have subsequently seen sight of. You all know that i had a breakdown on the 27th February following another stressful unpleasant meeting, where i was yet again humiliated; I have been sworn at, undermined, threatened and treated quite despicably. I have not replicated that treatment. You are also all aware that I am Secretary of Greenhavens in my own private, personal time. I have always maintained that the community groups should be consulted with and as the project you have devised is significantly different to one that was originally presented to them, they should have had the opportunity to discuss whether that is right for them. That is how the model of community participation works. The Chair of Greenhavens Network was elected to represent the members and to work with its committee, NO community group members or committee member was aware of the significant change within the funding application. The community groups have been consulted with and there are a majority **that do not wish to be ran with SCDA**, I attach some of the responses has had with their names removed for confidentiality. There is a new committee waiting to run Greenhavens Network when the finally Chair agrees to have a digitally ran EGM, which to date he has refused, there is no confidence in the current Chair, this has been confirmed by the majority of the community groups. You will therefore shortly have a new committee of people that represents the community groups; they have already indicated that they do not wish to be ran by SCDA and feel strongly that the network should remain an independent community led group, that will apply for funding in their own right to run their network, (should the lottery application not allow a change of direction of funding) which was always the original plan. that Ms Allen's comments were unfounded and uncalled for and that she (Ms Rigby-Faux) had worked incredibly hard to get the projects cited into the Lottery bid, which there was no note of. Ms Rigby-Faux stated that she could not accept the way she had been spoken about and the defamatory emails she had had sight of; that she had been threatened, sworn at (Ms Rigby-Faux referred to the occasion when Ms Allen had told sworn at her) and treated despicably; but that she had not replicated that treatment."*
- 4.75 On 1 May 2020, Ms Rigby-Faux and Ms Hornsbury sent out an email to all Network members titled *'Help shape our future'*; it was signed by *'Karen –*

Volunteer". It invited Network member groups to join a "new volunteer team of like-minded, community minded people that have some dedicated time to take Greenhavens to its next step in its journey to help galvanise people and community groups in their local green spaces."

- 4.76 Councillor Gauntlett became aware of the email shortly after it was sent out. He emailed Councillor Bird, Councillor Carr, Emma Allen and other parties with an interest in the bid to inform them that the proposal had been made without his knowledge, that he believed it unconstitutional and that he was concerned at the potential impact it might have on the Lottery bid and on how funds held by the existing Greenhavens Network should be managed. Councillor Gauntlett copied the email to Idverde: *"because it is important that they are aware what their furloughed employee is doing."*
- 4.77 Also, on 1 May 2020, Ms Rigby-Faux and Ms Pepper became embroiled in a disagreement over some photographs that Ms Pepper had allowed to be used on Greenhavens website. These photographs had subsequently appeared in the Lottery bid and Ms Pepper emailed Ms Rigby-Faux to ask why her permission had not been sought. Ms Rigby-Faux replied saying that when she had taken on Ms Pepper as a volunteer, it was made clear that her photographs could be used by Greenhavens in any way they wanted. Councillor Gauntlett later emailed Ms Rigby-Faux after he became aware of a disagreement. He stated *"I find your statement extraordinary and despotic as I do your illegitimate "Help Shape our Future" email. I have contacted your employer as I received 3 calls within 15 minutes of that email asking me "is this the Karen from Burleys?" Once again, you have sent out emails of which I had no prior knowledge, and I will respond in due course."*
- 4.78 In her complaint, Ms Rigby-Faux highlighted an email that had been sent by Councillor Graham Amy (in his capacity as a trustee of SCDA) to Castle Hill Conservation Group (a member of Greenhavens Network) on 2 May 2020. Ms Rigby-Faux told us that the email included the malicious rumour, which she asserted was started by Councillor Gauntlett, that she was trying to disrupt the Lottery bid because she wanted the Greenhavens coordinator role. Ms Rigby-Faux told us that she did not want the proposed role because it was part time and she needed to stay in full-time employment.
- 4.79 On 6 May 2020, Ms Rigby-Faux emailed Councillor Gauntlett to inform him that Greenhaven's AGM would take place on 3 June 2020. As part of his response, Councillor Gauntlett said that the ongoing dispute was causing unnecessary damage, the latest example of which was Ms Rigby-Faux's treatment of Ms Pepper which he found *'regrettable and uncharitable'*.
- 4.80 On 7 May 2020, Ms Rigby-Faux replied to Councillor Gauntlett to point out that council and central government meetings were now taking place via video conferencing and that all the Greenhavens network member groups have the capacity to join a virtual meeting. She reiterated that Councillor Gauntlett had failed to communicate properly with members over the Lottery bid and that the EAGM would be his opportunity to explain and convince the member groups to back to him. Ms Rigby-Faux stated that *'failure to do so would result in a vote of*

no confidence' at the meeting and a new committee would be formally elected. Ms Rigby-Faux reiterated that Greenhavens was constituted as a peer-to-peer networking organisation for local green groups and that she strongly recommended that he attend the meeting to explain what had happened and how it impacted on the future of the Greenhavens Network. Councillor Gauntlett did not respond further to this email.

- 4.81 On 11 May 2020, Ms Rigby-Faux emailed Councillor Gauntlett again to ask if he would be attending the EAGM on 3 June 2020. Councillor Gauntlett responded by referring Ms Rigby-Faux to his previous email, where he stated that a Zoom EAGM was not feasible.
- 4.82 On 12 May 2020, Ms Lesley Boniface emailed Councillor Gauntlett regarding the proposed EAGM. In his response, Councillor Gauntlett told her that Ms Rigby-Faux had three times refused to circulate emails he had drafted to the Network groups but had sent out two major communications to them without referring to him. Councillor Gauntlett said that he assumed that Ms Rigby-Faux now felt as if she ran the Network alone and that this had not gone unnoticed by the member groups. Councillor Gauntlett reiterated that he felt a Zoom EAGM was not feasible. He stated that Ms Rigby-Faux had recently 'dismissed' Ms Pepper in a most unpleasant way and that this was a continuation of the way she treated Hannah Shearman and the way she communicated with him over the last two months; he asserted that she had used 'highly charged language'. Councillor Gauntlett stated that he expected a progress report from SDNP concerning the Lottery bid by the end of the week and it remained to be seen whether Ms Rigby-Faux would send this out to members; he confirmed that if she did not then he would do it personally.
- 4.83 In Ms Boniface's response, sent the following day, she assured Councillor Gauntlett that Ms Rigby-Faux was not running the Greenhavens Network alone and that there were several member groups who had shown concerns about the Lottery bid / the way things were going. Ms Boniface pointed out that Ms Rigby-Faux's role as secretary of the Greenhavens Committee had nothing to do with her employment with Idverde; that she felt a Zoom EAGM was perfectly possible; and that one of the items on the agenda would be '*the sudden return of SCDA*', which was why she felt it was important for Councillor Gauntlett to attend the meeting and explain what had happened. Ms Boniface told Councillor Gauntlett that if he did not plan on attending then she thought he should provide her with a statement to read out on his behalf. Ms Boniface also asserted that that neither Ms Pepper or Ms Shearman had been dismissed; Ms Pepper had refused to interact with Ms Rigby-Faux despite numerous attempts to bring her back on board and Ms Shearman had resigned because of the conflict of interests of her being treasurer with her employment at SCDA.
- 4.84 On 14 May 2020, Councillor Gauntlett responded to Ms Boniface to confirm that he would update the Greenhavens Network once he had received a detailed update from SDNP about the Lottery bid. Councillor Gauntlett told Ms Boniface that the Lottery bid had been a SDNP initiative which Greenhavens had been invited to participate in, along with others. Councillor Gauntlett confirmed that Ms Rigby-Faux had written the content of the bid for Greenhavens and that the only

change to her proposal had been the deletion of the part-time administrator position; he said that he did not believe that Greenhavens were in a position to become an employer but that this may come after the development phase.

- 4.85 Councillor Gauntlett told Ms Boniface that he had tried to support, defend, and reassure Ms Rigby-Faux over the previous twelve months, however he had now run out of time and goodwill. He referred to the email exchange between Ms Rigby-Faux and Ms Pepper, which he stated made '*dismal reading*'. He said that he had lost count of the number of '*orders*' he had received from Ms Rigby-Faux over the last six weeks and he had no intention of working with her any longer. Councillor Gauntlett indicated that he would almost certainly not stand in the Greenhaven Committee elections after his term a Council Chair had come to an end, '*especially if I were to have LDC Cabinet responsibilities*'. Councillor Gauntlett said that he wanted to leave Greenhavens in a stable position, which included supporting a Lottery bid which he believed would be of real community benefit; he added that it would be regrettable if it was derailed by one person's discontent. He was clear that Ms Rigby-Faux's attempt to create a new Greenhavens would disrupt the Network and threatened the delivery of the Lottery bid.
- 4.86 On 16 May 2020, following an email sent by the Greenhavens Committee telling members that the EAGM would be held on 3 June 2020 by Zoom, Councillor Gauntlett emailed all members to advise that he had not been involved with the decision to hold the EAGM and that he had currently had no time to commit to chairing or attending it. Councillor Gauntlett said that he did not consider it necessary to hold such a meeting in the current climate (during the Covid pandemic) and that the meeting should be delayed until after the result of the Lottery bid was announced. Councillor Gauntlett referred to the fact that there had been four resignations from the Committee since the last EAGM in (June 2019) which had been avoidable and unnecessary. He also informed members that that he had not been consulted or notified before the 'Help shape our future' document had been published.¹⁷
- 4.87 On 27 May 2020, Ms Boniface emailed Councillor Gauntlett to ask Councillor Gauntlett the outcome of a SDNPA stakeholder meeting about the Lottery bid, which she assumed he had attended on behalf of Greenhavens. Councillor Gauntlett replied that he had no knowledge of the meeting and had not attended. He also told Ms Boniface that a few groups/individuals had told him that they did not believe the Greenhavens AGM was going to be constitutionally valid. During their exchange, Ms Boniface said there were unanswered questions that needed addressing; some of the Network members felt that they could not support the Lottery bid given that SCDA were now running the projects that some groups had been seeking funding for. Councillor Gauntlett responded that the AGM had only been called by two of the three members of the Committee and that the requisite twenty-one days' notice of the meeting had not been given. Councillor Gauntlett added that two major Greenhavens Network member organisations had already

¹⁷ In his comments on the draft report, Councillor Gauntlett told us that while he acknowledged writing the emails, they had been sent from his personal email and he considered them part of a private, friendly exchange. In her comments, Ms Rigby-Faux denied ever attempting to create a 'new' Greenhavens, describing it as an example of Councillor Gauntlett spreading malicious gossip.

contacted SDNPA to say they wished to be a part of the Lottery bid, that the bid was much needed to fulfil both the SDNP and the Council's climate change and environmental strategies, and that if Greenhavens did not wish to be a part of it then so be it.

- 4.88 On 27 May 2020, Councillor Gauntlett also contacted the Council's Senior Lawyer to seek advice in relation to the £1,000 grant he had made to the Greenhavens Network the previous year from the Council Chair's Fund. Councillor Gauntlett told us he did so because: *"This grant was made under the ORIGINAL Constitution for Greenhavens and was informally intended as a contribution towards the upkeep of their website over several years. When Ms Rigby-Faux called the AGM for June 2020, she included with the agenda a substantially re-written Constitution which EXCLUDED working with Local Authorities as Stakeholders (consistent with her attempt in 2019 to exclude councillor involvement with the Network). I believed this was contrary to the spirit of the grant that I had authorised as Chair of LDC and sought advice from the LDC Senior Lawyer."*
- 4.89 When contacting the Council's Senior Lawyer, Councillor Gauntlett mentioned that the faction within Greenhavens that he was concerned about were looking to hold an AGM with insufficient notice, and on the agenda would be the election of posts including Chair even though he had not stood down. Councillor Gauntlett expressed the concern that if he was "ousted" as Chair, he'd have no further control or influence over how his Chair's funds were spent. Related to this, Councillor Gauntlett was concerned that any attempt on his part to impede the holding of this AGM might be seen by Ms Rigby-Faux as inappropriate interference by the Council Chair, which might lead to her complaining he had brought his office and authority into disrepute.
- 4.90 The Council's Senior Lawyer offered an informal view to the effect that such an allegation was unlikely to succeed so long as his attempt to halt the AGM was made in good faith – ie. to help safeguard the LDC donated funds – and not done just for the sake of disrupting Greenhaven's business or to undermine the authority of other Committee members. Councillor Gauntlett was advised though that as the Council's Chair, he could not dictate how the £1,000 grant was spent so long as it met the Network's overall purpose and objectives. As Chair, his grant was issued with no specific conditions attached and so expenditure was now a matter for the Greenhaven's Committee.
- 4.91 On 29 May 2020, Ms Boniface emailed Councillor Gauntlett to discuss matters relating to Greenhavens business. When responding, on 30 May 2020 Councillor Gauntlett reiterated that the current Greenhavens Constitution had not been followed regarding the AGM and again referred to four previous committee members feeling bruised by their treatment; he added his own experience to that. Councillor Gauntlett told Ms Boniface: *"I am very conscious that after the unilateral "dismissal" of Hannah as Treasurer; I am the only person with the bank mandate; possibly the only recourse left to me is to dissolve the original Greenhavens and that (as in the constitution), means returning money to the donors. The informal legal and accountancy advice I have is that as Chair of LDC and Greenhavens, I should follow that course. That advice is clear; Facebook*

and Greenhavens website information containing the AGM notice and date does not constitute formal notice. If after Wednesday 3/6/20 there is a “second Greenhavens” I will write to Sussex Community Foundation, who donated £4000- so far not spent -to inform them that a “new “Greenhavens with a revised constitution has been formed and leave it to them to decide what they wish to do. The bank account also includes £1000 from my discretionary Chair of LDC fund which will be returned for redistribution. This will go towards food banks etc for Covid relief. That is because I cannot, in conscience, allow LDC funds to be used to subvert a multi-agency climate change initiative intended to mitigate and support biodiversity resilience for the benefit of Lewes District.” He also stated that the withdrawal of Greenhavens from the bid would be a disgrace and that he did not intend on continuing to Chair Greenhavens beyond his Chairing of the Council, which was likely to end in July.

- 4.92** *With regards to this email, Councillor Gauntlett told us “I discussed (via personal email exchange with the incoming Chair of Greenhavens, Cllr Lesley Boniface), possible re-direction towards Covid relief but in the event the Greenhavens members that attended the AGM required that Local Authorities be re-INCLUDED as stakeholders. So, the issue was resolved, and I passed over all the finances, bank mandate etc to the new Treasurer of Greenhavens during June 2020”. Councillor Gauntlett also told us: “I would not describe my interactions with KRF as a “power struggle”. I felt it very necessary to challenge her actions, especially concerning the resignations of previously willing and able Greenhavens Committee members together with her sustained efforts to block the multi-agency Bid to the Lottery. I was trying to prevent the “capsize” of both the Bid and Greenhavens. You will also see from my email to Lesley Boniface that I had no intention of continuing as Chair of Greenhavens when I (eventually) ceased to be Chair of LDC.*
- 4.93** On 6 June 2020, the Greenhavens Committee held their AGM on Zoom; Councillor Gauntlett did not attend. At the meeting members voted on a new Committee, electing Ms Boniface as Chair.
- 4.94** On 11 June 2020, Councillor Gauntlett emailed the Council’s Senior Lawyer a copy of the AGM minutes along with his concerns that it had not been a legitimate meeting. Councillor Gauntlett asked for advice, particularly in relation to the grant he had awarded Greenhavens two years earlier.
- 4.95** The Council’s Senior Lawyer advised that while Councillor Gauntlett could challenge the legitimacy of the meeting, there was not much he could do about it if members and the new Committee disagreed with him. In terms of the donation from the Chair’s fund, Councillor Gauntlett was advised that he had a legitimate interest in seeing the monies spent in the way he had intended, and, in that regard, it was recommended that he write to the new Chair and simply request that the £1,000 donated from the Council’s Chair’s Fund be reserved for their original purpose; namely the maintenance and development of Greenhaven’s website over the next two years.

Relevant events following the submission of the complaint.

- 4.96 On 15 June 2020 Ms Rigby-Faux submitted her Code of Conduct complaint to the Council's Monitoring Officer.
- 4.97 On 1 July 2020 Ms Rigby-Faux emailed the Monitoring Officer asking for an update on the progress of the complaint. she stated that she felt that the security of her job with Idverde was threatened.
- 4.98 On 2 July 2020 Ms Rigby-Faux was informed by Idverde that they were making her role as Community Liaison Officer redundant.
- 4.99 On 2 July 2020, Ms Boniface (as Chair of Greenhavens) wrote to the SDNP: *"I appreciate that you didn't want to go over the past, but it seems that it is necessary in order for you to understand how our groups and the Network is feeling. I have seen all the correspondence between the previous Chair and the previous secretary, and the SDNP. It is very clear that Karen said throughout that the Network needed a funded post and indeed there are emails right up until the beginning of March where SDNP were in agreement. There is also evidence indicating all the way through that the final lottery application would need to go to the Greenhavens committee and at least some stakeholder groups. I have also seen emails where Karen clearly told the SDNP that she was still representing Greenhavens as secretary and coordinator in her voluntary capacity. There is an email in November that clearly defines what the objectives of Greenhavens is within the partnership bid. Sadly, it would appear none of these have been met. It is frustrating for all of us that the changes in the partnership were not fed to the Committee and it would appear to most of us that the previous Chair was acting alone and not for the benefit of the Network. With regard to the relationship issues with SCDA & 3VA I have seen emails from February where the relationship issues with SCDA and 3VA were voiced and that there would need to be a wider discussion. Comments received in April when the committee and groups saw the partial lottery submission with SCDA now a partner were also conveyed to you. Many groups do see that the involvement of SCDA as a betrayal to what they thought was predominantly their projects. Although you may argue the words "take over" are strong, the groups have fed back that they feel that the Network won't exist in the same way as they will have to work with SCDA to develop their projects which is an organisation that they never wanted to work with. The damage that has been caused by SDNP dealing directly with the member groups has been felt widespread and the lottery projects in its current form threatens to render the Network defunct on various levels. There are some groups that have expressed concern that the change of partnership were not conducted openly and transparently with the Network. To work in our communities, you need to work with them and understand them, on paper your project might look strong but the reality in the community is very different. I'm concerned. I have a timeline of all these emails if you should require a copy as they are part of a report we are writing that verifies exactly how events have unfolded throughout this process. I'm now concerned that we may also be losing Karen as the lynchpin of the Network in her professional role as Community Liaison Officer. This is a massive blow to the Network and whilst Karen will still be a part of the Committee in a voluntary role it does diminish the*

work we can carry out with the groups. A post would have been extremely helpful and was the main aim from the beginning when Karen and Stephen approached the lottery initially. I'm very much hoping that the lottery decision is favourable, and we can work together to get the Network back on track and look forward to hearing from you with the decision. Of course if the lottery confirm the bid is going ahead we will very much need to hold a partnership meeting to discuss the way forward. "

4.100 On 3 July 2020, the Monitoring Officer emailed Ms Rigby-Faux to inform her that her complaint had been assessed and that it would be formally investigated.

4.101 Also, on 3 July 2020, Ms Rigby-Faux received a letter from Idverde detailing her redundancy as had been discussed the previous day. This letter showed that Andy Frost had written to Idverde on 6 April 2020 to confirm that the Council no longer had a need for a Community Liaison Officer as part of their contract with Idverde.

4.102 On 9 July 2020, Councillor Carr responded to an email from Councillor Saunders questioning why the Council had told Idverde they no longer needed a Community Liaison Officer. Councillor Carr stated that the Council was dealing with a severe deficit caused by the coronavirus pandemic. She acknowledged that the instructions to Idverde had not been as clear as she would have liked, but that the Council now had considerably more in-house community support and engagement resources than when the contract with Idverde was first drawn up. Councillor Carr said that having identified an urgent need for savings within every service, the Council had put forward a proposal as to how this work could be structured in the future.

4.103 Councillor Saunders replied that the letter to Idverde appeared to have been sent at the beginning of April 2020, when the Council had little or no idea of the financial crisis it may face from the pandemic. He also pointed out that he was unaware of any similar decisions having been made at this time or indeed since. He stated that it would be useful to know if any other contractor roles had been removed to save money, so directly requested by the Council, to be removed to save money. Councillor Saunders said that he presumed the payments to Idverde had been reduced to reflect the savings to the Council and asked for evidence of this.

4.104 At interview Councillor Saunders told us: *'I heard that Karen was going to be losing her role as Community Liaison Officer, which led me to go back to Julie Carr to ask her who had requested it. I was initially led to believe it to be a financial decision, which it could well have been, however it happened before COVID-19 had had any impact and before the financial impact on the Council was known. With all the problems with Stephen, it suggested to me that it may not have been a coincidence. As aforementioned I emailed Julie Carr a number of times, however got little response but eventually I heard back that it wasn't her decision, but a man named Andy Frost. This confused me as personally I believed that making a post redundant should have been a Cabinet decision. I found it strange that Andy Frost would take it upon himself to allegedly make a cost saving in what I considered quite an important role and particularly as I*

mentioned above; the financial impact of COVID-19 was unknown. I know that Karen and other members of Greenhavens had done a very good job of engaging with the public, so it was strange that as a fellow councillor I had not been made aware of any changes, or that we (the Council) had actively asked a subcontractor to make somebody redundant. I am certain that Andy Frost did not suggest this of his own accord. I don't think that it was a judgement that he would make or instigate. It doesn't make sense, as to why an officer would make that decision to try and make some savings and why have no other officers at Lewes District appear to have made similar decisions, towards roles in other organisations, which serve the Council. As far as I am aware, there are no other roles that have been made redundant and certainly not that early in the COVID crisis, because nobody knew where it was going."

Additional information about Councillor Gauntlett's alleged conflict of interest

4.105 In her complaint, Ms Rigby-Faux referred to the fact that Councillor Gauntlett had failed to inform her and the other members of the Greenhavens Committee about his interest in two organisations who were later included as partners in the Lottery bid. These were:

- The Seaford Community Partnership ('SCP'), a Community group who develop projects in Seaford for the benefit of the community. Councillor Gauntlett was on the board of directors.
- '3VA', who support and develop voluntary groups in the Wealden, Eastbourne and Lewes districts. Lewes District Council provides funding to 3VA (as do Wealden and Eastbourne District Council) and Councillor Gauntlett has been appointed by the Council as an observer to its board.

4.106 Ms Rigby-Faux alleged that Councillor Gauntlett's failure to disclose his interest in these two organisations to either the Greenhavens Committee or the SDNPA amounted to a breach of the Code. Upon understanding that the requirement (under the Council's Code) to declare such interests only related to certain Council meetings, Ms Rigby-Faux still maintained that the Code at least required him to ensure that such conflicts were managed; she also felt that Councillor Gauntlett should have declared them when attended meetings about the Lottery bid with people from the Council, stating: "*[Councillor Gauntlett] failed to declare an interest with Seaford Community Partnership (SCP) at the LDC COUNCIL meeting with Cllr Julie Carr and Cllr Matthew Bird in autumn 2019 at LDC offices.*" Ms Rigby-Faux told us: "*We had numerous meetings about the Lottery bid with other councillors and representatives of SDNP where we were making decisions about the Lottery bid. The SCP would be getting a substantial amount of money from the Lottery bid and I would have expected Councillor Gauntlett to declare his interest in SCP. He was acting as a councillor and as Chair of Greenhavens in these meetings. I have looked it up and seen that Councillor Gauntlett has declared this interest on his Register of Interests. If I was in a meeting where a grant application for Greenhavens was being discussed and decided upon I would leave the room. Councillor Gauntlett is also involved with an organisation called 3VA who were brought into the Lottery bid. He did not declare this interest*

to Greenhavens either. I understand that he had been appointed as a councillor to be an observer on 3VA. The meetings I am talking about were held on Council premises and were with Councillor Julie Carr and Councillor Matthew Bird. At these meetings I was acting in my voluntary role at Greenhavens. Councillor Gauntlett was there as a councillor and as Chair of Greenhavens. Emma from SDNP was also at these meetings, which were always about the Lottery bid. To my mind these meetings were me and Emma pitching to the councillors to see if we could get some time out of my professional day to help her with the Lottery bid. It turned out that Emma thought we were pitching to get the District Council on board as the landowner and to get them as partners in the bid. I did not really understand this as I did not understand what the Council were bringing to the table. Whenever we were discussing Greenhavens we were effectively discussing one hundred community groups (the groups in the Greenhavens Network). Seaford Community Partnership and 3VA are two of these groups, so I believe Councillor Gauntlett should have declared this interest. The Seaford Partnership had bid for £37,000 from the Lottery bid. The money would go to SDNP and then be distributed to the groups that were involved in the partnership. SCDA would get the money that Greenhavens had bid for and would then manage Greenhavens.'

4.107 Ms Rigby-Faux alleged that that Councillor Gauntlett's conflicts of interest were exacerbated in January 2020; at which time she believed that he had been promised a Cabinet position once his term as Chair had finished if the Lottery bid was successful. Ms Rigby-Faux told us it was during this period that Councillor Gauntlett's aims and objectives for the bid seemed to change: *"He changed from thinking we should consider withdrawing from the Lottery bid to suggesting that I should step down from Greenhavens. He then made decisions for Greenhavens without telling the Committee or the Community groups what he was doing. I felt that some secret deals had been done."* As evidence, Ms Rigby-Faux pointed to the fact that after their initial meeting with councillors in the autumn of 2019, the then Leader of the Council had explicitly told Councillors Carr and Bird that they need to ensure that they got political capital out of the Lottery bid. Ms Rigby-Faux added that she had been told by both Councillors Gauntlett and Saunders that Councillor Gauntlett wanted a position in the Cabinet after his term as Chair ended. She understood that it had been agreed that should the Lottery bid be successful, the Cabinet role held by Councillor Carr would be split into two roles, with Councillor Gauntlett taking up a new Cabinet responsibility for parks and greenspaces.

4.108 Councillor Saunders confirmed Ms Rigby-Faux's account, telling us *'I was made aware that the Council had plans to start up a sort of non-profit organisation to run the open spaces. I understood this may be SCDA which concerned me, as I disagree with their way of operating and working and disagree with them. I was also personally concerned, as I knew that Stephen's [Councillor Gauntlett's] tenure as Chair was coming to an end, but he was openly talking about how he was going to become a Cabinet Member¹⁸. My concern came from the fact that I did not think he would be a positive addition to the Cabinet, or for the Council as a whole. It would also cost the Council money (for an additional Cabinet*

¹⁸ This has been strongly denied by Councillor Gauntlett

Member) and at least for me, it seemed like he was manoeuvring things for his own benefit; where he could claim personal credit and maintain control. I raised questions of his political leader, Councillor James MacCleary, and Councillor Julie Carr (whose portfolio included these open spaces). I did not get any useful responses, merely political ones.”

4.109 In response to his alleged conflicts of interest, Councillor Gauntlett firstly pointed out that he had never tried to hide the fact that he was involved in the management of these other organisations; he had properly declared his interest in SCP, 3VA and Greenhavens in his Members Register and never failed to declare them in any meeting of the Council. In terms of how these interests were managed, Councillor Gauntlett said that he always kept a clear separation between his various roles; in particular, as Chair of the Council and Chair of Greenhavens. Councillor Gauntlett insisted that none of the actions he took as Chair of Greenhavens were motivated by his position on the Council and that he had played no part in assisting either with their respective Bid applications: *“I had no involvement whatsoever with their participation in the Lottery Bid. Because of an unexpected extension of my tenure as Chair of LDC, I was never able to attend any of [SCP’s] Directors meetings due to diary clashes. I have written confirmation of this from the Chair of SCP and that the detail of their Bid submission was submitted to South Downs NPA, DIRECTLY by [Ms Rigby-Faux] herself. Turning to 3VA, I was not even aware of their part in the Bid until I saw the first written draft.”*

4.110 Councillor Gauntlett acknowledged that he had spoken with the Leader of the Council about what role he might play once his tenure as Chair had ended and that he hoped to at some point be offered a Cabinet role. He told us though that there had categorically been no promise of a Cabinet position and that there was no connection between his future political career and the success or otherwise of the Lottery bid.

4.111 Councillor Carr told us that she never had any conversations with Councillor Gauntlett about the prospect of him becoming a Cabinet Member and that as far as she was concerned the suggestion made in the complaint was highly unlikely: *“There was some talk that there would be an additional post, but I don’t know the details. I have no knowledge of the notion that my Cabinet position would be split into two Cabinet roles. I would hope that such an idea would have been highlighted to me by my colleagues and I would be very surprised if that had been agreed.”*

4.112 Councillor Carr also told us that Councillor Gauntlett never tried to use his position on the Council to try and improperly influence her. Councillor Carr said that she never had any private discussions with Councillor Gauntlett about Greenhavens and that if they did meet to discuss the bid, she was clear that Councillor Gauntlett was responsible for representing Greenhavens as an independent community group: *“As far as I am aware, he was always careful about managing any conflict of interests in his role as Chair of Lewes District Council and Chair of Greenhavens. Councillor Gauntlett is very conscientious, and I do not think he would use his position as Chair of either of these organisations to advantage the other. That is not in his nature.”*

4.113 In her complaint, Ms Rigby-Faux summed up her concerns as follows: *“It became clear that LDC cabinet members (Cllr Julie Carr and Cllr Matthew Bird) felt it was their lottery bid and put extraordinary pressure on me via Stephen. The behaviour from both Cllr Stephen Gauntlett, Councillor Bird and Councillor Carr that ensued was totally appalling and shocking. This was when the relationship between myself and Stephen began to break down, having told him I will not be bullied by the councillors and that he should step away from the lottery project and representing Greenhavens as he was in fact representing LDC in the negotiations and was not representing the views of the community members of Greenhavens. Up until this point Stephen had told me that Cllr Bird and Cllr Carr were telling him that they were unhappy with me, that I worked for them and that I should hurry up and write all the projects up for the SDNP. I reported this to my company as I felt that it was not appropriate that councillors were trying to direct my work particularly in such a pressured, heavy handed way. ... Cllr Gauntlets continued conflict of interest led to a targeted campaign continually bullying myself causing me to have a mini breakdown and severe anxiety making me ill... I did indicate to the SDNP that the abuse I had received from both SDNP and Stephen meant that I had requested a withdrawal from the lottery project [professionally] however I would continue in my volunteer role as secretary to represent Greenhavens. The latter was ignored by both Stephen and the SDNP and Stephen continued to act alone on Greenhavens behalf, without any consultation with the committee of Greenhavens and its member groups. It was subsequently discovered that he was pushing through the agenda of LDC using the name of Greenhavens to achieve his ultimate goal; a promised cabinet position. When I discovered what he had agreed on behalf of the network I challenged him and the SDNP asking for them to be open and transparent and consult with the community. It was at this point that I was subjected to an increased targeted assassination of character that caused me significant stress and was detrimental to the relationships I had with various organisations in the area. Even worse was that he was writing to my employers. Totally inappropriate for a councillor to be engaging with my employers particularly when this was about my volunteer position, outside of work and nothing to do with them. The bullying and continued conflict of interest behaviour by Stephen was clearly carried out in order for Stephen’s own personal gain, that being to further his political career.”* [sic]

5: Reasoning as to whether there have been failures to comply with the Code of Conduct.

Capacity

- 5.1 Before we make a recommendation as to whether Councillor Gauntlett's conduct amounts to a failure to comply with the Code of Conduct, we need to decide if he was acting as a councillor (i.e. acting in his official capacity) at the relevant time.
- 5.2 Section 27(2) of the Localism Act 2011 requires all relevant authorities to adopt a code of conduct "dealing with the conduct that is expected of members ... when they are acting in that capacity" (my emphasis). The Council has reiterated this in its own Code.
- 5.3 The Code therefore does not seek to regulate what members do in their purely private and personal lives. The Code only applies to members when conducting Council business or when carrying out their constituency work. A distinction must be drawn between the individual as a councillor and the individual as an individual; a councillor is not a councillor twenty-four hours a day. Conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by the Code; a link to that person's membership of their authority is needed.
- 5.4 In offering our own views on this, we recognise that the Localism Act is vague on the key point of what acting in 'official capacity' involves. Nor do we have any case law arising from the Localism Act to assist us on this. What we do have, however, is well established case law from earlier hearings. Whilst the wording in the current Code varies slightly from the previous model codes of conduct, cases concerning the former model codes remain of relevance as to how Councils must interpret what 'official capacity' means.
- 5.5 A restrictive view on 'capacity' has been taken in previous decisions by the Adjudication Panel for England, the First Tier Tribunal (Local Government Standards) and the High Court. In the standards case of "Livingstone v The Adjudication Panel for England [2006]" Mr Justice Collins considered the question of official capacity. On the facts of that case, Collins J found that Mayor Livingstone's offensive comments to a journalist were not sufficiently connected to his position as Mayor as to engage the Code of Conduct, despite them being made as he was leaving an official function. Mr Justice Collins rejected the finding of an earlier Tribunal (that Mayor Livingstone's conduct had brought his office into disrepute) on the basis that he was not acting in his official capacity at the relevant time: *"it is important to maintain the distinction between the man and his office, even in the case of high-profile individuals."*
- 5.6 In APE0458 *Sharratt* the tribunal agreed, observing: *"While they [councillors] may always be conscious of their office as councillor and carry out a wide range of activities in which that is a factor in their thinking, no reasonable observer would conclude that they are carrying out the business of the office of councillor; a test which, in the light of the decision in Livingstone, should be narrowly construed."*

5.7 The Upper Tribunal decision in *MC v Standards Committee of the London Borough of Richmond* [2011] UKUT 232 (AAC) is a helpful distillation of the previous High Court cases on capacity. The principles stated in the Richmond case are: -

(a) was the councillor, as a matter of ordinary English, actually conducting the business of their authority, including the business of the office of councillor?

(b) a fact sensitive approach is required to the above;

(c) the question is one for the tribunal to determine, not a reasonable observer.

5.8 The evidence gathered during this investigation has left us with a confused picture. On the face of it, Councillor Gauntlett's role as Chair of the Council was wholly separate from his role as Chair of the Greenhavens Network. Greenhavens was not a Council-funded organisation and Councillor Gauntlett's position on the Committee was not a Council appointed role. The Council's decision to allow Ms Rigby-Faux to use part of her time as CLO to assist with the development of the Network potentially complicated the issue, however by late 2019 it was clear that Ms Rigby-Faux's ongoing involvement with Greenhavens (as Committee Secretary) was in a voluntary rather than professional capacity.

5.9 Much of Ms Rigby-Faux's complaint is focused what she alleges was Councillor Gauntlett's misuse of his role as Chair of the Greenhavens Committee and his failure to abide by Greenhavens' constitution. She alleged that Councillor Gauntlett failed to declare the necessary interests at their meetings; failed to consult with them properly over the lottery bid; sent malicious communications to Network members that that maligned her character; and used his position as Chair of Greenhavens to benefit other organisations in which he was involved (including the Council); potentially with a view to benefiting his own political career. Ms Rigby-Faux has also insisted throughout though that the Greenhavens Network Group has nothing to do with the Council and conducts no Council business. In arguing this point, she seems not to understand that the Code of Conduct can only be applied to Councillor Gauntlett's conduct when he is conducting Council business. If Councillor Gauntlett was not conducting Council business then he cannot have failed to comply with its Code, regardless of what he has done.

5.10 We are our view is that Councillor Gauntlett's actions as Chair of Greenhavens (including when sending emails in that capacity) largely fall outside of the scope of the Code of Conduct, and therefore our considerations. When communicating with members of the Greenhavens' Committee and the Network, working alongside other Committee members (including Ms Rigby-Faux), chairing Greenhaven Committee meetings and representing Greenhavens at meetings with other organisations (including when meeting with other councillors¹⁹),

¹⁹ It should be noted that the meeting held on Council premises involving Councillor Carr, Bird, Gauntlett and Ms Rigby-Faux is not classified as a 'Council meeting' as defined by the Code,

Councillor Gauntlett was acting not in his capacity as councillor, but as Chair of the Greenhavens Network. While clearly many with whom he was interacting would have known that he was also Chair of the Council, being known as a councillor is not sufficient to bring all conduct within the jurisdiction of the Code. The overall context (and not simply the alleged behaviour) is determinative, with the key determining being ‘was Council business being conducted?’

5.11 That said, as the Lottery bid developed, it is evident that the relationship between Greenhavens and the Council became more entwined. While Greenhavens might not conduct Council business directly or ever have intended the Lottery bid to have developed in the manner that it did, the bid clearly became a multi-agency proposal that involved both Greenhavens and the Council working on it alongside many other organisations. Ms Allen from SDNPA was primarily responsible for compiling the necessary information and drafting the application. Ms Rigby-Faux was though instructed by Idverde (at Councillor Carr’s request) to work alongside Ms Allen on the Lottery bid on behalf of the Council and at Council expense²⁰. At the same time, she continued to volunteer for Greenhavens as its Committee Secretary and therefore had a key role to play in ensuring that it and its members secured what they wanted from the bid.

5.12 The way in which the Lottery bid developed clearly caused potential conflicts of interest for both Councillor Gauntlett and Ms Rigby-Faux; how could they do what was in the best interest of the Council and what was in the best interest of the Greenhaven’s Network if they believed those interests to be different? In addition, they potentially had to manage the interests of other relevant organisations with which they were involved; for Councillor Gauntlett this was 3VA and SCP; for Ms Rigby-Faux this was her employer Idverde. For Councillor Gauntlett this should have been reasonably straightforward task; he was only involved with the Lottery bid because he was Chair of Greenhavens. Had Councillor Gauntlett managed to limit his involvement to that role than we think it probable that this whole complaint would have fallen outside the jurisdiction of the Council’s Code. In our view though he failed to ensure that this was the case.

5.13 The evidence gathered during the investigation demonstrates that as his relationship with Ms Rigby-Faux (and, arguably, other members of the Network) began to deteriorate, Councillor Gauntlett decided to either use or directly refer to his position as Chair of the Council when attempting to directly influence the future of the Greenhavens Network and the Lottery bid. On this basis, we are satisfied that the following matters fall within the jurisdiction of the Council’s Code:

- Councillor Gauntlett’s email of 28 February 2020 to Councillor Carr, in which he indicated his willingness to effectively make a complaint about Ms Rigby-Faux’s conduct to Mr Frost and request that he in turn contact her employer. (See paragraph 4.36)

therefore Councillor Gauntlett would not have had an obligation under the Council’s Code of Conduct to declare his interests.

²⁰ She was given four paid working days to liaise directly with the various member organisations of the Greenhavens Network to ensure that all their proposals were properly reflected in the Lottery Bid.

- Councillor Gauntlett's email of 29 February 2020 to Ms Rigby-Faux in which he said that the Council intended on having formal discussions with her employers about her recent behaviour. (Detailed at paragraph 4.39).
- Councillor Gauntlett's meeting of 11 March 2020 with Ms Rigby-Faux's line manager at Idverde. (Detailed at paragraph 4.49).
- Councillor Gauntlett's emails of 3 April (detailed at paragraph 4.62) and 1 May 2020 (detailed at paragraph 4.76 and 4.77) to numerous parties, including councillors and Idverde, in which he: blamed Ms Rigby-Faux for the recent resignation of two Committee members; said that he had been approached by individuals who wanted to join the Committee but would not while Ms Rigby-Faux was acting in such an interventionist manner; suggested that Ms Rigby-Faux was putting the Lottery bid at jeopardy; and questioned whether Ms Rigby-Faux was breaking the terms of her furlough.
- Councillor Gauntlett's email of 27 May 2020 to the Council's Senior Lawyer, in which he sought advice regarding the £1,000 grant he had made to the Greenhavens Network in 2019 from the Council Chair's Fund. (Detailed at paragraph 4.88).
- Councillor Gauntlett's email of 30 May 2020 to Councillor Boniface, in which he suggested that Ms Rigby-Faux's conduct had left him and four former Committee members feeling 'bruised'; and indicated his intention to claim back the £1000 grant from Greenhavens if a new Committee was formed at their scheduled AGM. (Detailed at paragraph 4.91).
- Councillor Gauntlett's email of 11 June 2020 to the Council's Senior Lawyer, in which he sought further advice regarding the £1,000 grant and about the legitimacy of Greenhaven's recent AGM. (Detailed at paragraph 4.94).

Has Councillor Gauntlett failed to comply with the Code of Conduct?

- 5.14** The intention of the Code is to ensure that the conduct of public life at local government level does not fall below a minimum level which engenders public confidence in democracy.

Code requirements

- 5.15** Paragraph 3(1): Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurred are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurred, who observed the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompted the alleged disrespect.

5.16 Paragraph 3(2)(b): There are many definitions of bullying and harassment and both terms are often used interchangeably. The Council's Code reassuringly provides one of the most comprehensive definitions we have seen in any Local Government Code of Conduct and is consistent with the definitions we generally apply as standard. The definition for bullying that we apply is based on the classification provided by ACAS. The definition for harassment that we apply reflects the definition set out in Section 26 of the Equality Act 2010.

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour involving an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation. Examples of bullying may include, but are not limited to:

- Verbal abuse, such as shouting, swearing, threatening, insulting, being sarcastic towards, ridiculing or demeaning others, inappropriate nicknames or humiliating language.
- Physical or psychological threats or actions towards an individual or their personal property.
- Practical jokes, initiation ceremonies or rituals.
- Overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures.
- Inappropriate comments about someone's performance.
- Abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities or hours of work, or coercing someone to meet such expectations.
- Use of unfair sanctions in relation to disciplinary or attendance procedures.
- Ostracising or excluding someone from meetings, communications, work events or socials.
- Sending, distributing or posting detrimental material about other people, including images, in any medium.

Harassment is any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of either violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Under the Equality Act 2010, harassment is related to one or more of the relevant 'protected characteristics' which include age, sex, race, disability, religion or belief, sexual orientation and gender reassignment. Harassment may be persistent or an isolated incident. It can also be intentional or unintentional; for example, if a person speaks or behaves in a way that they do not find offensive, but that another person does, then it can still be harassment – the feelings of the recipient are crucial. Examples of harassment (other than sexual harassment), may include, but are not limited to:

- Deliberate exclusion from work activity or conversations.

- Sending or displaying offensive material in any format (including posters, graffiti, emails, messages, clips or images sent by mobile phone or posted on the internet).
- Mocking, mimicking, belittling, or making jokes and comments about a person (or a group stereotype) in relation to their age, disability, gender reassignment, race, religion or belief, sex or sexual orientation.
- Use of unacceptable or inappropriate language or stereotypes relating to race or ethnicity.
- Deliberately holding meetings or social events in a location that is not accessible for an individual with a disability.
- Using profanities or swearing that could have the effect of intimidating a person.

5.17 Paragraph 6(a): In considering whether a councillor has breached the Code it is important to focus on whether they used his position improperly when attempting secure an advantage or disadvantage. There are many circumstances where it is proper for a member to attempt to confer a desirable outcome, or advantage, for their constituents. A councillor's conduct would only be improper if he was to try to use his public position to further his own private interest (or disadvantage a third party for personal reasons) to the detriment of the public interest.

Matters related to the allegation that Councillor Gauntlett failed to treat Ms Rigby-Faux with respect / bullied and harassed her.

5.18 From the outset it is important that we are clear as to the scope of our considerations with regards this matter. Both in her complaint and in her comments on the draft report, Ms Rigby-Faux refers to having been "*humiliated, sworn at, undermined and threatened*" by Councillor Gauntlett and others because of her work with Greenhavens; and of Councillors Gauntlett, Carr and Bird working (with the support of certain officers in the Council) against her interests and the interests of the Greenhavens Network and its members.

5.19 Firstly, we were instructed to investigate a complaint against Councillor Gauntlett only; the conduct of any other individuals mentioned (including councillors) falls outside the scope of our considerations. In addition, many of the exchanges between Councillor Gauntlett and Ms Rigby-Faux / members of the Greenhavens Network that we reviewed during the investigation were not considered to have been sent in his official capacity as a member of the Council. While they have been invaluable in helping us understand those matters that we do deem within the scope of the standards framework, Councillor Gauntlett's conduct in these emails falls outside our jurisdiction.

5.20 To briefly recap on those exchanges that we do consider within the scope of our considerations: at the point Ms Rigby-Faux perceived the Council's objectives for the Lottery bid to differ from those of the Greenhavens Network, she began to challenge Councillor Gauntlett's position as Chair of Greenhavens and suggest that he was too conflicted to remain involved in any decision making. In response to this and to further disagreements between the two, Councillor Gauntlett:

- Sent an email to Councillor Carr in which he reported that Ms Rigby-Faux “*now appears to want to bite the hand that feeds!*” by bad-mouthing the Council. He suggested that her conduct be reported to her employer, Idverde.
- Sent an email to members of the Greenhavens Committee, Councillors Carr and Bird, and Idverde in which he stated that he and others were upset with Ms Rigby-Faux’s attitude towards the bid and him personally; that she was responsible in part for two recent resignations from the Committee; that her interventionist approach was putting off potential Committee members from joining; and that her actions were jeopardising the Lottery bid.
- Sent an email to members of the Committee, Councillors Carr and Bird, Mr Frost, Idverde and others in which he accused Ms Rigby-Faux of taking actions that ignored Greenhavens’ Constitution; suggested that she might be breaching the terms of her furlough and referred to a statement she had made as being ‘*extraordinary and despotic*’.
- Sent an email to Ms Boniface in which he said that he and four former members of the Greenhavens Committee had felt ‘*bruised*’ by Ms Rigby-Faux’s treatment of them.

5.21 In considering whether these comments amount to a failure to comply with paragraph 3.1 of the Code, a line must be drawn between the requirement for members to treat others with respect and the freedom members have to disagree with and be critical of the views, opinions and actions of others. It is inevitable that members will disagree with other people from time to time. It is our view that members should be able to express their concerns in forceful terms. Direct language can sometimes be appropriate to ensure that matters are dealt with properly. The Code is not intended to stifle the expressions of passion and frustration that often accompany discussions about council business.

5.22 Any consideration of Councillor Gauntlett’s comments must also allow for the enhanced protection offered to him in Article 10 of Part 1, Schedule 1 to the Human Rights Act. We must consider whether any interference or restriction to his freedom of expression is prescribed in law and, if so, whether it is necessary in a democratic society. (We have provided relevant Case Law on Article 10 in Annex A.)

5.23 Applying the provisions of Part 1 of the Localism Act, under which the Council has adopted a Code of Conduct, a councillor’s freedom of expression may be legally restricted. When considering whether it is necessary, we believe that one of the objectives of the Code and the provisions within it (along with the imposition of any sanction if a breach is found), is to protect the reputation and rights of others, for example, from offensive, abusive, and defamatory remarks.

5.24 When considering whether Councillor Gauntlett’s comments warrant regulatory intervention, we recognise that councillors operate in a political environment and must be free to make political points and discuss matters of

public concern without undue interference. Councillors must act in the public interest and have a duty to undertake a scrutiny role to ensure their Council uses its resources properly and in accordance with law. That said, the right to freedom of expression is not absolute. It is important that Councillors understand that restrictions can be imposed to protect the rights and reputations of others and to ensure officers can undertake their tasks without undue disturbance. That said, while ideas, policies, recommendations, and advice may be challenged and criticised, individuals should not be subject to unreasonable or excessive personal attack.

5.25 While we can understand why Ms Rigby-Faux was upset at having her own behaviour towards others cited by Councillor Gauntlett as being ‘*bruising*’ and a contributory factor to both resignations from the Committee / making others reluctant to join, we do not consider them so offensive as to amount to a breach of the Code. It is not necessarily for this investigation to consider the veracity of Councillor Gauntlett’s assertions about Ms Rigby-Faux, including that her conduct was putting the Lottery bid at risk, if we are satisfied that his criticisms of her were made in good faith and rather than being obvious and deliberate untruths made solely to malign her. In the context that the comments set out in paragraph 5.20 were made (as set out in the report), we are satisfied that this was the case.

5.26 In her comments on the report, Ms Rigby-Faux stated “*I completely fundamentally disagree with the investigator. Councillor Steven Gauntlett deliberately set out to sabotage KRF reputation- the comments he has made and the humiliation he has caused cannot be underestimated – to the extent that KRF loss of livelihood. These comments cannot be said to be done in Good Faith when Councillor Steven Gauntlett knew all along that the community groups would NEVER have agreed to be part of any project involving SCDA. Councillor Steven Gauntlett made it his business to attack KRF when instead he should have been open and honest and consulted with his member groups. KRF acted professionally and courteously, there is NO evidence to say otherwise. Councillor Steven Gauntlett knew that KRF had done nothing wrong, the findings are fundamentally wrong as the attacks from Councillor Steven Gauntlett were deliberate to undermine the network so that he could give the network to SCDA and cover up what he had done.*”

5.27 Ms Rigby-Faux suggested that the worst example of Councillor Gauntlett’s bullying behaviour was demonstrated by his decision to copy in her employer Idverde into some of his critical emails. We will consider this aspect of the complaint in more detail below when we consider whether Councillor Gauntlett used his position as a councillor improperly to cause either himself an advantage or cause a disadvantage to Ms Rigby-Faux / the members of the Greenhavens Network. Our recommendation remains though that when considering the content of the limited number of emails that we found fell within the jurisdiction of this investigation, Councillor Gauntlett be found not to have either bullied or failed to treat Ms Rigby-Faux with respect. This finding is in no way intended to undermine Ms Rigby-Faux’s lived experience or legitimise any criticisms Councillor Gauntlett might have made about her. Ms Rigby-Faux spoke candidly about the stress and anxiety she was caused by the events described above,

which she told us led to a breakdown in late February 2020. It is evident from the email exchanges we were provided that Ms Rigby-Faux already felt bullied and harassed by others (including by other councillors) prior to her falling out with Councillor Gauntlett. And there is no doubt that the deterioration of her relationship with him must have exacerbated the situation.

Matters related to Councillor Gauntlett's alleged failure to declare or manage his various conflicts of interest at meetings of the Greenhavens Network / working on the Lottery Bid.

- 5.28 The investigation has established that in addition to being Chair of the Greenhavens Network during the period relevant to this complaint, Councillor Gauntlett was also Chair of the Council, a Council observer on the board of 3VA and a Director of Seaford Community Partnership. All four of these organisations appear to have had a stake in the Lottery bid and yet Ms Rigby-Faux has asserted that Councillor Gauntlett consistently failed to declare his various allegiances at meetings of the Greenhavens Committee or in meetings with the other organisations that they worked with. As stated previously though, the Council's Code of Conduct can only consider allegations that Councillor Gauntlett failed to declare the necessary interest at meetings of the Council (as opposed to meetings *with* representatives of the Council); we have seen no evidence that this was the case.
- 5.29 When considering his alleged conflicts of interests more widely, Councillor Gauntlett has strongly argued that his various roles never felt conflicted because all the organisations with whom he was involved were working towards the same goals. Councillor Gauntlett also pointed out that he took advice on the matter from the Council's previous Monitoring Officer and was told that while any conflicts would need to be carefully managed if they arose, the possibility of them arising did not preclude him from being involved with all the organisations referred to above.
- 5.30 This advice and the roles taken on by Councillor Gauntlett are in our view wholly consistent with the intentions of the Localism Act. The Local Government Association's 'Councillor workbook on neighbourhood and community engagement' describes the changes made in the Act as a welcome opportunity for councillors to *"reshape their role away from bureaucratically driven, paper-heavy meetings and processes to much more creative roles leading and energising their local communities and encouraging self-organised groups to be ambitious."* The Localism Act allows councillors to involve themselves directly with volunteer groups and play an active part in local discussions that might on occasion cross-over with Council business. In many cases councillors themselves will have a long track record of community activism before they were elected – their inspiration to serve their local communities will often have its roots in community work and the Localism Act wanted to ensure that people can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and may have campaigned on.
- 5.31 Ms Rigby-Faux stated in her complaint that Councillor Gauntlett's conflict of interest only became an issue when Councillors Carr and Bird effectively

hijacked the Lottery bid and used him to put pressure on her and the Greenhavens Network; it was at this point that she told him to “*step away from the lottery project and representing Greenhavens as he was in fact representing LDC in the negotiations and was not representing the views of the community members of Greenhavens.*” Ms Rigby-Faux alleged that Councillor Gauntlett ignored her advice and instead arbitrarily took decisions on behalf of the Greenhavens Network without their knowledge or consent that he intended to benefit the Council rather than the Network’s members.

- 5.32 In the first instance, it should be noted that Councillor Gauntlett denies acting against the interests of the Greenhavens Network. Regardless, it is evident he and Ms Rigby-Faux disagreed as to where the best interests of the Network lay and while the Committee (in part due to a lack of other members) was ill equipped to resolve these disagreements, Ms Rigby-Faux is adamant that unlike Councillor Gauntlett, she never acted alone or did anything without the consent of the groups they represented.
- 5.33 When considering whether Councillor Gauntlett’s actions amount to a failure to comply with the Code, we again must stress that only Councillor Gauntlett’s actions when conducting Council (rather than Greenhavens) business can be considered. Much of Ms Rigby-Faux’s complaint relate to her concerns that Councillor Gauntlett used his position as Chair of Greenhavens to improperly benefit the Council and the other organisations with which he was involved. As stated previously though, Councillor Gauntlett was never given a formal role by the Council in relation to the Lottery bid; Ms Allen was consulting with him on matters related to the Lottery Bid not because he was a councillor, but because he was Chair of the Greenhavens Network. In our view Ms Rigby-Faux highlights several understandable concerns about the way certain decisions were made, in particular during the period running up to the submission of the second stage of the Lottery bid. These though are almost exclusively internal governance issues that needed to be resolved within the Greenhavens Committee.
- 5.34 That said, there were occasions where we believe that Councillor Gauntlett, by his own actions, brought his conduct within the scope of the Code. It is important to note though that on those occasions where he was acting in his capacity as a councillor, any judgement as to whether he acted properly or improperly must be assessed against the public interest; not necessarily what was in the best interests of the Greenhavens Network. It is clearly very difficult to objectively decide where the public interest lay in this matter. It is relevant though that Councillor Gauntlett clearly believed that the actions he took in seeking to progress the Lottery bid would bring a clear benefit to the community he represented including members of the Greenhaven’s Network. It is also relevant that Ms Rigby-Faux’s allegation is that in agreeing to the Lottery bid as it was at the second stage of the process, Councillor Gauntlett put the Council’s interest before that of Greenhavens. While I can understand Ms Rigby-Faux’s concern (given her belief that Councillor Gauntlett should have led the way in ensuring that the Lottery bid put the interests of the Greenhavens Network first), we would find it very difficult to recommend that a councillor be found to have failed to comply with the Code for using their position as a councillor to put the Council’s interests first.

- 5.35 That said, there are aspects of Ms Rigby-Faux's complaint that do accuse Councillor Gauntlett of seeking to use his position as a councillor improperly to both benefit himself and disadvantage her / members of the Greenhavens Network. These include Ms Rigby-Faux's assertion that Councillor Gauntlett had been promised a Cabinet position if the Lottery bid were successful, which would have brought him a direct political and financial benefit. And the allegation that Councillor Gauntlett used his position as a councillor improperly to damage Ms Rigby-Faux's reputation and prospects, both professionally and as a volunteer for Greenhavens.

Did Councillor Gauntlett use or attempt to use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage?

- 5.36 When considering whether a councillor has breached this aspect of the Code it is important to focus on whether they attempted to use their position as a councillor improperly to secure themselves or another person an advantage or disadvantage. There are many circumstances where it is proper for a member to act in a way that confers a desirable outcome, or advantage, for their constituents. These circumstances might in turn disadvantage others (a councillor's role in making planning decisions is an example). Councillor Gauntlett's conduct would only be considered improper if he sought to try to use his public position to further his own private interest or disadvantage a third party to the detriment of the public interest.
- 5.37 Looking first at the allegation that Councillor Gauntlett used his position improperly to secure a Cabinet position. Ms Rigby-Faux has alleged that Councillor Gauntlett's political career, specifically a promised position on the Council's Cabinet, was dependent on the success of the Lottery bid. As such, when the interests of the Greenhavens Network and the Council diverged and Greenhavens threat to simply walk away was considered by some as putting the entire Lottery bid in jeopardy, Councillor Gauntlett decided to use his positions as both Chair of the Council and Greenhavens to ensure that he got what he wanted (a Cabinet position), to the detriment of both the Greenhavens Network and Ms Rigby-Faux.
- 5.38 In our view it would have been inappropriate for Councillor Gauntlett to have sought to improperly use his involvement with the Lottery Bid as leverage to secure a Cabinet position; as it is, we have seen no compelling evidence to find that such a deal was ever made. That is not to say that Councillor Gauntlett might not have hoped or even expected to be offered such a role once his term as Chair of the Council had ended. It is not unusual for a councillor to seek or inadvertently gain personal political advantage through their campaigning activity, charity or volunteer work. Such activity can raise their profile within their authority, their political party and with the electorate; and this in turn might result in a promotion to a Cabinet position. While such a promotion would usually attract an increase in personal remuneration, the way a councillor achieved that benefit would not necessarily be considered improper unless it could be evidenced that

to secure it, they used their position as a councillor in a manner that was contrary to the public interest.

- 5.39 While we may not have compelling evidence to support the allegation that Councillor Gauntlett had been driven by the promise of a Cabinet position, we do have significant concerns about the way in which he used his position as a councillor to improperly influence what had turned into a dispute between and primarily Ms Rigby-Faux (though we note her insistence that she was only ever acting as a messenger for Greenhavens member organisations) over the future of the Greenhavens Network.
- 5.40 It is undisputed that Councillor Gauntlett, in his capacity of Chair of the Council, contacted senior colleagues and Ms Rigby-Faux's employer on more than one occasion to express serious concerns about her conduct, both in relation to her work on the Lottery bid and as a Greenhavens Committee member. During this period, Councillor Gauntlett also sought advice from the Council's Senior Lawyer on matters related to the Greenhavens Network and suggested to Ms Boniface, when discussing the future of the Network, that money previously donated by him as Chair of the Council would be withdrawn if he were removed as Chair and a new Committee formed in his absence at Greenhavens' June AGM.
- 5.41 Councillor Gauntlett initially contacted Councillor Carr to express concerns about Ms Rigby-Faux's conduct on 28 February 2020. He invited Councillor Carr to contact Ms Rigby-Faux's employer to make them aware of these concerns; and later agreed to directly hand them evidence of her making derogatory comments about the Council on his telephone answerphone.
- 5.42 When considering whether Councillor Gauntlett's actions were improper we recognise that his motives in raising these concerns have been strongly questioned. Ms Rigby-Faux told us that Greenhavens business had nothing to do with Council business and her involvement with the Committee no longer had anything to do with her role as CLO. Councillor Gauntlett was effectively using his position as a councillor to influence what was an internal dispute within Greenhavens (about both their involvement with the Lottery bid and Ms Rigby-Faux's contention that Councillor Gauntlett should no longer be involved due to his conflict of interest).
- 5.43 Bearing in mind the circumstances surrounding his email however, on balance we are of the view that Councillor Gauntlett's actions on this occasion were not improper. In the days prior to 28 February 2020, Ms Rigby-Faux had made several accusations about the Council's involvement in the Lottery bid; invited Committee members to consider withdrawing Greenhavens from the bid; and made derogatory comments on Councillor Gauntlett's answerphone about the Council. While it is true that Ms Rigby-Faux was on the Greenhavens Committee as a volunteer, she was at this time also being paid by the Council (via Idverde) to assist with the Council's part Lottery bid. While it is not part of our role to comment Ms Rigby-Faux actions (though we note that despite this being a clearly very difficult time for her, Ms Rigby-Faux herself had recognised she had her own conflict and was already taking action to resolve) we do not consider that Councillor Gauntlett's actions in sending an email which set out his concerns

about her conduct to her employer, contract manager and responsible Cabinet member amounted to an improper use of his position.

- 5.44 Having said that, we believe that any justification Councillor Gauntlett might have previously had for contacting Ms Rigby-Faux's employer about matters which related to her work with Greenhavens were significantly reduced on 3 March 2020. At this time, Councillor Gauntlett should have been unequivocally aware that Ms Rigby-Faux was no longer working on the Lottery Bid as part of her contracted role with the Council. Indeed, this change in circumstance was confirmed by Ms Rigby-Faux, when she made a point of stressing that she would continue to work on behalf of Greenhavens as a volunteer only.
- 5.45 The investigation is satisfied that by 3 March 2020, Councillor Gauntlett and Ms Rigby-Faux were involved in a disagreement over the future of the Greenhavens Network. This continued through until (and beyond) the submission of Ms Rigby-Faux's complaint and included the way in which the second stage of the Lottery bid was been dealt with and Councillor Gauntlett's attempts to postpone the visioning day / Greenhavens AGM. While some of their exchanges during this period fall outside the jurisdiction of the Localism Act (because Councillor Gauntlett could not be said to be conducting Council business / acting as a councillor), we are satisfied that his emails of 3 April and 1 May 2020 were sent in his capacity not only as Chair of Greenhavens, but Chair of the Council (a point he stressed at the time).
- 5.46 In these emails, which Councillor Gauntlett sent not only to Idverde and the relevant Councillors / Council officer, but (in the case of the latter) all Cabinet Members and representatives from organisations such as SCDA and 3VA, Councillor Gauntlett was highly critical Ms Rigby-Faux's conduct. This included allegations that she had caused the Committee to become dysfunctional; upset '*several people*' with her attitude toward them; caused otherwise willing potential Committee members to not come forward; put the Lottery bid in jeopardy; and acted in contravention to the Greenhavens Constitution. And perhaps of most concern, Councillor Gauntlett linked these with his being '*most concerned about the money and the bank account*'. Councillor Gauntlett also suggested that by her conduct, Ms Rigby-Faux might be breaching the terms of her furlough with Idverde.
- 5.47 It is evident from the emails and their context that Councillor Gauntlett was genuinely concerned that actions taken by Greenhavens Committee members (against his will) might put the Lottery bid at risk. In those circumstances, it is perhaps unsurprising that he was keen to let all relevant parties know that he (as Chair of Greenhavens) wanted to ensure the Lottery bid was successful and that he was looking at taking steps to ensure that it was not derailed. This though did not give him the right to attempt to use his position as a councillor to influence what was an internal Greenhavens matter. We are also of the opinion that Councillor Gauntlett could easily have demonstrated his personal support for the Lottery bid without either being directly critical about Ms Rigby-Faux or invoking his position as Chair of the Council.

5.48 Based on the evidence we have seen, we are of the view that while Councillor Gauntlett clearly held the work Ms Rigby-Faux had done in setting up the Greenhavens Network in very high regard, he also (from late February 2020) held her personally responsible for recent resignations from the Committee; the attempts to stop him being personally involved with the bid due; and for perhaps even putting the Lottery bid at risk. In our view by sending the emails of 3 April and 1 May 2020, Councillor Gauntlett was attempting to do more than simply raise what he viewed as legitimate concerns; he was also seeking to put Ms Rigby-Faux under pressure to stop acting in a manner with which he disagreed. We are left wholly unconvinced by Councillor Gauntlett's assertion that he only copied Idverde into the email because he was concerned that her actions might contravene the terms of her furlough. Ms Rigby-Faux's involvement with Greenhavens was by this time clearly as a volunteer. Even if it been a genuine concern about a Council contractor acting improperly, it was wholly inappropriate for Councillor Gauntlett to copy in anyone other than those responsible for her employment / managing that contract. Rather, we consider it more likely than not that Councillor Gauntlett was trying to use his position as Chair of the Council to improperly influence the ongoing dispute over the future of Greenhavens / their involvement in the Lottery bid. In doing so, we are satisfied that he caused a disadvantage to Ms Rigby-Faux, both personally and professionally.²¹

5.49 We also consider that the evidence supports a finding that Councillor Gauntlett again used his position in an attempt to improperly to influence what was happening within Greenhavens when, in an email to Ms Boniface (on 30 May 2020), he said that should the '*unconstitutional*' AGM go ahead and a '*second Greenhavens*' be formed, he would withdraw the £1000 he had previously donated to Greenhavens from his Council Chair's fund. While Councillor Gauntlett had indicated his intention not to stand again as Chair of Greenhavens, it is clear from his correspondence that he did not want to be replaced until the Lottery bid had been finalised and his term as Chair of the Council finished. Not only did Councillor Gauntlett make his 'threat' to withdraw the money in an attempt to ensure that this did not happen; he made it despite having been given clear advice by the Council's Senior Lawyer on 27 May 2020 that, as Chair of the Council, he could not dictate how this money was used; his donation had been issued with no specific conditions attached and so expenditure was now a matter for the Greenhavens Committee.

²¹ It should be noted that we have no reason to disbelieve Mr Frost's assertion that the decision to remove the CLO position from the Council's contract with Idverde had nothing to do with any of concerns that had been raised about Ms Rigby-Faux's conduct or been influenced in any way by Councillor Gauntlett. We also do not know if his comments had any impact on Idverde's subsequent decisions. Given Councillor Gauntlett's actions though, it is little wonder that people such as Councillor Saunders were led to ask whether the removal of her role was more than just a coincidence.

6. *Recommendations*

- 6.1** We recommend that Councillor Gauntlett be found to have failed to comply with paragraph 6(a) of the Council's Code 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. We do not, though, recommend that any other aspects of Ms Rigby-Faux's complaint be upheld.

ANNEX A:

CASE LAW ON ARTICLE 10

1. Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin):

The High Court recognised that politicians have an enhanced protection in respect of political expression, which applies to all levels of politics, including local, and that political expression in itself is a broad concept. The Court further held that public servants are subject to wider levels of acceptable criticism than other members of the public when matters of public concern are being discussed. However, the limits were not as wide as they were for elected politicians. The need to protect officers when imposing a restriction, in terms of Article 10(2), on freedom of expression must be weighed up against a politician's right to enhanced protection. The Court noted that the right to freedom of expression was not absolute but that any restriction was required to respond to a 'pressing social need', to be for relevant and sufficient reasons, and to be proportionate to the legitimate aim being pursued. However, that margin must be construed narrowly in this context as there was little scope under Article 10(2) for restrictions on political speech or on debate on questions of public interest. The Court had further recognised that it was in the public interest that officers were not subjected to unwarranted comments that prevented them from performing their duties in conditions free from perturbation as this could undermine public confidence in the administration. The Court recognised that local government could not 'sensibly function' without such a mutual bond of trust and confidence.

2. R (Calver) v Adjudication Panel for Wales (2012) EWHC 1172: This case outlined the order a Tribunal would require to adopt when considering Article 10, which was firstly whether there had been a breach of the Code; secondly, if so, whether the finding of a breach and the imposition of a sanction was a limitation of the right to freedom of expression afforded by Article 10; and thirdly, if so, whether the restriction involved was one that was justified by Article 10(2). The High Court noted that if the conduct in question is less egregious, it is more difficult to justify any restriction. The Court further noted that 'political expression' had to be interpreted widely and it included open discussion on political issues including public administration and public concern, including comments about the adequacy or inadequacy of the performance of public duties by others. It had been held that there was no distinction between political discussion and discussion of matters of public concern. In making observations about the general purpose of a Code that proscribed conduct, the High Court noted that a Code could seek to maintain standards and to ensure that the conduct of public life at the local government level, including political debate, does not fall below a minimum level so as to maintain public confidence in local democracy.

3. Guja v Moldova (2011) 53 EHRR 16: The European Court of Human Rights (EHRR) found that the signalling or disclosure of wrongdoing by an officer should be made in the first place to the individual's superior or other competent authority or body and that the question of whether there was any other effective means of remedying the wrongdoing should be considered before information was disclosed in public. The EHRR further found that the public interest in particular information could sometimes be as strong as to override even a legally imposed duty of confidence.

4. **Lombardo v Malta (2009) 48 EHRR 23**: The EHRR stated that a very narrow margin of appreciation must be afforded to competent national authorities to restrict discussions on matters of public interest. Comments in the political context, which amount to value judgements, are tolerated even if untrue, as long as they have some or any factual basis. Even a statement of fact will be tolerated if what was expressed was said in good faith and there is some reasonable (even if incorrect) factual basis for saying it. The Court noted it did not matter whether the restriction was imposed by civil or criminal proceedings when determining whether interference with the freedom of expression was proportionate to the aim pursued and was necessary in a democratic society.

5. **Mamere v France (2009) 49 EHRR 39**: The EHRR noted that individuals taking part in public debates on matters of general concern must not overstep certain limits, particularly with regard to respect of the reputation and rights of others, a degree of exaggeration or even provocation is permitted. The requirement to protect civil servants had to be weighed against the interests of freedom of the press or of open discussion on matters of public concern. In a political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated. The Court noted that Article 10 protects all modes of expression but that the means of disseminating information can be of significance in determining whether measures taken by a competent authority to restrict freedom of expression were proportionate to the legitimate aim being pursued.

6. **Busuioc v Moldova (2006) 42 EHRR 14**: Even if comments are made as part of a debate on an issue of public interest, there are limits to the right to freedom of expression where an individual's reputation is at stake.

7. **Livingstone v Adjudication Panel for England (2006) EWHC 2533**: The High Court notes that restraints imposed by a code of conduct designed to uphold proper standards in public life are in principle likely to fall within Article 10(2) ECHR but such restraints should not extend beyond what is necessary to maintain those standards. The Court noted that interference with the right of free speech which impedes political debate must be subjected to particularly close scrutiny but that simply indulging in offensive behaviour was not to be regarded as expressing a political opinion, which attracts the enhanced level of protection.

8. **Pederson v Denmark (2004) 42 EHRR 24**: The EHRR recognised that there can be a conflict between the right to impart information and the protection of the rights and reputation of others. In determining whether a restriction on freedom of expression was legitimate, consideration should be given to whether or not there were sufficient other opportunities for person imparting the information to achieve his or her objective.

9. **Janowski v Poland (1999) 29 EHRR 705**: The EHRR considered rights of public servants and their entitlement to protection but noted they are subject to the wider limits of acceptable criticism, meaning such criticism could be harsh or expressed in strong form. Public servants can expect criticism at higher level than the public but not quite the same level as politicians. They did not knowingly lay themselves open to close scrutiny of their every word and deed to the extent to which politicians do and

should not, therefore, be treated on an equal footing with the latter when it comes to criticism of their actions. The Court noted that civil servants can expect protection if there is a pressing social need. Any such protection must also be proportionate to the legitimate aim being pursued and be relevant and sufficient. Civil Servants must enjoy public confidence in conditions free from undue perturbation if they are to be successful in performing their tasks and it may therefore prove necessary to protect them from offensive and abusive verbal attacks.

10. Thorgeirson v Iceland (1992) 14 EHRR 843: The EHRR noted that freedom of expression was not just applicable to information and ideas that were favourably received or regarded as inoffensive or as a matter of indifference, but also to those which shock, offend or disturb. The Court observed that there was no distinction between political discussion and discussion on matters of public concern