



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for South Kesteven District Council, into allegations concerning Councillor Tim Harrison.

Dated: 12 November 2024

VOLUME 1 REPORT

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Appendix A Schedule of evidence taken into account and list of unused material

1. Executive Summary

- 1.1 Councillor Harrison is a Grantham Independent member of South Kesteven District Council (the Council). He is part of the alliance of groups and independent members which has formed the Administration of the Council.
- 1.2 Councillors Ben Green, Graham Jeal and Sue Woolley are Conservative members of the Council. They are part of the South Kesteven Coalition, which is in opposition to the Administration.
- 1.3 Councillor Green submitted a complaint on 2 March 2024. Councillor Green followed this up on 5 March 2024 with further information.
- 1.4 Councillors Jeal and Woolley submitted separate complaints on 3 March 2024 alleging that Councillor Harrison has breached the Nolan Principles.
- 1.5 In August 2023, the Committee for Standards in Public Life (CSPL) responded to a Freedom of Information (FOI) request. The request asked for the process by which someone could raise a complaint that a government department or other public body had breached the Nolan Principles.
- 1.6 In response to the FOI, the CSPL stated that they held no information in the scope of the request because:

“the Seven Principles of Public Life are intended to be high level statements and there is no formal mechanism for holding people to account under those principles. The Principles are not a rulebook. They are a guide to institutional administration and personal conduct. It is organisations’ codes of conduct against which complaints may be made so if you wish to hold an individual to account or make a complaint about an individual’s behaviour, this would be done against the relevant organisation’s code of conduct.”

- 1.7 None of the complaints specify which parts of the Council’s Code of Conduct it is alleged that Councillor Harrison has breached. However, following the Monitoring Officer’s assessment in his Decision Notice, we have considered the issues of paragraphs 1 (Respect), 2 (Bullying and Harassment) and 5 (Disrepute).
- 1.8 Following investigation, we have concluded that Councillor Harrison:
 - (a) failed to treat Councillor Green with respect;
 - (b) did bully Councillor Green;
 - (c) did not harass Councillor Green;
 - (d) brought his office and the Council into disrepute.

2. Councillor Harrison's official details

2.1 Councillor Harrison was first elected to the Council on 9 May 2023. He is a Grantham Independent member representing St Wulfram's ward.

2.2 At the time of alleged conduct, Councillor Harrison sat on the following committees:

- Budget – Joint Overview and Scrutiny;
- Community Governance Review Working Group;
- Community Governance Review Working Group – Little Ponton and Sproxton;
- Finance and Economic Overview and Scrutiny;
- Governance and Audit (Chairman);
- Joint Meeting of the Finance & Economic & Environment Overview and Scrutiny Committee;
- Joint Meeting of the Finance and Economic and Culture and Leisure Overview and Scrutiny;
- Planning; and
- UK Shared Prosperity Fund and Rural England Prosperity Fund Board.

2.3 Councillor Harrison attended Code of Conduct training on 11 May 2023 as part of the Induction Programme. He also attended Code of Conduct training on 24 July 2024. In 2024, he has also completed the following training:

- 17/06/2024 – Equalities, Diversity & Inclusion;
- 17/06/2024 – Local Government Finance Explained;
- 13/06/2024 – Governance & Audit Committee Annual Refresh;
- 10/06/2024 – Planning Committee Annual Refresh Training;
- 10/06/2024 – Safeguarding.

3. Relevant legislation and protocols

- 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.
- 3.2 Under section 28(6) of the Act, principal authorities (which includes district councils) must have in place (a) arrangements under which allegations can be investigated; and (b) arrangements under which decisions on allegations can be made.
- 3.3 Under section 28(7), arrangements put in place under section 28(6)(b) must include provision for the appointment by the authority of at least one Independent Person (“IP”) 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.
- 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.
- 3.5 The Council has adopted a Code of Conduct (“the Code of Conduct”) (attached at WC 1) which includes the following:

“General Conduct

1. Respect

As a Councillor:

- 1.1 I treat other Councillors and members of the public with respect.***
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.***

Respect means politeness and courtesy in behaviour, speech and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas and opinions and policies in a robust but civil manner.

You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public’s expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider, or the Police. This also applies to fellow Councillors, where action could then be taken under the Members’ Code of Conduct, and local authority employees, where

concerns should be raised in line with the local authority's councillor officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

7.1 I do not bully any person.

7.2 I do not harass any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

5. Disrepute

As a Councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct."

3.6 We have also considered other relevant legislation as follows:

Freedom of Expression and Article 10 of the European Convention on Human Rights 1998

3.7 Article 10 of the European Convention on Human Rights (Article 10 ECHR) states:

- *"Art 10(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 a public authority..."*

- *“Art 10(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 necessary in a democratic society...”*

3.8 Article 10 ECHR has been enshrined in UK domestic law by Section 1 of the Human Rights Act 1998 (HRA 1998) and Section 3 of the HRA 1988 states that the Act must be interpreted as far as possible so that it is in line with Article 10 ECHR.

4. Evidence and facts

Our appointment

- 4.1 The Council's arrangements for dealing with code of conduct complaints provide that Monitoring Officer ("MO"), in consultation with the appointed Independent Person (IP), shall decide whether or not to investigate a complaint.
- 4.2 Councillor Green submitted a complaint on 2 March 2024 (attached at WC 2), following up with further information on 5 March 2024 (within WC 2).
- 4.3 Councillor Jeal submitted a complaint on 3 March 2024 (attached at WC 3).
- 4.4 Councillor Woolley also submitted a complaint on 3 March 2024 (attached at WC 4).
- 4.5 Councillor Jeal and Councillor Woolley's complaints cover some of the same issues as set out in Councillor Green's complaint. Having consulted with two IPs, the MO issued his Decision Notice on all three complaints (attached at WC 5) on 21 March 2024.
- 4.6 On 28 May 2024, the MO instructed Wilkin Chapman LLP to conduct an investigation into the complaints.
- 4.7 Wilkin Chapman LLP is a solicitors' firm based in Lincolnshire and East Yorkshire with a national local government legal practice. Work in relation to this investigation was undertaken by Estelle Culligan, Gill Thompson and Emily Briggs.

The investigation

- 4.8 During the investigation we undertook formal interviews with:
 - Councillor Ben Green – complainant;
 - Councillor Graham Jeal – complainant;
 - Councillor Sue Woolley – complainant; and
 - Councillor Tim Harrison – subject member.
- 4.9 We obtained signed statements from Councillor Green (attached at WC 6), Councillor Jeal (attached at WC 7) and Councillor Woolley (attached at WC 8).
- 4.10 A transcript was prepared from our interview with Councillor Harrison (attached at WC 9).
- 4.11 The transcript was sent to Councillor Harrison for approval on 22 July 2024. As we had not received a response from Councillor Harrison, we re-sent our email on 6 August 2024 asking if he could confirm approval of the transcript as soon as possible. In an email of 6 August 2024 Councillor Harrison told us:

"I have only had time for a cursory glance over all this, I am too busy. It all seems in order I am confident that you will have transcribed accurately. If there is any issue in the future we can always return to the video."

4.12 On the same day, we replied to Councillor Harrison to say:

"Thank you for your email. I appreciate you are very busy but we would like you to sign the transcript. I will send it to you via Docusign (which enables electronic signature and return) so if you could give it a read through that would be very much appreciated."

4.13 On 19 August 2024 Councillor Harrison emailed as follows:

"I cannot sign this, I haven't had a copy of the video to compare it, plus I really do not have the time to spend going through it. As you are aware I do not get paid for this time and consider it a waste of my valuable time, where I can actually be achieving something for the constituents."

4.14 We sent the video recording of our interview with Councillor Harrison to him on 20 September 2024 via Docusign. Councillor Harrison replied to say:

"Your conditions are not acceptable to me. I am sorry."

4.15 It should therefore be noted that whilst we have relied on the interview transcript, this has not been approved by Councillor Harrison. Copies of the email correspondence referred to in paragraphs 4.11 – 4.14 are attached at WC 10.

4.16 Copies of the above, together with other relevant documents are annexed to this report.

4.17 We wish to record our thanks for the co-operation and courtesy shown to us by all those whom we contacted during the investigation.

Factual Background

4.18 Councillor Green is a Conservative member of the Council representing Isaac Newton ward.

4.19 Councillor Jeal is a Conservative member of the Council and Leader of the Conservative Group. He represents St Vincents ward.

4.20 Councillor Woolley is a Conservative member of the Council representing Morton ward.

4.21 The complainants are part of the South Kesteven Coalition Group which forms the main opposition group to the governing alliance of groups and independent members which forms the Administration.

4.22 Councillor Harrison is a Grantham Independent member of the Council representing St Wulfram's ward. Councillor Harrison is a member of the Administration.

Councillor Green's complaint

4.23 Councillor Green's complaint states:.

"It is with regret that I must bring to your attention behaviour, which I believe conclusively demonstrates harassment, exhibited by Councillor Tim Harrison on social media.

Over the course of approximately one to two hours on 9 February, Cllr Harrison extensively combed my Facebook profile and proceeded to share multiple posts, accompanied with vitriolic attacks, to his own feed. To exacerbate matters, he went so far as to edit a video still of me, incorporating his own commentary.

More gravely, today, 2 March, Cllr Harrison incited local animal rights campaigners to bombard my email address and displayed mobile phone number because of my party affiliation. This is personal, disturbing and, to my mind, a wholly unacceptable breach of the Code of Conduct and Nolan Principles. I am minded to also log this incident with the Police.

Taken together, I regard this body of evidence as a torrent of highly-personalised, intimidating and aggressive online behaviour that has significantly degraded the discourse. It also has strong potential to affect my wellbeing, mental and physical. I would appreciate your confirmation these incidents will inform an investigation into whether Councillor Harrison has, indeed, breached our Code of Conduct.”

4.24 Councillor Green followed this up on 5 March by stating:

“Further, it is important to note that, beyond the initial complaint, Cllr Harrison’s incitement contributed to a death threat against me which was countered with a Fixed Penalty Notice. I reproduce that below. He also shared the link to the anti-cull post after being told it was offensive by the Police. He has admitted no responsibility nor contrition, which is distressing.

At least two Parish Council meetings have been cancelled in my ward due to the specific threat which Cllr Harrison has promoted.”

4.25 On 4 February 2024 Councillor Green posted onto his councillor Facebook page a video, the still in the post shows him standing on a bridge over the A1, and stated:

“ A1 littering is a disgrace, but it's SKDC's job to clean it up! Help out by sharing grot spots at ben.green@southkesteven.gov.uk. 

The Rainbow Alliance of Independents, Labour, and others, is finally taking action after outright litter denial and my lobbying!

#StopLittering #A1Cleanup”

4.26 The video is a very short clip of Councillor Green asking for residents to report “grot spots” on the A1 and referring to a “U-Turn” in the Administration’s policy. This is a reference to the Council voting through an amendment to its budget at its meeting on 29 February 2024, proposed by Councillor Green, to create a £60,000 reserve for cleaning of the A1. The video is at the following link: <https://fb.watch/uodjZJ-tGw/>

4.27 Councillor Harrison commented on Councillor Green’s post of 4 February 2024 with a video still of Councillor Green, adding a speech bubble stating:

“Please ignore the two completely clean laybys right behind me!”

4.28 Councillor Green's post, along with Councillor Harrison's caption, is attached at page 17 of the Schedule of Evidence.

4.29 On 9 February 2024, Councillor Harrison shared Councillor Green's 4 February 2024 post to his own Councillor Facebook page and stated:

"There is no u-turn on the A1. This man originally wanted to send out volunteers in groups of three with an air horn to clean the A1. He had no idea of how to fund it claiming that was how Newark & Sherwood had done it. A quick google search showed that they had in fact contracted Amey, the professionals. He actually wanted to risk volunteers lives. His recklessness knows no bounds, for an election photo opportunity he stood on the side of the A1 washing a sign down with no hi-viz. I have now had enough of this, I sent him a polite email a number of months ago asking him to stop the nonsense. He has chosen not to do so, now I will highlight it."

4.30 Councillor Harrison's post is attached at page 18 of the Schedule of Evidence.

4.31 On 9 February 2024 Councillor Harrison shared Councillor Green's post of 11 July 2023 which contained a video and the words:

"The problem of A1 littering is more significant than we realise. It's not just about cleanliness; it's about how our District is perceived by the world.

Every day, 50,000 vehicles pass along the A1 in South Kesteven, amounting to a staggering 18 million annually. The cleanliness along this stretch of road leaves a lasting impression on motorists. Sadly, we've witnessed a decline in the quality of this cleanliness, which discourages people from stopping here or investing in our area. Enough is enough, especially for the residents of Isaac Newton Ward.

If we fail to take action now, we risk facing Litter Abatement Orders under the Environmental Protection Act 1990, triggered by concerned members of the public that will force the Council to act. The longer we wait, the more the problem will escalate, and the costs will soar."

4.32 The video is of an unknown Council meeting, in which Councillor Green is discussing the issue of littering on the A1. A copy of the video is at the following link: <https://fb.watch/uoddQ2D5Rr/>. During the video, Councillor Green states, "...I want to demolish this Jenga tower of myth that's been constructed around the issue of A1 littering..." He then talks about having spoken to officers at Newark and Sherwood Council who explained that they had cleaned large parts of the A1 in teams of three, using two people to litter pick and a third with an air horn to warn of danger. He explains that there was a 1.5 metre exclusion zone for the workers, that there was some "hesitancy from the council cleaning workers but nevertheless they were strongly encouraged to do so..."

4.33 Councillor Harrison's post of 9 February 2024 is attached at page 19 of the Schedule of Evidence. It states

*"The litter myths
Jenga Tower of Myth?? Yes he actually said that. Here is his claim that they did it with groups of three and an air horn. So please Cllr Green, tell me who at Newark said they did this ?"*

4.34 On 9 February 2024, Councillor Harrison posted onto his own Facebook page a post from Councillor Green's Facebook page, which contained a news article by Councillor Green. Councillor Harrison stated:

"Here is Cllr Green yet again with the childish rainbow alliance jibe moaning about the cost of green bins going up less than the cost of inflation and less than the £5 that the tories previously put it up. A green bin for a year gives you roughly a 12 yard skip of green waste. Which would cost you in the region of £260 and you would have a skip on your drive for a year. I would hazard a guess that the green bin going up affects more Tory voters lives than it does the average resident of South Kesteven. Also if Cllr Green comes out from behind his faux horror, maybe he would prefer to compost and save the green bin charge altogether.[questioning emoji]"

4.35 Councillor Harrison's post is attached at page 20 of the Schedule of Evidence. Councillor Green's original social media post contains a picture of a written piece in what we assume to be the Grantham Journal with the heading:

"The SKDC Rainbow Alliance of Independents, Labour, and even Greens, is hitting us with higher charges for our green bins. We pushed for a freeze on the collection charge, but unfortunately, they voted against it not once, but twice."

4.36 The news article states:

"TAXES
We championed freezing green waste bin charge
As you may have noticed, taxes are once again on the rise in South Kesteven. It's crucial to grasp why and identify the culprits. My colleagues and I in the South Kesteven Coalition twice championed freezing the green waste bin collection charge. Frankly, it's high time to give users of this service a respite – to knock this stealth tax on the head. We suggested covering the revenue shortfall from trimming catering costs, reducing conference expenses, and reining in consultancy fees. While we lavishly allocate thousands to each, consultancy fees are the grand-daddy, nearly hitting £400,000 of your money from May to November last year. The proposal was sensible, measured stuff, but twice the ruling Rainbow Alliance, encompassing Labour, Independents, and even Greens, tossed the idea aside. Threw it in the bin (maybe they'll get one of those petty bin tags?) Coun Paul Fellows (Ind, Bourne) declared he was content to 'have the life taxed out of him', suggesting that if residents disliked the green bin stealth tax, they could cancel the service. Pushing anyone to cancel this cherished service risks a surge in fly-tipping of green waste. Increasingly, the un-whipped Grantham Independents seem to be moving in a united front against the taxpayer, exhibiting remarkable discipline and an absence of independent thought. They rally behind Coun Ashley Baxter's (Ind – Deepings) hard left administration, not one of them daring to break ranks. Keep this in mind when the bills arrive.

4.37 On 9 February 2024 Councillor Harrison shared to his own Facebook page a post by Councillor Green of 16 January. Councillor Green's post contained a video of a Council meeting and stated:

"👉 Budget Alert: Fighting the Green Bin Stealth Tax 👈

Hey everyone,

As we gear up for the 2024-25 Budget, I couldn't help but notice the need for South Kesteven District Council to share in our community's challenges. The Council should tighten its belt too, trimming catering costs, scaling back on conferences, and re-evaluating consultancy fees. The goal? Putting a stop to unnecessary tax increases.

Take, for instance, the ruling Rainbow Alliance's proposal for a green bin stealth tax, hiking the collection charge to £51. It's been climbing above inflation for too long, while other authorities are freezing theirs or charging less. It's now time we reconsidered.

I proposed a solution, freezing the collection charge, offset by savings, but unfortunately, the Rainbow Alliance (made up of Independents, Labour, and other parties) shot it down. One member even stated they're okay with the District Council 'taxing the life out of him! 😊

What's your take on this? I gave it my best shot, but I'd love to hear your thoughts! 🤝 Let's discuss and make our community's voice heard. 🤝

#CommunityFirst #Budget2024 #SouthKesteven"

- 4.38 The video can be seen at the following link: <https://fb.watch/uodpdPs2Cj/>. It is of Councillor Green talking about the upward rise of the fee for a green bin which, he states, has been "over the last 8 or 9 years." He refers to it as a "stealth taxation" and calls for a freeze to the charge.
- 4.39 When sharing the above post on 9 February 2024, Councillor Harrison stated:
"It's been marching up relentlessly over 8 or 9 years he says.....who was in charge then Cllr Green"
- 4.40 Councillor Harrison's post is attached at page 21 of the Schedule of Evidence.
- 4.41 On 9 February 2024 Councillor Harrison posted to his Facebook page a news article by Councillor Green entitled "*I will walk this path until veterans receive support*" and stated:

"Calling all my Verteran Friends. This is another of Cllr Green's hair brained ideas. Truth be told Cllr Green initially wanted this for ALL VETERANS. He thought the term veteran meant active service. I was then told by my veteran friends that, in their words, "one of their breakfast meetings was hijacked by the tories offering them council tax relief". They offered no explanation of where the money would come from or that it would most likely need an increase in everyone's council tax. Meaning a single parent struggling to make ends meet could in theory be subsidising a brigadier living in a mansion. It was only after I pointed out his complete misunderstanding of pretty much everything, that he decided to swap it to employed veterans in band A properties. For clarification a veteran is anyone who signed on for service, even if they lasted only a day. These ridiculous attempts by Cllr Green to coerce ill will to the current administration are laughable. I would appreciate yet again veterans opinions"

4.42 Councillor Harrison's post is attached at page 22 of the Schedule of Evidence. The post contains a screen shot of a letter from Councillor Green to a local newspaper in which he calls for 5 – 10% council tax relief for employed veterans in band A properties.

4.43 On 2 March 2024 Councillor Harrison shared a social media post by 'Lincolnshire Against the Cull'. It contained a large image of Councillor Green alongside an image of his ward which had the caption "**ALL BADGERS ARE TO BE KILLED HERE**" written across it. The text of the post stated:

"Lincolnshire Against the Cull"

This is Cllr Ben Green from the Conservative Party at South Kesteven District Council, he is the Cllr for the Isaac Newton Ward which sits to the south of Grantham.

Cllr Green's entire ward sits within the badger cull zone, this zone is on an eradication zone, ALL badgers are to be killed, needlessly.

Like most in his party, Cllr Green is a hypocrite when it comes to wildlife, he feels the wildlife of his ward is fair game (no pun intended) to be used in political arguments. We take particular offence at his pretending to care about badgers, when his entire ward is in the current Lincolnshire cull zone and he takes no interest. Cllr Green has been totally silent and none engaging when it comes to the badger cull in Lincolnshire and indeed his ward, he has said literally NOTHING.

In 2013 the cull was brought into existence, since then, 243,000 badgers have been slaughtered across England, people like Cllr Green are guilty by association of this slaughter. Cllr Ben Green has remained very very quiet on this topic so we thought he should have his 5 minutes of fame. His contact details are below:

<https://moderngov.southkesteven.gov.uk/mqUserInfo.aspx...>

We think Cllr Green is a disgrace and should apologise in using the deaths of animals in his ward as political pawn.

<https://www.facebook.com/councillorben/>

4.44 There were a number of comments made by others to the post, one of which is by a member of public who states:

"What is the chance of culling this waste of space. I'm sure nobody would notice him missing from his ward."

4.45 The post is at page 24 of the Schedule of Evidence. The above comment on the post is at page 27 of the Schedule of Evidence.

Councillor Jeal's complaint

4.46 Councillor Jeal's complaint states:

"I would like to place a code of conduct complaint against Cllr Tim Harrison for the attached social media post.

In accepting the role of councillor we all agree to follow the South Kesteven District Council Code of Conduct which incorporates the Nolan Principles. I believe that this post is in breach of all 7 of the 7 Nolan principles. Namely:

- **Selflessness:** Holders of public office should act solely in terms of the public interest.

This social media post is a clear incitement of hatred against a fellow councillor and an invitation for animal rights extremists to target a specific councillor. This is not in the public interest.

- **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

It is not clear whether clrr Harrison or members of his group have relationships to the given animal rights group. My understanding is that there is at least one member of his group that is a member of the group he is promoting here in his attempt to get the general public to attack a member of the council.

- **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

IT is totally false to claim to make a public claim about clrr Green who has not made any position public on this matter – it is a deliberate slur on a councillor without any objective evidence. By placing a picture of clrr green and combining it with an annotated picture of his ward suggesting that the opinion that badgers will be “killed here” has no evidence and is deliberately misleading.

- **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

In supplying this false information in the public domain and then inviting member of the public to comment, clrr Harrison acted without accountability and recklessly bringing the authority into disrepute. As you know I made you aware that a death threat had been made towards clrr Green on the Saturday evening and I was encouraged to call the police. The police took this extremely seriously and issued a Fixed Penalty Notice to the person who placed the threat which was promoted by clrr Harrison. Cllr Harrison even after learning that a fixed penalty notice had been issued failed to withdraw the totally false and deliberately provocative post.

- **Openness:** Holders of public office should act and take decisions in an open and transparent matter. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

By posting false information without and evidence or discussion, clrr Harrison failed to act in a transparent manner. Indeed by doing this he behaved in a deceitful manner.

- **Honesty:** Holders of public office should be truthful.

The post and its inference that clrr Green has an opinion on the post is totally factually incorrect and dishonest.

- **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Cllr Harrison holds a leadership position within the council as chair of a committee. He brings himself and the council into disrepute with this post, it is a clear and dangerous slur against a fellow council member, a direct attempt to intimidate another member from telling the truth about the failures of the administration and a failure to promote and uphold the highest possible standards in public life. This is corroborated by the ongoing police investigation and the requirement for the police to issue a fixed penalty notice against at least one of the comments below the post that cllr Harrison promoted.

I know you will attend this this urgently, I reserve the right to present a copy of this complaint to the press – but I am sure that you will understand that I consider this behaviour unbecoming of a councillor and should be attended to immediately.”

- 4.47 The social media post which is the subject of Councillor Jeal's complaint is that referred to at paragraph 4.43 above and can be seen on page 24 of the Schedule of Evidence.
- 4.48 The death threat referred to is that set out in paragraph 4.44 above and can be seen on page 27 of the Schedule of Evidence.
- 4.49 This matter was referred by the MO for investigation.

Councillor Woolley's complaint

- 4.50 On 3 March 2024 Councillor Woolley submitted her complaint. She stated:

“Dear Graham, over the weekend Cllr Tim Harrison has conducted a quite concentrated and vitriolic campaign against Cllr Ben Green, on social media. I was particularly disturbed to see a death threat made towards Cllr Green by a member of public on Cllr Harrison's FB account, which Cllr Harrison made not attempt to remove. I do not propose to list further examples, there are many and these can be forwarded if requested. I am most concerned that as a prominent chairman of one of the Council committees (Governance & Audit) Cllr Harrison appears not to be holding up the good name of the council.”

- 4.51 The relevant social media post is that referred to at paragraph 4.43 above and can be seen on page 24 of the Schedule of Evidence.
- 4.52 The death threat referred to is that set out in paragraph 4.44 above and can be seen on page 27 of the Schedule of Evidence.
- 4.53 This matter was referred by the MO for investigation.

5. Councillor Green's, Councillor Jeal's, Councillor Woolley's and Councillor Harrison's additional submissions

Councillor Green

5.1 No comments were received from Councillor Green on the draft version of this report.

Councillor Jeal

5.2 The following comments were received from Councillor Jeal, on 1 October 2024, on the draft version of this report:

“A very comprehensive report – thanks for your work on this. Comments below:

Page 16 – my comment about the press I subsequently removed and explained from the complaint. This paragraph was added to the complaint because I am aware of complaints in previous years that were successfully gagged or remained confidential. I obviously have no idea as to the nature of those complaints because they were prosecuted in absolute secrecy. This sentence was written because I believe that the nature of this complaint means that it is in the public interest and should not be considered top secret as long as it is managed according to the revised complaints procedure. I subsequently received assurances from the monitoring officer that this complaint would be treated according to the revised complaints procedure and that this was totally different to the complaint from previous years that was managed, investigated and resolved in absolute secrecy. Therefore this line is unrelated to this complaint:

“.....I reserve the right to present a copy of this complaint to the press – but I am sure that you will understand that I consider this behaviour unbecoming of a councillor and should be attended to immediately.”

Page 18 – I assume that this is blank intentionally

Page 30 – 6.74. Councillor Jeal requested that a reference to a specific incident should be redacted. He said, I think that the essence of the statement is retained with the previous sentence talking about animal rights extremism in general, but I am uncomfortable referring to a specific criminal incident in such a public document.

“[REDACTED]”

Whilst this is referenced in 6.80 – I think that this can remain as it is less specific”

Response

5.3 Page 16 - We note and thank Councillor Jeal for his explanation of this sentence in his complaint.

5.4 Page 18 – this page is blank in the draft report as no comments have been received at the point of issuing the draft report to the parties. All comments received are contained within the final report and responses provided.

5.5 Page 30 – 6.74 – this paragraph has now been amended. We have also amended this paragraph to reflect some minor changes which Councillor Jeal had previously made to his statement (finalised as version 2), which had not been updated in the draft report. His statement within the Schedule of Evidence has also been updated to version 2 and suitably redacted.

Councillor Woolley

5.6 No comments were received from Councillor Woolley on the draft version of this report.

Councillor Harrison

5.7 The following comments were received from Councillor Harrison, on 20 October 2024, on the draft version of this report. For ease of reference, we have commented on each point underneath the relevant paragraph:

"Firstly, assumptions are made that I saw the post before the Police rang me about it. This is incorrect. Having not seen it, how could I have removed it. Secondly when the police contacted me, they informed me that they had got member of public to remove the post, therefore I could not remove it. Any claims that I would not remove it were made after the fact that it had already been removed. You are confusing my statement to not remove MY post with removing member of public's."

Response

We have reviewed again that Councillor Harrison told us in interview, as recorded in the transcript. He said:

"...the Police not only call at my house they call at my office at work, they then ...ring me to chase this up within hours, so the irony is where a burglary somebody can't come out for 6 weeks, but a hurtly Facebook post they're out within 3 hours, so, I then said to the Policeman, I said why are you ringing me? He said well ... somebody's put this comment on your post, I said yeah, why are you ringing me? So he said, well, will you remove this post so I said no."

Response

We have quoted these comments in our reasoning below. We are referring to the Police's request for Councillor Harrison to remove his actual post, i.e. his sharing of the post by the group "Lincolnshire against the Cull", not member of public's comment. It is clear that the Police were referring to the actual post, otherwise why would they ask him to remove it? We have reviewed our comments below and believe this is quite clear. We have nothing further to add on this point.

"You go on to state that my comment was comparing culling badgers with culling BBC staff, this is also grossly wrong, my comparison was with member of public's comment about culling and the BBC's. Highlighting, that not all references to culling mean to kill. Please correct this error."

Response

We have reviewed our comments on this point below. We make very clear that the reference to the word "cull" in the sense of the BBC is figurative, meaning to make staff redundant and the reference to "cull" in respect of badgers, is literal, meaning to kill them. Member of public's comment about Councillor Green was directly linked to the badger culling post, therefore the inference is clear.

"Ref 6.64. Time has born this statement by me to be correct. There was no danger, and very little interaction on the post. Even the dreaded facebook police did not choose to take the post down."

Response

That may be the case, but at the time, Councillor Green felt threatened by the post, as evidenced by his statement and Councillor Jeal's statement.

"Ref 6.71. You make another mistake that my post attracted Police action. No it did not. That is a fact. It was member of public's post that attracted police attention. When they asked me to remove MY post I asked if it was an illegal post and was told no. To equate my post with an incitement to racial hatred is quite frankly very disturbing."

Response

It may have been member of public's comment on Councillor Harrison's post which caused the Police to contact Councillor Harrison to ask him to take the post down, but the Police clearly felt it was serious enough to contact Councillor Harrison as originator of the post. Councillor Harrison is using the word "post" both in relation to his sharing of the original post and in relation to member of public's comment. This is confusing. We are clear that we are discussing Councillor Harrison's post and member of public's comment on that post.

"6.76. The statement that my post was false is in itself false. Was there not a total cull panned?"

Response

The accusation of the post being "false" is a direct quote from Councillor Jeal.

"6.111 In all the time since this complaint was made can you please inform me how many complaints were actually made from members of the public who knew all the relevant facts? Making assumptions doesn't actually work. Could you also please tell me which, of my actions, specifically, impacted on the council's ability to carry out its functions and which functions these were. Please do not confuse my actions with the actions of others on social media. For the avoidance of doubt, I again ask that please show me what I, specifically me, put to scare Cllr Green. What threat, what bullying tactic was used? What complaint was received about it from anyone other than the Conservative Party who also made a plethora of other complaints against me. Ones which are vexatious. At any time did you consider the number of complaints made against me and what weight did you give to that. If Cllr Green felt so threatened and scared of me why did he not exercise his ability to block me on social media. If you actually look at the true facts, you will see that Cllr Green's actions were inciting and continue to be so."

Response

We have explained the definition of "disrepute" below and the reasons for our findings. We have explained that the test is an objective assessment.

"Please clarify, is it the decision of you as investigators, that any post that attracts detrimental interaction should be removed ad hoc? Regardless of whether the detrimental interaction has been removed?"

"Please be clear on this, are you demanding that ANY post any councillor puts up that gets a negative or detrimental comment must be removed or is it just mine? My post was not illegal, and was highlighting an issue in a ward. Are you in fact saying that I cannot report on such things? Please be abundantly clear on this."

6.113 It appears here that is exactly what you are saying. That if someone posts detrimental comments on any of MY posts that I should remove MY posts. Thereby effectively silencing anything I can put. Is that correct? If not, can you please explain which behaviour was expected of me. I ask again, why did Cllr Green not block me on social media? That would have removed any link to him."

Response

We have undertaken our investigation based on the facts of this case. We cannot comment generally on other hypothetical posts/comments on social media.

"In all, this has been a concerted attack of vexatious complaints. None hold water. No weight was given to the nature of the vexation addressed towards me, no weight was given to the fact that any or all Councillors concerned can block me on social media but choose not to. No weight was given to the fact that the actual complaints are false, [REDACTED]. Any claims of fear, bullying or threatening behaviour would, by any reasonable person's opinion, have resulted in such an action. I also highlight yet again the double standards that appear to be applied against myself and the complainants. I would therefore suggest that all these cases are dismissed."

Response

We have investigated this complaint thoroughly and have set out our findings and our reasoning in this report. It is for the Monitoring Officer to decide how to deal with the final report. That may be by referral to a Standards Hearing. In that case, it will be for the Standards Hearing panel to make the final decision as to whether they agree with our findings and whether there have been breaches.

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

6.1 The relevant sections of the Code and of the relevant protocols which fall to be considered are set out in Section 4 above.

Capacity

6.2 Section 27(2) of the Localism Act 2011 requires the Authority to adopt a Code of Conduct dealing with the conduct that is expected of members of the Council “when they are acting in that capacity”.

6.3 The Council’s Code of Conduct reflects the requirement of Section 27(2) of the Localism Act.

6.4 The Council’s Code is expressed to apply whenever a member is acting in their capacity as a Councillor. We therefore first have to consider whether Councillor Cunnington was acting in an official capacity at the time of the alleged incidents.

6.5 The Local Government Association Guidance on the Model Code of Conduct (“the LGA Guidance”) states that:

“The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- You misuse your position as a councillor*
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.*

This means it applies when you are carrying out your official duties, for example when you are considering or discussing local authority business, either as a councillor or representing the local authority on an outside body.

...

The code does not, therefore, apply solely when you are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction, including:

- At face-to-face meetings*
- At online or telephone meetings*
- In written communication*
- In verbal communication*
- In non-verbal communications*
- In electronic and social media communication, posts, statements, and comments.*

The includes interactions with the public as well as with fellow councillors and local authority officers.”

6.6 Councillor Harrison’s Facebook page is under the name “Cllr Tim Harrison”.

6.7 It is clear from the LGA Guidance that this alone does not mean that Councillor Harrison was acting in his capacity when posting on Facebook:

"Simply describing yourself as a councillor in a social media posting or at the top of your page or in your username or profile, for example, does not of itself mean that every posting you make is covered by the Code. There must be a link within the individual posting or thread to your role as a councillor or to local authority business."

6.8 However, all Councillor Green's posts that Councillor Harrison has shared and commented on relate clearly to matters which are council business. The post about badger culling is not council business, however, as confirmed by Councillor Harrison in interview, it was intended to contrast Councillor Green's support for badger culling against his comments about litter endangering wildlife on the A1. Councillor Harrison was making a political point in the post.

6.9 In the context of the other recent posts and shares, it is clear that Councillor Harrison is attempting to influence the public's view of Councillor Green as a councillor. We therefore find that Councillor Harrison shared this post in his role as councillor.

6.10 We have therefore concluded that Councillor Harrison was acting in his official capacity and is therefore subject to the Code of Conduct.

Respect

6.11 The definition of Respect in the Code is set out above in paragraph 3.5. We have considered the Local Government Guidance (LGA Guidance) and relevant case law below.

6.12 When describing 'Disrespectful Behaviour' the LGA Guidance states:

"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 occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect."

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

Disrespectful behaviour can be harmful to both you and to others. It can lower the public's expectations and confidence in you and your local authority and councillors and politicians more generally. It influences the willingness of fellow councillors, officers, and the public to speak up or interact with you because they expect the encounter will be unpleasant or uncomfortable. Ongoing disrespectful behaviour can undermine willingness of officers to give frank advice, damage morale at a local authority, and ultimately create a toxic culture and has been associated with instances of governance failure."

6.13 The requirement to treat others with respect must be viewed objectively. Account should be taken of the member's intent and how their behaviour would reasonably be perceived.

6.14 In *Boughton, Dartmouth Town Council* (2009) APE 0419 at paragraph 3.3.6, the Tribunal described a failure to treat with respect as follows:

"A failure to treat others with respect will occur when unfair, unreasonable or demeaning behaviour is directed by one person against another. The circumstances in which the behaviour including the place, who observed it, the character and relationship of the people involved will all be relevant in assessing whether the behaviour was disrespectful."

6.15 In *Buchanan, Somerset County Council* (2009) APE 0409, in relation to a complaint made by a chief executive, the Tribunal said at paragraph 51:

"In the Tribunal's view it was desirable that the threshold for a failure to treat another with respect be set at a level that allowed for the minor annoyances and on occasions bad manners which are part of life. During the course of their work people often show a lack of consideration or bad manners but it is not desirable that every such slight should be considered a breach of the Code. To set too low a level might lead to complaints that were about little other than a difference of opinion over the wording of a letter or what amounts to rudeness and for this reason the Tribunal thinks that not every instance of bad manners or insensitive comment should amount to a failure to treat another with respect."

6.16 The key elements of finding a failure to treat others with respect are that the conduct is unreasonable or demeaning and directed by one person against another.

6.17 The LGA Guidance states that disrespectful behaviour is *"when unreasonable or demeaning behaviour is directed by one person against or about another."*

6.18 The Oxford dictionary definition of 'unreasonable' is:

"beyond the limits of acceptability or fairness"

6.19 The Oxford dictionary meaning of 'demeaning' is:

"causing someone to lose their dignity and the respect of others."

Freedom of Speech and the right to enhanced protection in freedom of speech within political comment - Article 10 European Convention on Human Rights

6.20 It is important to have regard to the right to freedom of speech as set out in Article 10 of the European Convention on Human Rights (Article 10 ECHR):

- *Art 10(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 a public authority..."*
- *Art 10(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 necessary in a democratic society..."*

6.21 Article 10 ECHR has been enshrined in UK domestic law by Section 1 of the Human Rights Act 1998.

6.22 A number of European court cases have established not only the right to free speech but also an enhanced level afforded to freedom of speech in a political context, and that any interference with that freedom should be carefully scrutinised.

6.23 The case of *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504, held that:

- Article 10 of ECHR protects not only the substance of political comment but the form in which it is conveyed;
- a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, non-rational and aggressive is to be tolerated;
- political comment includes comment on public administration and the adequacy of the performance of public duties by others, but not gratuitous personal comments;

6.24 The case of *Jerusalem v Austria* (2003) 37 EHRR 25 held that:

“In this respect the court recalls that while freedom of expression is important for everybody, it is especially so for an elected representative of the people. He or she represents the electorate, draws attention to its pre-occupations and defends its interests. Accordingly, interference with the freedom of expression of an opposition member of parliament, like the applicant, call for the closest scrutiny on the part of the court.”

6.25 In *Sanders v Kingston (No.1)* [2005] EWHC 1145 (Admin) the original tribunal held that, in the Leader of Peterborough Council's responses to a letter circulated by Carrickfergus Council to other councils in the UK asking for support on a particular issue relating to the personal tragedy of soldiers' suicides, his comments and other comments made publicly, amounted to personal abuse.

6.26 In summary, the facts were that the leader wrote a response on a letter passed to him by the Chief Executive, in response to a request made by Carrickfergus Council.

6.27 Councillor Sanders wrote a handwritten note on a copy of the letter and returned it to the Carrickfergus Chief Executive as follows:

“Members of the Armed Forces DO get killed be it accident or design — THAT is what they are paid for.”

6.28 He then signed the comment and identified himself as Leader.

6.29 There were further exchanges between the Leader of Carrickfergus Council and Councillor Sanders, the matter was leaked to the press and Councillor Sanders continued to make highly offensive comments. Councillor Sanders also used aggressive and rude language in various conversations with journalists covering the story.

6.30 During the investigation into the subsequent Standards complaint against Councillor Sanders, he claimed that Article 10 was engaged and that he was exercising his right to free speech.

6.31 The Standards Board for England found that Councillor Sanders had breached the Code of Conduct both in his written comments and in his conversations with journalists.

6.32 In Councillor Sanders' appeal, the judge stated that, on the issue of freedom of speech, there were three questions to answer:

- “1. *Was the Case Tribunal entitled as a matter of fact to conclude that Councillor Sanders' conduct was in breach of the Code of Conduct ?*
2. *If so, was the finding in itself or the imposition of a sanction prima facie a breach of Article 10 ?*
3. *If so, was the restriction involved one which was justified by reason of the requirements of Article 10(2) ?*

6.33 The appeal held that, on the first point, the Standards Board were entitled to conclude that Councillor Sanders was in breach. The tone and disrespectful nature of his comments on the letter and subsequently and in interviews with journalists was not what would be expected of a council leader. The court held also that, on the second point, Article 10 was engaged because of the issues of free speech, but Councillor Sanders' comments were not expressions of political opinions that attracted the higher protection afforded by article 10. They were simply expressions of personal anger and abuse.

6.34 On the final point, the court considered whether the restrictions imposed on Councillor Sanders were justified under Article 10 (2) – i.e. *necessary in a democratic society for the protection of the rights of others*. The court held that the adoption of a Code of Conduct was required by law and ensured a minimum set of standards in councillors' conduct. Councillor Sanders had signed up to the council's Code of Conduct and, as his actions and words were not held to be expressions of political opinion, the interference in his right to freedom of speech, by the finding of the Standards Board that he was in breach, was justified under Article 10(2).

6.35 The three part test was applied in the case of *(Calver) v Adjudication Panel for Wales* (2013). This was a judicial review case in which a councillor sought judicial review of the decision of a county council's standards committee which found that comments he made about the community council and its members on the internet failed to comply with paragraphs 2(b) and 4 of the Code of Conduct by, respectively, not treating others with respect, and bringing the community council into disrepute.

6.36 The court adopted the three questions identified in *Sanders v Kingston* and found that the committee and the panel were entitled to conclude that the councillor's comments breached the Code of Conduct.

6.37 In answering the second and third questions, the court concluded that the panel's decision that the councillor's comments were in breach of the Code of Conduct was a disproportionate interference with his rights under Article 10.

6.38 The approach was also adopted in the recent case of *R (on the application of Clive Robinson) v Buckinghamshire Council* (2021), when the court held that a finding by a

local authority monitoring officer that a parish councillor had breached a code of conduct by making statements about the motivations, intentions and integrity of the other councillors at a public meeting to discuss green belt development had been an interference with his right to freedom of expression under ECHR Art.10. His statements attracted the enhanced protection afforded to political speech and debate, and the interference was not proportionate to the aim of protecting the reputation of the other councillors.

6.39 In Councillor Harrison's case we have considered the three part test set out in *Sanders v Kingston* below as follows:

1 – Is there a breach of the Code of Conduct?

Councillor Green's Complaint

6.40 Councillor Harrison looked through Councillor Green's councillor facebook account and selectively shared and commented on various posts. He also shared a post by "Lincolnshire against the Cull", which, he explains in interview, was intended to make a political comment about Councillor Green's previously expressed message that litter on the A1 harms wildlife.

6.41 We have considered Councillor Green's complaint in two parts: firstly all the posts except the post about badger culling; secondly the post about badger culling on its own.

The posts except the badger culling post

6.42 In respect of the sharing of the posts, Councillor Green states, in his statement:

"He combed my social media over a period of 1-2 hours on 9 February 2024 and proceeded to share multiple posts to his own feed, accompanied with vitriolic attacks. Councillor Harrison went so far as to edit a video still of me, incorporating his own commentary."

6.43 Regarding the complaint about Councillor Harrison of going through Councillor Green's account and sharing posts, we do not find that there is any breach of the Code of Conduct in this. Councillor Green's councillor Facebook account is a public account, and short of blocking Councillor Harrison, Councillor Green cannot prevent him looking through it, sharing posts and making comments on them.

6.44 Councillor Green also explains that he uses Facebook as an alternative to formal press releases, which is finds slow and cumbersome. He states:

"First and foremost, it is about putting across a counter narrative. There is an expectation from the public that we hold the administration to account. It is important for democracy for rival opinions to be put across. It is something I feel my residents would expect me to do, I don't believe they would feel I was doing a good job if I did not hold the administration to account."

6.45 Councillor Green feels that in sharing and commenting on the posts in a "vitriolic" way, Councillor Harrison has treated him with disrespect.

6.46 It is the case that all the posts are intended to be disrespectful towards Councillor Green. Councillor Harrison comments on them, often sarcastically, calling into question both the previous Administration's integrity (of which Councillor Green was

part) and questioning the validity of what councillor Green is saying (as in the post about Newark and Sherwood council workers cleaning the side of the A1 in teams of three using an air horn to warn of danger).

6.47 Councillor Green may find the posts “vitriolic” and offensive, but the guidance in *Heesom* states:

“a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, non-rational and aggressive is to be tolerated.”

6.48 We have also considered the case of *Calver* above, which concerned a number of unpleasant and sarcastic comments made about members of Manorbier Community Council. In the judgment, Mr Justice Beatson stated:

“I have described the comments as sarcastic and mocking, and some as seeking to undermine Cllr Gourlay in an unattractive way. However, notwithstanding what I have said about their tone, the majority relate to the way the Council meetings were run and recorded. Some of them were about the competence of Cllr Gourlay who, albeit in a voluntary capacity in the absence of a Council official, was taking the minutes and no doubt trying to do her best. Others were about the provision of minutes to Councillors or the approach of Councillors to declarations of interest. The comments were in no sense “high” manifestations of political expression. But, they (or many of them) were comments about the inadequate performance of Councillors in their public duties. As such, in my judgment, they fall within the term “political expression” in the broader sense the term has been applied in the Strasbourg jurisprudence. For the reasons given at [55], it is difficult to disentangle the sarcasm and mockery from the criticism of the way Council meetings were run.”

6.49 Considering the first question set out in *Sanders v Kingston*, and, considering *Heesom* these comments are clearly disrespectful and, *prima facie*, are a breach of the Code of Conduct.

*2 Was the finding in itself or the imposition of a sanction *prima facie* a breach of Article 10?*

6.50 However, applying the second question, this is an issue of freedom of expression and Article 10 is clearly engaged. We find that the comments fall squarely within the definition under *Heesom*. They are clearly political commentary by Councillor Harrison, aimed at attacking Councillor Green for his own group’s previous actions and pointing out what he (Councillor Harrison) thinks is wrong in the things that Councillor Green is saying. Councillor Harrison is not gratuitously abusive to Councillor Green, although he is sarcastic and mocking. However, following the guidance in “*Calver*”, political commentary does not have to be “high minded” or particularly well-expressed.

6.51 It is also the case that, if Councillor Green uses social media to criticise the Administration, then Councillor Harrison and others will do the same in respect of the opposition groups and councillors. There is nothing in these posts and shares which would take them out of the realm of Article 10 ECHR and the enhanced protection of freedom of political expression.

3 If so, was the restriction involved one which was justified by reason of the requirements of Article 10(2)?

6.52 In answering the third question, we have considered that the restriction in this case would be a finding of breach under the Code of Conduct. Several cases have held that the bar for imposing a restriction on freedom of expression is high; and more so if there is enhanced protection due to political comment. The case of *Jerusalem v Austria*, above, held that:

“According to the Court’s well-established case law, freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for individual self-fulfilment. Subject to para.2 of Art.10, it is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness, without which there is no “democratic society”. As set forth in Art.10, this freedom is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly.”

6.53 As we find that these posts are political expression, and they are not merely abusive, we find, in respect of the third test, that a finding of a breach of the Code of Conduct would amount to a disproportionate interference with Councillor Harrison’s article 10 rights and is “not necessary in a democratic society”, as set out in Article 10(2).

The badger culling post

6.54 In terms of sharing the ‘Lincolnshire Against the Cull’ Facebook post, Councillor Green feels that Councillor Harrison has incited hatred against him.

6.55 In his statement, Councillor Green states:

“I consider this post by Councillor Harrison incited local animal rights campaigners to bombard me, fundamentally as a response to the post I made on 2 March about the administration refusing to support wildlife near the A1. I personally did not see my phone number or email address within the post. However, with a picture of me in the post, if you were to do a search for my name you could access that information.”

A member of the public commented on Councillor Harrison’s post:

“What’s the chance of me culling this waste of space, I’m sure nobody would notice him missing from his ward.”

This constituted a death threat against me resulting in a Fixed Penalty Notice being issued.

After being told by the Police that his post was offensive, Councillor Harrison went to greater lengths to share the link to that post.

Due to the specific threat against me, which Councillor Harrison promoted, the March Parish Council meeting at South Witham was cancelled and the March Parish Council meeting at Great Ponton was postponed.

I am grateful that my personal address was not available, but I consider Councillor Harrison opened me up to what was credible danger.”

6.56 In interview, Councillor Harrison told us:

“...unfortunately the guy who was issued with a fixed penalty notice, if I’d have got to him first he wouldn’t have got that fixed penalty notice because I would have told him to “no, and go to court” because as I went the police also rang me... recently I’ve been burgled, this is the irony in this, recently I’ve been burgled, and it took the Police 6 weeks to turn out to my house. Somebody puts, gets offended by a Facebook post the Police not only call at my house they call at my office at work they then ring me to chase this up within hours, so the irony is where a burglary somebody can’t come out for 6 weeks, but a hurtly Facebook post they’re out within 3 hours, so I then said to the Policeman, I said why are you ringing me? He said, will you remove the post so I said no. I said I don’t censor what people say to me on my post and you’re using the word cull, I went on my phone while I was talking to him and I said right here now, are you going to go down now and issue the BBC with a penalty because they’re culling their staff... I said there’s meanings on the word cull, and you’ve picked on this poor guy, frightened the life out of him ... it was a flippant comment, maybe in bad taste, I agree, was it offensive? Was it a death threat? No... They then went totally overboard on this, the original reason for me posting this is because as you will see Councillor Ben Green is decrying us Independents as not caring about wildlife because we didn’t wanna do the A1, but then allowing and permitting a 100% cull of badgers in his ward... I was highlighting again the hypocrisy of what this Councillor was saying. Again, transparency to the people who voted me in. The fact that this gentleman made a comment unfortunate, flippant, death threat? Definite not... they knew it wasn’t a death threat there were no follow up death threats ... he wasn’t living with a baseball bat under his bed, which he claims and only a few days later he’s running up and down the A1 laughing his head off, showing exactly where he is, sounding an airhorn, breaking the law, sounding an airhorn at the side of the A1... so this feigned indignance, cost again the Council a lot of money because Councillor Jeal then insisted that we have security guards for a number of weeks working at the Council offices for this flippant comment, in hindsight he shouldn’t have made it but he did and he got fined for it and he removed it and it was removed straight away. The Police made him remote it at the time.”

6.57 We have concerns about Councillor Harrison’s comments. He refused to remove the post when asked by the Police. Whatever his views on the Police dealing with this matter more quickly than they dealt with his burglary, the Police clearly thought it was dangerous enough to merit action – i.e. a conversation with Councillor Harrison and a request to remove it and issuing a fixed penalty notice to member of public. We are surprised that Councillor Harrison refused a direct request from the Police.

6.58 We also find Councillor Harrison’s attempt to compare a comment about culling badgers with a report about culling BBC staff to be disingenuous. It is obvious that the reference to culling badgers is literal, whereas the reference to culling BBC staff is used in its pejorative figurative sense. There is no comparison to be made.

6.59 Finally, we are concerned that Councillor Harrison assumes that member of public’s comment was flippant and not offensive. Badger culling is known to be an emotive subject. We understand that Councillor Harrison wished to highlight Councillor Green’s alleged “*hypocrisy in referencing the impact of litter on the A1 on wildlife*,”

while supporting a badger cull in his ward". However, the sharing of this post, with Councillor Green's face imposed on the image, and links to his address etc, is, in our view, inflammatory. It is not possible to tell with any certainty that member of public's comment is flippant, or whether others might pick up on it and take it further.

6.60 We also note that the Police thought the comment was serious enough to impose a fixed penalty on member of public.

6.61 When asked how he would react to such a post, Councillor Harrison told us:

"...nothing on that post incited any violence."

6.62 We asked Councillor Harrison whether he knew anything about the group 'Lincolnshire Against the Cull'. He told us:

"Nothing at all"

6.63 When asked how he found the post if he knew nothing about the group, Councillor Harrison told us:

"It came up on my Facebook feed. I've got quite a large following on Facebook and I get such a lot of stuff that comes up on Facebook."

6.64 When asked whether he considered his post opened Councillor Green up to any danger, Councillor Harrison told us:

"No I personally don't think it did. No.

... if there is any inciting in there to target Councillor Green, it wasn't me, I've shared a post. If that post was beyond any sort of thing, then that would have been taken down by Facebook, I wouldn't have been able to share it, none of it adds up I'm afraid. I actually know Councillor Ben Green quite well now, and I know this is all feigned indignance and feigned stuff to have a targeted thing to try and shut me up, because I was highlighting a lot of things that were going wrong."

6.65 We understand that Councillor Harrison's intention was to highlight what he viewed as Councillor Green's hypocrisy, and that he was intending to make a political point about Councillor Green's stated views in previous of his posts about protecting wildlife from litter on the A1. We have considered the post under the three part test in *Sanders v Kingston* above.

6.66 Under the first part, we consider that the post was intended to highlight Councillor Green's "hypocrisy" and was clearly meant to be disrespectful towards him. *Prima facie* it was a breach of the Code of Conduct.

6.67 Under the second part, it is an issue of freedom of expression and therefore Article 10 is engaged. We consider that the post is designed to be powerful, shocking, offensive and falls within the definition of *Heesom* above. Although it is not Councillor Harrison's original post, he has shared it from "Lincolnshire against the Cull". By imposing a large picture of Councillor Green and the words "All badgers are to be killed here" across a plan of Councillor Green's ward, it is clearly intended to be a political comment. We find therefore, that the higher protection afforded to political comment is relevant.

6.68 However, in considering this under the third part of the test, i.e. whether interference with the article 10 right is justified by a finding of a breach of the Code of Conduct, we are persuaded by the following issues:

- the post contained a large picture of Councillor Green and his contact details;
- the post attracted a death threat in a comment – whether it was genuine or flippant is irrelevant in this context;
- the Police thought the matter was serious enough to speak to Councillor Harrison and to impose a fixed penalty notice on member of public;
- Councillor Harrison refused the Police's request to remove the post; and
- Councillor Green stated that he had to cancel or postpone two surgeries and felt that he was in "credible danger".

6.69 We have also considered the case of *Re Bunting Application for Leave to Appeal*, [2019] 3 WLUK 709, a summary of which is as follows:

"A local councillor appealed against her suspension from the council for breaches of the Northern Ireland Government's code of Conduct for Councillors pending investigation into complaints that she had incited racial hatred.,

*Fourteen complaints had been made over a period of six months, from fellow councillors and members of the public. She was alleged to have publicly made comments and acted in support of a far-right political group inciting racial hatred against Islam and Muslims in general and in Belfast communities. She was further alleged to have posted on social media a sectarian and racist cartoon meme. The local government's commissioner for standards suspended her for four months pending an investigation into the complaints. He did so under the Local Government Act (Northern Ireland) 2014 s.60(1) on the basis that there was *prima facie* evidence that she had breached the Code, that the nature of the breaches and the existence of additional aggravating factors was such that, if the allegations were proved, she was likely to be disqualified from being a councillor, and that it was in the public interest to immediately suspend her.*

The councillor submitted that the commissioner had erred in applying s.60(1); further, he had failed to consider her right to freedom of expression under ECHR art.10.

*The High Court found that the suspension was justified. In considering of ECHR art.10 – it confirmed that the jurisprudence of the European Court of Human Rights had long recognised the importance of expression in the political sphere and offered elected politicians an enhanced level of protection under art.10. Against that background, the correct approach was to look at each complaint against the councillor on an individual basis and consider whether her behaviour attracted enhanced protection such that her suspension was a *prima facie* interference with her art.10 right and, if so, whether that interference was justified and proportionate. Applying that approach, first, the bulk of the councillor's behaviour had a sufficient connection with her role as a councillor and her contribution to issues of public debate to come within the category of enhanced protection. The major exception was her use of the cartoon meme, which was simply abusive and disclosed no true contribution to political discourse. Second, given that the bulk of her behaviour fell within the sphere of enhanced protection, her*

*suspension was *prima facie* an interference with her right under art.10(1). Third, three of the complaints concerned behaviour that exceeded the bounds of protected speech and could justify an interference with her right by way of an interim sanction of suspension under art.10(2). The conduct giving rise to the remaining complaints was not sufficiently serious to justify interference with her art.10(1) right given the width of the ability of an elected councillor to engage in behaviour that shocked or annoyed or appeared dangerous or irresponsible. Fourth, the complaints that justified suspension were serious matters that raised grave issues about the extent to which confidence in local government institutions in Northern Ireland might be compromised if appropriate steps were not taken. Accordingly, a four-month suspension period was appropriate and reflected the seriousness of the matter and the need to provide a level of deterrence pending the outcome of the full investigation.”*

6.70 In essence, this case found, that, even if comments etc., attract the enhanced protection of political freedom of expression, there are circumstances, depending on the type and nature of the comments/posts, which would mean an interference in that freedom was necessary, e.g. by a suspension in the case of Ms Bunting.

6.71 We find, because Councillor Harrison’s post attracted Police action, a request for him to remove it, a death threat and action against the person who made the death threat, that it is analogous to the situation in *Bunting*. That case concerned incitement to racial hatred; this post concerns incitement to violence. We find, therefore, that interference in Councillor Harrison’s right to freedom of expression under Article 10(1) by a finding of a breach of the Code of Conduct (Respect) is justified under Article 10(2) to protect Councillor Green’s rights.

Councillor Jeal’s complaint

6.72 Councillor Jeal’s complaint is set out in paragraph 4.41 above.

6.73 Councillor Jeal feels that in sharing the ‘Lincolnshire Against the Cull’ Facebook post, Councillor Harrison was inciting hatred against Councillor Green.

6.74 In his statement, Councillor Jeal stated:

“This is our own flavour of extremism in Lincolnshire. the animal rights and environmental lobby. [REDACTED]. There are known animal rights protestors on the Council. Whilst I and others don’t necessarily take a position on their beliefs – we condemn their methods which are known to attack people and property. In my view, their methods set back the environmental and animal rights lobby.

Nobody knows what Councillor Green’s opinion is. Councillor Green works for an environmental charity and I don’t believe he is ever going to be public about his opinion on this.

The aim of Councillor Harrison’s post, which was shared by Councillor Ellis, was to direct the local form of extremism to intimidate, hurt and potentially kill Councillor Green.”

6.75 Councillor Jeal states that, following the post, he spent several hours on the phone with various people, including Councillor Green who was “obviously quite afraid about

this". He explains that he referred the matter to the Police, as did the local MP, Gareth Davies.

6.76 Councillor Jeal was also unhappy that Councillor Harrison refused to remove the post. He states in his statement:

"Cllr Harrison even after learning that a fixed penalty notice had been issued failed to withdraw the totally false and deliberately provocative post."

6.77 Over the next few days, Councillor Jeal spoke to several councillors, senior officers and external people, as detailed in his statement, including the Police and Crime Commissioner, the Chief Executive of the Council, a County Councillor, and members of the public, all expressing concern about the post and the death threat. He also refers to a further post by Councillor Harrison:

"On 21 March Councillor Harrison posted three short videos on Facebook. The videos were of Councillor Harrison and, I believe, Councillor Cunningham and another councillor, dressed as badgers running around Councillor Green's ward looking for problems.

Councillor Harrison's post stated:

"Well we try our hardest to do our best for our communities but it's great when others help us check on other communities and find what's wrong. Mr Badger recently sent us this issue in Woolsthorpe, thanks for that Mr Badger, that low sign looks very dangerous, but please be careful in that area as there is a badger cull in force."

I don't believe these people are fit for public service."

6.78 Councillor Harrison stated, about Councillor Jeal's complaint:

"...so this is the sort of guy that we are dealing with here, you know, this feigned indignance..... cost again at the Council of a lot of money because Councillor Jeal then insisted that we had security guards for a number of weeks working at the Council offices fora flippant comment, in hindsight he shouldn't have made it but he did, and he got fined for it and he removed it and it was removed straight away. The Police made him remove it at the time."

6.79 In respect of member of public's comment, Councillor Harrison states:

"It was removed by the Police. First and foremost, while I'm very popular on Facebook, I don't always see my comments, I've, I've got a massive feed that things will go down. The responsibility.....is not for me to remove comments that people, I might not even see them, I might not see the, see the notification. if you can yourself go and look at my Facebook feed and see how many different entries are made daily on my Facebook, and how many comments are made daily on my Facebook. If I was to go and police every single comment I wouldn't be in Council. I, I must get on average 500 to a 1000 comments a day...."

6.80 It is the case that we have not seen any evidence of members of the Council being a member of an animal rights group. We have also not seen the video of 21 March that

Councillor Jeal refers to. We cannot therefore make any comment on Councillor Jeal's statements about these matters.

- 6.81 However, we find the impact of Councillor Harrison's post on Councillor Jeal, as described in his statement, to be compelling. He received calls from, and had discussions with, several senior internal and external people in the Council, the Police, the County Council and the public, following the post.
- 6.82 It is also clear from Councillor Harrison's comments, that he would not, or could not, see the issues with his post, refusing to remove it even when asked to do so by the Police.
- 6.83 For the reasons stated above, under the assessment of Councillor Green's complaint, we find that Councillor Harrison breached the relevant paragraph of the Code of Conduct (Respect).

Councillor Woolley's complaint

- 6.84 Councillor Woolley's complaint is set out in paragraph 4.45 above.
- 6.85 Councillor Woolley was most concerned about the comment made by the member of public on Councillor Harrison's post about badger culling, which she stated was a death threat against Councillor Green. However, she also referred to a number of "vitriolic attacks" against Councillor Green over one weekend.
- 6.86 In her statement Councillor Woolley stated:

"At the time I submitted my complaint, Councillor Harrison and a number of other councillors who I think were Independent and members of the public, predominantly from the Grantham area, really did criticise Councillor Green.

It felt like anything Councillor Green put on social media there were others looking to find another angle. I did not like the language used, it was unpleasant."

- 6.87 In specific reference to member of public's comment, Councillor Woolley stated:

"To me this felt like intimidation and incitement.

What I found really, really disappointing was that Councillor Harrison did not respond to that comment to say it was completely unacceptable, nor did he take the comment down. I felt things had got a little bit too far."

- 6.88 In his interview, Councillor Harrison made no specific reference to Councillor Woolley's complaint over and above his comments above in relation to the complaints generally.
- 6.89 For the reasons stated above under Councillor Green's complaint, we find that Councillor Harrison breached the relevant paragraph (Respect) in the Code of Conduct.

Bullying, harassment and discrimination

Bullying

6.90 The definition of Bullying in the Code is set out above in paragraph 3.5.

6.91 The definition of bullying used by the Arbitration, Conciliation and Advice Service (ACAS) is:

"Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual." (Advice leaflet - Bullying and harassment at work: Guidance for employees, ACAS March 2014)

6.92 The Local Government Association Guidance published in July 2021 states:

"Like disrespectful behaviour, bullying can be difficult to define. When allegations of bullying are considered it's likely that the person handling the complaint will consider both the perspective of the alleged victim, and whether the councillor intended their actions to be bullying. They will also consider whether the individual was reasonably entitled to believe they were being bullied.

Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, where it is targeted at issues, rather than at an individual's conduct or behaviour, or when the behaviour by both the complainant and councillor contributed equally to the breakdown in relations. However, the cumulative impact of repeated 'minor' incidents should not be underestimated.

Examples of bullying include but are not limited to:

- *verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language*
- *physical or psychological threats or actions towards an individual or their personal property*
- *practical jokes*
- *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*
- *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*
- *smear campaigns*

Does this mean that councillors cannot raise concerns about officers or fellow councillors?

Bullying behaviour should be contrasted with the legitimate challenges which a councillor can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views. However, if your criticism is a personal threat or abusive or offensive in nature, you are likely to cross the line of what is acceptable behaviour.”

6.93 The LGA Guidance also states:

“Bullying may be characterised as offensive, intimidating, malicious, insulting, or humiliating behaviour, 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. Bullying may be obvious or be hidden or insidious. Such conduct is usually part of a pattern of behaviour which attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

...

... Bullying can have an impact on a local council’s effective use of resources and provision of services... Bullying can impact on a councillor’s ability to represent their residents effectively. It can also discourage candidates from standing in local elections, making local councils less representative of their communities, and impacting local democracy.”

6.94 Following this guidance, we have considered whether the post about badger culling could be considered to be bullying.

6.95 In his statement, Councillor Green stated:

“I consider this post by Councillor Harrison incited local animal rights campaigners to bombard me, fundamentally as a response to the post I made on 2 March about the administration refusing to support wildlife near the A1. I personally did not see my phone number or email address within the post. However, with a picture of me in the post, if you were to do a search for my name you could access that information.

A member of the public commented on Councillor Harrison’s post:

“What’s the chance of me culling this waste of space, I’m sure nobody would notice him missing from his ward.”

This comment constituted a death threat against me resulting in a Fixed Penalty Notice being issued.

After being told by the Police that his post was offensive, Councillor Harrison went to greater lengths to share the link to that post.

Due to the specific threat against me, which Councillor Harrison promoted, the March Parish Council meeting at South Witham was cancelled and the March Parish Council meeting at Great Ponton was postponed.

I am grateful that my personal address was not available, but I consider Councillor Harrison opened me up to what was credible danger.

There was a long period where it was very clear that Councillor Harrison could not stomach any criticism of the administration whatsoever so tends to come down like a tonne of bricks on absolutely anything anybody says which is negative about the administration. However, Councillor Harrison's behaviour appears to be obsessional in his criticism of me.

I do not consider Councillor Harrison's posts and comments about me on social media fall within the realm of political debate. They are attacks against me personally."

- 6.96 In his statement, Councillor Jeal stated that, of the many phone calls he received after the post, he spoke to Councillor Green several times, who was clearly scared and was discussing measures to protect himself in his home.
- 6.97 In her statement, Councillor Woolley stated that she felt Councillor Harrison's post was intimidatory and an incitement to violence towards Councillor Green. She was also unhappy that Councillor Harrison did not respond himself to the comment to say that it was unacceptable and remove the comment himself:

"What I found really, really disappointing was that Councillor Harrison did not respond to that comment to say it was completely unacceptable, nor did he take the comment down. I felt things had got a little bit too far."

- 6.98 Councillor Harrison denied having taken much notice of the comment, stating that he receives a huge number of comments and interactions on his post and that:

"The responsibility.....is not for me to remove comments that people, I might not even see them, I might not see the, see the notification. if you can yourself go and look at my Facebook feed and see how many different entries are made daily on my Facebook, and how many comments are made daily on my Facebook. If I was to go and police every single comment I wouldn't be in Council. I, I must get on average 500 to a 1000 comments a day...."

- 6.99 We do not accept Councillor Harrison's explanation on this point. His sharing of the post was clearly intended to be provocative and to promote a lot of comments. We have seen on the post that he was interacting with other comments. He also had the time to go through Councillor Green's Facebook account and share and comment on several of his posts. Therefore, we do not accept either that Councillor Harrison did not see the comment or that he was too busy to deal with it/remove it/state that it was unacceptable etc.

- 6.100 In interview, Councillor Harrison told us:

"Councillor Green likes his own voice.

...I actually called him the poet laureate, in full Council because he waxes lyrical with his one liner, the 'jenga tower of myth' was one of them that he

created in this thing, I don't really have any contact with him but he, after about 5 or 6 of these I wrote an email to him which I think Graham has also got ... something along the lines of "Ben, you're not a bad bloke, you're a good Councillor, stop with this nonsense with all the theatrics it's not needed", "concentrate on doing your Council work, good luck, Tim" or words to that effect.

So it's a very friendly cordial email and he carries on and he deliberately baits us continuously calling us the rainbow alliance and stuff like that which you type rainbow alliance in any search engine and it comes up with the LGBTQ community anywhere, anywhere where you type that up that's the first thing it comes up with, so we don't kick off that he's doing that, we don't kick off and make formal complaints every single time he mentions that and it's again this feigned indignance you know, that they're doing and you've got to bear in mind Ben any comments I made on Ben's page he was in charge of his page, he could of at any time blocked me from seeing his posts, he could of at any time block me from commenting on his posts the control was totally with him, I've got none of that. He deliberately left it open and deliberately put it and forward it so that it would come to our attention trying to enact, we've since got wise to his shenanigans and we just don't engage with him anymore, it's not worth our time and effort.

... it's a deliberate thing that they did at this point in time to try to get a reaction off us, and it got the reaction and didn't like it that the public opinion went against him on most of them."

- 6.101 We consider that in sharing the 'Lincolnshire Against the Cull' Facebook post Councillor Harrison intended to target and potentially frighten Councillor Green.
- 6.102 We accept that Councillor Harrison was trying to make a political point about what he saw as Councillor Green's "hypocrisy" but the sharing of the 'Lincolnshire Against the Cull' Facebook post, with Councillor Green's image, and links to his address and phone number, were a step too far. Councillor Green was the personal target of the post, it attracted a death threat which the Police viewed as a serious issue, and Councillor Harrison refused to remove both the comment and the post.
- 6.103 We therefore consider that Councillor Harrison's conduct in sharing the 'Lincolnshire Against the Cull' Facebook post did cause him to breach paragraph 2.1 (Bullying) of the Council's Code of Conduct.

Harassment

- 6.104 The definition of harassment in the Code is set out above in paragraph 3.5.

- 6.105 The LGA Guidance states:

"The Protection from Harassment Act 1997 states that harassment includes behaviour which alarms a person or causes a person distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person. Harassment of any kind whether direct or indirect is in no-one's interest and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing

it, as well as on the wider organisation in terms of morale and operational effectiveness.

Like bullying, harassment can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Harassment may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. It may manifest obviously or be hidden or insidious.

The factors likely to be considered when assessing allegations of harassment are whether the councillor knows or ought to know that their actions constitute harassment, whether a reasonable person would consider the actions to be harassment and the impact of the behaviour/conduct on victim.

Examples of harassment include but are not limited to:

- *Sending unwelcome emails*
- *Unnecessarily repetitive, intrusive questioning*
- *Unwelcome physical contact such as touching or invading 'personal space'*
- *Haranguing*
- *Intimidation*
- *Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes*
- *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*
- *Placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations*
- *Sexual harassment*

6.106 The LGA Guidance states that for conduct to be considered harassment it must, include behaviour which alarms, causes distress or puts people in fear of violence. It also states that it must involve such conduct on at least two occasions.

6.107 Councillor Harrison's sharing of the 'Lincolnshire Against the Cull' post caused Councillor Green alarm and distress and put him in fear of violence following the comment made by a member of the public. However, it was a one off incident. The immediate consequences for Councillor Green, Councillor Jeal, Councillor Woolley and others, were difficult. However, we have found that Councillor Green's other allegations did not constitute a breach of the Code of Conduct by Councillor Harrison, so it cannot be said that, for this allegation, there was conduct which happened on at least two occasions. Therefore, we do not find that Councillor Harrison's conduct amounted to harassment.

Disrepute

6.108 The definition of Disrepute in the Code is set out above in paragraph 3.5.

6.109 The LGA Guidance states:

"As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Article 10 of the European Convention on Human Rights protects your right to freedom of expression, and political speech as a councillor is given enhanced protection but this right is not unrestricted. You should be aware that your actions might have an adverse impact on your role, other councillors and/or your local authority and may lower the public's confidence in your ability to discharge your functions as a councillor or your local authority's ability to discharge its functions.

*In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a councillor's behaviour in office will bring their **role** into disrepute if the conduct could reasonably be regarded as either:*

1. *reducing the public's confidence in them being able to fulfil their role; or*
2. *adversely affecting the reputation of your authority's councillors, in being able to fulfil their role.*

*Conduct by a councillor which could reasonably be regarded as reducing the public confidence in their local authority being able to fulfil its functions and duties will bring **the authority** into disrepute."*

6.110 In applying the Code to the circumstances of an alleged breach of disrepute, it is established that it is not necessary for the member's actions to have actually diminished the public confidence or harmed the reputation of the authority. The test is whether or not the conduct could 'reasonably be regarded' as having these effects. However, the conduct must be sufficient to damage the reputation of the member's office of the Council, not just the reputation of Councillor Harrison as an individual.

6.111 What must be considered here is to gauge an objective view. That is, whether the actions of Councillor Harrison were such that a member of the public, knowing all the relevant facts, would reasonably think that his actions were so significant that it would impact on the Council's ability to properly carry out its functions.

6.112 We have found that Councillor Harrison's conduct in sharing the 'Lincolnshire Against the Cull' Facebook post was a breach of the Code of Conduct (Respect and bullying towards Councillor Green). While we understand that Councillor Harrison was trying to make a political point, the post was inappropriate, incited a threat of violence and involved the Police. Even if he could be said to have been initially ignorant of the impact that the post would have had, once he saw the comment by member of public and/or as soon as he was contacted by the Police, Councillor Harrison should have removed the post. Instead, he, in effect, "doubled down" on the post, dismissed the comment as "flippant" and refused even to the Police to remove it.

6.113 This is clearly not the standard of behaviour to be expected of a member of the Council who is also a member of the Administration and the Chair of Audit and Governance Committee.

6.114 We find that this is clearly conduct which could adversely affect the reputation of the Council in being able to discharge its functions.

6.115 We also find that Councillor Harrison's conduct was sufficient to damage his role as a councillor.

6.116 We have therefore concluded that Councillor Harrison's conduct in sharing the 'Lincolnshire Against the Cull' Facebook post did cause him to breach paragraph 5 (Disrepute) of the Council's Code of Conduct.

7. Finding

- 7.1 Our conclusion is that Councillor Harrison has failed to comply with paragraphs 1 (Respect), 2.1 (Bullying), and 5 (Disrepute) of the Council's Code of Conduct in relation to the post about badger culling only.
- 7.2 For the remainder of the complaint, we find that Councillor Harrison has not breached the Code of Conduct.

**Wilkin Chapman LLP
Investigating Solicitors**

12 November 2024