



Independent investigation into
allegations concerning

Councillor Edward Barham
of
Rolvenden Parish Council

Report into Code of Conduct Complaints
from

██████████ and
████████████████████

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10 July 2025

1: Purpose

- 1.1 On 5 February 2024, ██████████ submitted a Code of Conduct complaint to the Monitoring Officer at Ashford Borough Council ('the Borough Council'). ██████████ alleged that Councillor Edward Barham, a member of Rolvenden Parish Council ('the Parish Council') had failed to comply with the Parish Council's Councillor Code of Conduct ('the Code').
- 1.2 In his complaint, ██████████ alleged that during the Parish Council meeting of 19 January 2024, Councillor Barham was rude and arrogant towards residents, refused to answer questions, and was insulting to ██████████ ██████████. While this was a matter that the Borough Council's Monitoring Officer did not refer for investigation, he did instruct us to investigate whether Councillor Barham had a declarable interest in matters related to Rolvenden Football Club ('RFC'), after ██████████ highlighted that RFC rents its pitch from Councillor Barham, and that Councillor Barham was a signatory on a section 106 agreement relevant to the site. Mr ██████████ alleged that at the meeting of 19 January 2024, Councillor Barham failed to declare the necessary interest, took part in the discussion and voted on an item considering s106 funding for RFC.
- 1.3 On 8 February 2024, ██████████ ██████████ of the Parish Council) also submitted a Code of Conduct complaint to the Monitoring Officer about Councillor Barham's conduct. ██████████ alleged that Councillor Barham, along with ██████████ had engaged in a sustained campaign of bullying and intimidation against her and the Parish Clerk. The complaint also alleged that Councillor Barham had failed to declare the necessary interest, taken part in discussions and voted on agenda items directly related to land that he let to RFC during a Parish Council meeting held on 19 January 2024¹.
- 1.4 On 28 May 2024, ██████████ submitted a second complaint to the Borough Council's Monitoring Officer, this time about Councillor Barham's conduct immediately after the Parish Council meeting of 21 May 2024. ██████████ ██████████ alleged that Councillor Barham failed to treat her with respect and brought the Parish Council into disrepute.
- 1.5 During this investigation we have considered whether Councillor Barham has failed to comply with paragraph 1 of the Code of Conduct, in that he failed to treat others with respect; paragraph 2 of the Code of Conduct, which provides that he must not bully others; and paragraph 9 of the Code of Conduct, which details Councillor Barham's responsibility to register and disclose his interests.
- 1.6 The purpose of this report is to provide a summary and analysis of the evidence gathered during the investigation, along with our considerations as to whether any aspects of the allegations against Councillor Barham should be upheld. Our recommendation is based on whether a full assessment of the relevant facts

¹ ██████████ complaint also highlighted other meetings in which she alleged that Councillor Barham had failed to declare the appropriate interests. In line with the Borough Council's complaint process, only those meetings that had taken place within three months of the complaint were referred to us for investigation.

supports the conclusion that one or more of the paragraphs of the Code of Conduct has been breached.

2: Councillor Barham's official details

- 2.1 Councillor Barham's most recent continuous stint as a member of the Parish Council started following his election in May 2019. Councillor Barham has served previous terms of office on the Parish Council.

3: Relevant legislation and protocols

The Localism Act 2011

- 3.1 Section 27 of the Localism Act 2011 ('the Act') provides that a relevant Authority must promote and maintain high standards of conduct by members and co-opted members of the Authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity. For the purposes of this investigation, the relevant Authority is Rolvenden Parish Council.
- 3.2 Section 28 of the Act provides that the Authority must ensure that its Code of Conduct is, when viewed as a whole, consistent with the following principles:- Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership.
- 3.3 Under section 28(6) of the Act, principal Local Authorities must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made. By virtue of section 27(7), arrangements put in place under subsection (6)(b) must include provision by the appointment of the Authority of at least one "independent person" whose views are to be sought, and taken into account, by the Authority before it makes its decision on an allegation that it has decided to investigate. For the purposes of this investigation, the relevant principal Authority is Ashford Borough Council.

Rolvenden Parish Council's Code of Conduct

- 3.4 The Code of Conduct adopted by the Parish Council includes the following paragraphs:

"1 Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

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, 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 councillor.

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 and 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 Councillor 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:

2.1 I do not bully any person

2.2 I do not harass any person

2.3 I promote equalities and do not discriminate unlawfully against 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.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

9 Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests).

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2. A 'Sensitive interest' is an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosable of Other Registerable Interests

6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. *Where a matter arises at a meeting which affects –*
- a. Your own financial interest or well-being;*
 - b. A financial interest or well-being of a relative, close associate; or*
 - c. A body included in those you need to disclose under Other Registrable Interest as set out in Table 2*

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. *Where a matter affects your financial interest or well-being:*

- a. To a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;*
- b. A reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.*

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. *Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest."*

Parish Council Standing Orders

- 3.5 In relation to interests and dispensations, the Parish Council's Standing Orders state:

"13. CODE OF CONDUCT AND DISPENSATIONS ...

a All councillors and non-councillors with voting rights shall observe the code of conduct adopted by the Council.

b Unless he has been granted a dispensation, a councillor or non-councillor with voting rights shall withdraw from a meeting when it is considering a matter in which he has a disclosable pecuniary interest. He may return to the meeting after it has considered the matter in which he had the interest.

c Unless he has been granted a dispensation, a councillor or non-councillor with voting rights shall withdraw from a meeting when it is considering a matter in which he has another interest if so, required by the Council's code of

conduct. He may return to the meeting after it has considered the matter in which he had the interest.

d Dispensation requests shall be in writing and submitted to the Proper Officer as soon as possible before the meeting, or failing that, at the start of the meeting for which the dispensation is required.

e A decision as to whether to grant a dispensation shall be made by the Proper Officer and that decision is final.”

European Convention on Human Rights ('ECHR')

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

3.7 Article 10 of the ECHR provides:

“Freedom of expression

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

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

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

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

4: The investigation

Our appointment

- 4.1 This investigation was conducted by Alex Oram and Mark Hedges on behalf of the Borough Council's Monitoring Officer. Alex has been investigating allegations against councillors since 2003, both as a director of ch&i and prior to that, for Standards for England, where he was responsible for conducting many of their most complex, politically sensitive and high-profile investigations into member conduct. Mark has been conducting investigations for ch&i associates since 2016. Prior to this, Mark served for 21 years as a detective in the Police Service.

The complaints and associated assessment by the Borough Council's Deputy Monitoring Officer

██████████ complaint

- 4.2 On 5 February 2024, ██████████ submitted a Code of Conduct complaint to the Borough Council's Monitoring Officer. In his complaint, ██████████ wrote: *"During the meeting of 19/01 Cllr Barham was rude and arrogant towards residents, refused to answer questions and was insulting to ██████████, who was also present. Cllr Barham is the landowner of the football club and a signatory on the s106 agreement. At the meeting on 19/01/24 he failed to declare his interest, took part in the discussion and voted on an item considering s106 funding for the football club."*
- 4.3 At the assessment stage, Councillor Barham was invited to provide an initial response to ██████████'s complaint. A summary of his response is as follows:

"Complaints made ██████████ are vexatious, mendacious and disruptive. They may be put into two categories,

- 1. That I failed to declare my connection with the football club.*

It has been the practice of Rolvenden Parish Council, permitted by the clerk and former chairman to make the declaration on taking office, and for that not to be repeated at every meeting, except where it is particularly relevant, although there is no ruling on what that might constitute. I declared my interest at the outset of the meeting in the normal manner 'as previously disclosed'. That interest includes my being landlord of the Rolvenden Football Club at a non-commercial, modern day peppercorn rent. I suspect the complainant did not understand this practice or observe what was happening. I did and always have declared my interest.

- 2. That I failed to declare an interest in the SA106 funds.*

I am concerned that ██████████ may have been at a different meeting to me. The S106 money for a toilet block were discussed, Item 994, but the matter was deferred, and no decision was taken. I had indeed remained present

because it is practice of the council for any interested party to state his case, provide useful detail and then withdraw if a decision is to be taken. The matter was deferred so I did not need to withdraw, as I have done on previous occasions...

██████████ alleged that] I showed disrespect to the meeting. That is a matter of opinion and is not show in the minutes.

Unexpected by me approximately 50 members of the public... attended, expecting there to be blood and perhaps better entertainment than available at home that night. In the public section of the meeting, a series of tirades were launched about the current state of the Council. Having been unexpectedly elected chairman, I took the decision to defuse the situation by declining to respond at length to accusations and allegations made on the night. After the meeting, members of the public came and congratulated me for defusing the situation.

In my opinion and with the clerk unable to assist, it was not the place or time to turn the public section on the meeting into a kangaroo court to discuss allegations, the likes of which now appear as the subject of this complaint.

At the subsequent meeting on 26 March 2024, the complainant again posed a provocative question seeking blood. The newly elected chairman...took the same route as I had, dismissing the question as inappropriate, vindicating my own actions.

[The complaint] should be dismissed for the reasons stated. [It is] factually incorrect and a matter of conjecture.”

4.4 Councillor Barham’s response included the following notes:

“Note 1

The interest that...refers to is S106 money prior by developers Taylor Wimpey prior to the development of Halden Field, Rolvenden. At the conclusion of the agreement, in the unlikely event of any funds remains unspent they, not me, would be entitled to reclaim the unspent portion from Ashford BC. It is unlikely that any such claim would be made, either through passage of time, company policy, de minimis, or funds have been spent. At signing TW assured me there would be no reclaim as the funds would have been spent.

If a claim were made, the money is collected by the payee Taylor Wimpey who would share 50% with vendor Trustees, for the beneficiaries, of which I am not one. This so-called interest is extremely remote, which I believe ██████████ ██████████ fail to research or appreciate. ... Current applications for drawdown, with many years to run, will almost see the fund substantially exhausted.

Note 3

Rolvenden Football Club, a village club, are the tenants of the pitch. Rolvenden Football Club Ltd is a successor body with a constitution and individuals. Despite my efforts to achieve it, the lease has not been assigned."

- 4.5 As part of the assessment, redacted copies of the documents provided by the complainant were sent to the then Clerk to the Parish Council, [REDACTED]. A summary of [REDACTED]'s response is as follows:

"...the statement made to you [on the practice of the Parish Council to make the declaration on taking office and for that not to be repeated at every meeting] refers to the fact that every agenda has immediately, following apologies for absence, declarations of interest as a reminder to councillors that they need to declare any interests in items within that agenda. What he [Councillor Barham] is referring to is that he holds various trusteeships, which he declares at each meeting which do not change hence "as previously disclosed".

As the Clerk it is not my role to "police" the declarations of interest, it is the individual member's responsibility. To my knowledge, Councillor Barham has not disclosed on his register of interests that he is party to a Section 106 agreement providing funds to the Parish which, potentially if unspent within the set time frame, would give financial gain to him / his family."

- 4.6 The Deputy Monitoring Officer, who was tasked with assessing the complaint, decided that the allegation that Councillor Barham was rude and arrogant toward residents at the meeting of 19 January 2024 did not meet the Borough Council's assessment criteria for further action to be taken. While it was apparent that Councillor Barham had refused to answer questions, there was no evidence in the minutes to suggest that he did so in a manner that could be considered disrespectful. The Parish Council Standing Orders provide that Councillor Barham is entitled to refuse to answer a question posed by a member of the public at a Parish Council meeting.
- 4.7 The Deputy Monitoring Officer did instruct us to investigate [REDACTED]'s allegation that Councillor Barham failed to declare the necessary interest in an agenda item considered during the same meeting, which related to the release of section 106 funds to RFC.

[REDACTED]'s complaints

- 4.8 On 8 February 2024, [REDACTED] submitted a Code of Conduct complaint to the Borough Council's Monitoring Officer. In her complaint, [REDACTED] included a personal statement in which she described how Councillor Barham had repeatedly failed to treat others with respect, bullied people and failed to declare the necessary interests at Parish Council meetings. This statement is shown in full at Annex A of this report, and can be summarised as follows:

- [REDACTED] had served on the Parish Council since 2010, [REDACTED]
- Councillor Barham had previously been censured for code of conduct violations, which meant that he was unable to sit on the Parish Council for a significant period of time.
- A 2017 land tribunal case contributed to bad feeling between Councillor Barham and other members of the Parish Council. The 2019 election was highly contested, involving accusations regarding the theft of Parish Council funds. Councillor Barham had repeatedly used these as a weapon against [REDACTED] and other councillors.
- Councillor Barham has orchestrated a sustained campaign of harassment, including disruptive behaviour during meetings and frequent accusatory emails.
- Councillor Barham has regularly bullied [REDACTED] the Parish Clerk and other female councillors, which included efforts to remove the Clerk from his position.
- Councillor Barham has repeatedly failed to declare his interests in items at Parish Council meetings, instead voting on the relevant agenda items. These include repeated failures to declare his interest in section 106 funding and grass cutting of football pitches associated with land that he owns.
- A governance review was conducted, which found evidence of bullying and intimidation within the Parish Council. The Parish Council adopted new policies, including a Member/Officer Protocol and a Dignity at Work Policy. Councillors also signed the Civility & Respect Pledge.
- Despite this, [REDACTED] along with six other councillors, [REDACTED] [REDACTED] within a week of each other due to ongoing concerns about bullying, intimidation, and procedural irregularities involving Councillor Barham.
- Councillor Barham publicly criticised [REDACTED] and other [REDACTED] councillors during the Parish Council meeting of 19 January 2024.
- Since the 19 January meeting, two more councillors have resigned, leaving the Parish Council inquorate.
- [REDACTED] has experienced significant stress, anxiety, and insomnia due to Councillor Barham's behaviour. Other councillors also reported negative impacts on their mental well-being, leaving the Parish Council unable to conduct meaningful business.

4.9 On 28 May 2024, [REDACTED] submitted a second complaint to the Monitoring Officer about Councillor Barham's conduct. This complaint related to events immediately following a Parish Council meeting held on 21 May 2024.

4.10 In this complaint, [REDACTED] alleged that during a conversation between herself and Councillor Barham immediately after the Parish Council meeting, Councillor Barham said to her *"I was going to ask you an intelligent question, but you are incapable of answering one and you are not worthy."*

4.11 [REDACTED] provided the Monitoring Officer with the following documents, which she said supported her complaints:

- An election leaflet distributed by Councillor Bryant, Councillor Barham and one other.
- Email correspondence between herself, other members and the Monitoring Officer from 2019.
- Email communications sent between members, including Councillor Barham, in 2020 in relation to member conduct.
- A letter from [REDACTED] to the Monitoring Officer from January 2021 about the conduct of Councillor Barham and another member at Parish Council meetings.
- A report from Hoey Ainscough which included statements that there was evidence of bullying behaviour occurring within the Parish Council.
- A copy of [REDACTED]
- A statement that had been read by Councillor Barham at a Parish Council meeting.
- A copy of the section 106 agreement.
- A copy of the lease agreement between Edward Barham and Steven Bryant (as trustee of RFC).
- Minutes of relevant meetings.

4.12 Councillor Barham was invited to provide an initial response to the concerns raised. In relation to [REDACTED]'s first complaint, he responded:

"1. Allegations of bullying

...

Both [REDACTED] and I have contributed a great deal to Rolvenden parish over many decades and these contributions have enabled Rolvenden to flourish. We are both from long established Rolvenden families and our lives are surprisingly intertwined. I hold no animosity towards [REDACTED] and indeed I admire her many attributes, including the determination and conviction with which she has sought to serve the parish.

However, the relationship between myself and [REDACTED] broke down when I sought to question a number of decisions and actions which she took whilst acting in her capacity [REDACTED]

[REDACTED] As Ashford Borough Council will be aware, [REDACTED] the Parish Council was defrauded in the sum of £83,000 by the former clerk to the Parish Council... .

From my election in May 2019, her apparent lack of understanding of financial matters led to heated exchanges, particularly concerning RPC's incorrect AGAR report of May 2019, which I correctly challenged. She was insulted and aghast that I should raise such a challenge, which should not be taken for bullying.

Following the conviction of [the former Clerk], the Parish Council have naturally investigated and sought to recover the funds lost. In doing so, it has been necessary to legitimately scrutinise former councillors on their decisions and the practices and policies which enabled the significant fraud to go undetected. This was always going to be difficult for these

parish councillors but this did not mean one could shy away from this as I and others had to act in the best interests of the parish.

This was not bullying as alleged but fair and robust scrutiny of holders of a public office, as required by the Nolan Principles. It is critical that holders of a public office are accountable to the public for their decisions and they must submit themselves to the scrutiny necessary to ensure this.

2. Conflict of interests

The focus of the ... complaints against me is an allegation that I have failed to register and/or disclose an interest and this resulted in my failure to declare a conflict of interest, particularly in respect of the expenditure of s106 funding in Rolvenden. It is seemingly further alleged that as a signatory of the s106 agreement, any unspent s106 monies would be returned to my family.

To be clear, I have never concealed my or my families interests in the s106 agreement and associated funds. The most recent expenditure arose in November 2022 and I, [REDACTED] and others declared an interest and left the meeting whilst the s106 expenditure was agreed. This is recorded in the November 2022 minutes... I therefore do not accept and indeed reject the criticism.

My understanding of the s106 fund is that any monies would only be returned, and under no circumstances to me, in the following remote circumstances:

- a. The Parish Council and Borough Council failed to spend the allocated funds within the required time period, which in my view would be extremely foolish and not acting in the best interests of the Parish Council in any event.*
- b. Taylor Wimpey demanded the return of the remaining funds from Ashford Borough Council, which would be unlikely in circumstances where they are constantly seeking further development opportunities which require public support and the approval of Ashford Borough Council.*
- c. The sums are already well spent and nearly exhausted. By way of example the allotment allocation has approximately just £500 remaining once approved expenditure is implemented.*

I have not and never will receive any money back from the s106 contribution. It would be verging on inappropriate conduct worthy of criticism, for the Parish Council and Borough Council to not spend it.

I have always acted in the best interests of Rolvenden Parish Council and can wholeheartedly say that my involvement in the s106 has not impeded this...

Such support of my position is not the action of someone who is seeking to limit and reduce spending. I have never sought to personally gain from my involvement in Rolvenden Parish Council, and indeed I never have.

If there has been confusion over the apparent lack of Declaration of Interest it in part stems from the conduct of the Chair, who has consistently taken the apparent view that so long as we are all acting for the good of Rolvenden, absence from discussion, particularly if the decision in principal had already been taken, was not required.

By way of example, she led RPC in placing an Asset of Community Value order on property in the village, Rolvenden Club House, owned in part by her father, never once declaring her interest. Each club member stands to receive a substantial sum circa £10,000. (See RPC Minutes March 2022).

Prior to that she only declared her Personal Interest in the matter of the lost funds for the first time at the very last occasion it was debated, despite the Solicitor acting having advised the Council 15 months earlier in March 2021 that she could be pursued. In June 2022 the Council debated whether we should proceed against her and others. (See Item 761 of June 2022 RPC minutes)

Two wrongs do not make a right, but in this style of leadership it is questionable for her now to cry foul. [REDACTED] she has notably failed to provide evidence or answer to questions particularly concerning procurement, consistently contradicting herself by action, word and deed. Apparently, she is at liberty to discuss Council contracts with suppliers, but other councillors are not, in contravention of the Council's own rules of Procurement. If I am wrong in this accusation, the reasons have never been revealed nor provided; she views this challenge to her inconsistency as bullying which it is not."

4.13 In relation to [REDACTED]'s second complaint, Councillor Barham stated:

"Recollections may vary... I did indeed speak to [REDACTED] following the meeting. I did not say the words she alleges but I agree the general sentiments, that I asked if she might assist the council, to be met with bitter invective. I never got as far as a suggestion I had in mind and I did fire back. Others witnessed the conversation and were amazed at her behaviour.

Rolvenden PC is reforming and succeeding where it never did [REDACTED] [REDACTED] I am actively welcomed by residents for helping to turn this around and [the Borough Council] should take a rather more grown up view of Parish Pump politics and not jump and every spurious allegation."

4.14 Councillor Barham commented, with regards to next steps:

“If there are incidences in which I have not properly declared my interest I apologise unreservedly for this. I am aware that the rules on conflicts of interest are, necessarily, tightly constructed and interpreted and that it may be difficult for an individual who owns significant property in a community to participate in its successful management. I have acted in accordance with my understanding of the rules on conflicts of interests, as encouraged and led by the Chair. However, if you find that this is not the case and ideally in any event, it seems apparent that myself and the other councillors on the parish council may all benefit from some refresher training on conflicts of interest and the correct response when one arises so as to seek to ideally eliminate or at least mitigate and manage the risk of any related issues.. My understanding is that I can make connections and facilitate the use of my assets for the benefit of the parish provided I always declare my connections and interests and do not vote on anything in which I potentially have a conflict of interest and indeed leave the room for any vote taking place. If someone is available for an individual session with me on this and to apply it to some of the scenarios that come across my desk, I would welcome it.”

4.15 [REDACTED] was again given the opportunity to comment on the allegations against Councillor Barham. A summary of his response is as follows:

“To my knowledge Councillor Barham has not disclosed on his register of interests that he is party to a Section 106 agreement providing funds to the Parish which, potentially if unspent within the set time frame would give financial gain to him/his family.

Councillor Barham shortly after the 2019 election made it known publicly that his aim was to remove me from the position of Clerk to the Council, he has regularly criticised my work and made unfounded accusations regarding the outcome of the 2023 election where he failed to complete his Declaration of Acceptance of Office within an extended period of time. He accused me of making the decision to create the casual vacancy when in fact I had been in regular contact with the elections manager and monitoring officer at Ashford Borough Council who made the decision as well as the legal advisor at Kent Association of Local Councils. Councillor Barham then went out and obtained 10 residents to request a bi-election, and when uncontested suggested that as I had caused the problem I should pay the costs incurred by the Borough Council...

Each month during the summer the Grounds Maintenance Contractor submits an itemised invoice for the works undertaken which includes the mowing of the football pitches neither councillor declares an interest in this and vote to accept. Councillor Barham owns the land and Councillor X is the current leaseholder.”

- 4.16 The Deputy Monitoring Officer, having considered all of the information detailed above (including the documentary evidence provided by [REDACTED]) considered that the conduct alleged, if proven, suggested that there might be a more sustained course of conduct by Councillor Barham towards [REDACTED] (and others) which went beyond political debate and tips into the realm of disrespect and/or bullying. In her assessment, the Deputy Monitoring Officer stated: *“I have taken into account the type and number of incidents included in the complaints, the evidence from former councillor [REDACTED], the length of time for which issues have been continuing, and the fact that an independent report from Sarita Pressland of Hoey Ainscough Consultants found evidence of bullying. From the evidence that we have received, I consider that there are sufficient grounds to justify a further investigation into this matter.”*
- 4.17 It was noted that the Borough Council has a ‘three-month’ rule ingrained within their arrangements, meaning that only those matters that occurred within three months of [REDACTED]’s first complaint (8 February 2024) could be considered, unless we were satisfied that incidents of bullying and/or harassment within that period formed part of a course of conduct that would allow the earlier allegations of bullying to be considered.
- 4.18 The Deputy Monitoring Officer also considered that the situation regarding Councillor Barham’s registration and declaration of interests at two meetings - 7 December 2023 and 19 January 2024 - was unclear and therefore required formal investigation.

Our approach

- 4.19 During this investigation, we have considered documents sent to us by the Borough Council and obtained from online sources. We also interviewed [REDACTED], [REDACTED], Councillor Edward Barham, [REDACTED] and [REDACTED], the former Clerk to the Parish Council.

The evidence

Matters related to the allegation that Councillor Barham engaged in a sustained campaign of bullying and intimidation against [REDACTED] and the Parish Clerk

Background

- 4.20 [REDACTED] alleged that Councillor Barham’s bullying behaviours began immediately after his re-election to the Parish Council in May 2019, and continued until she finally resigned from the Parish Council [REDACTED]. [REDACTED] alleged that during this period, Councillor Barham often acted in concert with another member of the Parish Council, [REDACTED], both of whom had been longstanding members of the Parish Council [REDACTED]. We have considered the conduct of [REDACTED] separately and have tried to avoid referencing the conduct of the other in each of their respective reports, although this has not always been possible given that [REDACTED] and [REDACTED] perceived them to have been acting in concert.

4.21 By way of background, ██████████ told us that between 2016 and 2017, the previous Parish Clerk stole over £80,000 from the Parish Council (for which he was jailed for three years in 2019). ██████████ told us: *“During the trial, in summing up, the judge said that the fraud was a very complex thing. The Clerk had bought special software on the dark web to make fake statements to bring to the meetings. To disguise them, so that when we were doing the bank reconciliation after the meeting and stuff, it all looked legit. He forged councillors’ signatures on bank mandates, to allow himself to make payments on his own. He was transferring all the money to his own account and then presenting us with fake bank statements to cover up that fact. The councillors were exonerated from any wrongdoing.”*

4.22 ██████████ said that in the lead-up to the May 2019 election, ██████████ Councillor Barham and another candidate (who was not elected) distributed a leaflet to residents titled ‘Some highlights of Rolvenden Parish Council’s achievements since being elected in 2015’. The leaflet included the following three bullet points:

- More than £83,000 of Parish funds stolen by the former Parish Clerk, Gary Willard.
- Complete denial by the Council Chair and his deputy of any responsibility, and lack of an apology. They state they are not remotely responsible. So, who do they think is responsible?
- 72% increase in 4 years in the Parish Precept, the funds collected via the Council Tax to fund parish activities. The Chair states *“The Precept has not gone up because of the loss [caused by the former clerk]”*. So, what is it being used for? Have you noticed an improvement that justifies this inflation-busting increase?

4.23 Councillor Barham told us: *“I put a pretty aggressive election leaflet out: ‘Did you know your council lost £83,000?’ No, they did not. The electorate didn’t know about that. It wasn’t publicised². So I put out a flyer. Quite punchy, saying ‘Do you know that this council has lost £83,000 and you might want to reflect on that when you come to vote.’ When I got elected in 2019, the finances of the Council were in an absolutely shocking state. Not only had they lost £83,000 pounds, the new Clerk was pretty new to the job, and he had no concept of how to fill in an AGAR report. We borrowed an immense amount of money to get ourselves out of trouble from Ashford Borough Council. I think that was a fundamental bit of it. I said ‘I cannot sign this AGAR’. ██████████ would not change it, but as a consequence we missed the submission date. We had some very tetchy meetings at the beginning, ██████████ was saying ‘Who’s this new councillor to her Council?’ There was a very defensive cabal of former councillors who were*

² In her response to the draft report, ██████████ stated that the electorate did know about the loss of the money, as it had been reported in the local press, on TV and in statements issued by the Parish Council. She added that several members of the community had even attended the court case.

all present when the money was lost, who did not want it talked about³. Myself and ██████████ were the only ones saying 'Come on. You've got something to talk about here.'"

4.24 ██████████ told us that he had been happy to put his name on Councillor Barham's leaflet, saying that he felt that the councillors serving at the time of the theft of the money had not done enough to safeguard the Parish funds. ██████████ stated: *"I did feel that the councillors that were on the Council when the money was stolen were financially inept. Under the old Clerk there was a system that needed three signatories. It was fool proof. When this Clerk was appointed, he managed to persuade them to go down the internet banking route and at meetings when payments were discussed, I heard comments from some councillors that they left all the payments to the Clerk, so they didn't need to be discussed at meetings. I was a member of the public at that time, and I could see issues were going to arise from what was happening with the finances. I asked searching questions and was told I shouldn't be asking them. But I said I had a right, as I have been fundraising for the village since I was 15. I still raise funds for the village and have just raised £10,000 for the repair of the village clock⁴."*

4.25 As part of the investigation, we asked ██████████ to recount specific incidents where Councillor Barham had bullied her and others in his capacity as a councillor. She highlighted:

- a. Councillor Barham's conduct towards the then Clerk, ██████████ which she said started at their first meeting on 14 May 2019, and continued both in email exchanges and during meetings.
- b. Councillor Barham's general conduct in meetings towards herself and other councillors. In particular, during the meeting of 15 December 2021, when he accused her and other members of being involved in the fraud carried out by the former Clerk.
- c. Councillor Barham's conduct towards her during / immediately after the Parish Council meetings held in January and May 2024, at which time ██████████ was no longer a councillor, but attending as a member of the public.

Meeting of the Parish Council, 14 May 2019

4.26 ██████████ told us that problems started from the very first meeting after the election in 2019: *"Councillor Barham assumed that he would be voted as Chair. He had lobbied a couple of the other newly elected councillors, thinking that they were going to vote for him to be Chairman, and when we actually did the election for Chairman, he couldn't even get someone to second him. So consequently, I*

³ In her comments on the draft report, ██████████ said that the stolen funds were a monthly agenda item for a considerable amount of time after the legal case was concluded. And that during the legal case, members were forbidden to discuss it.

⁴ In her response to the draft report ██████████ pointed out that Councillor Bryant's involvement in fund raising for the church clock was irrelevant to parish council finances and that he was just one of many in the village who had raised these funds.

was elected Chair and then [REDACTED], on his behalf, made threats to those two new councillors, one of them who was a local publican ([REDACTED]), he said to her, 'My family won't be coming to your pub anymore. Within six months, you'll be bankrupt if we're not supporting the place. You promised you were going to vote for Edward [Councillor Barham]. She said, 'I didn't promise anything of the sort, you assumed.'"

4.27 [REDACTED] who was Clerk at the time, recalled that Councillor Barham only had the support of [REDACTED] when he was nominated as a potential Chair, which he did not think that Councillors Barham and [REDACTED] had been pleased about. [REDACTED] could not recall either councillor making threats to any other members though.

4.28 [REDACTED] told us that he nominated Councillor Barham as Chair so that members would be better placed to regain financial control of the Parish Council. [REDACTED] said it was for this reason that he thought choosing [REDACTED] was a mistake. [REDACTED] denied ever making threats to bankrupt [REDACTED]'s business, adding that he and his family had always gone to the village pub and still do.

4.29 Councillor Barham, who had served as Chair when he was previously on the Parish Council, told us that he knew that [REDACTED] would be elected as Chair by the other serving councillors at the meeting of 14 May 2019, but that [REDACTED] had not been aware of this and so nominated Councillor Barham. Councillor Barham said that he was unaware of any threats being made as a result of [REDACTED]'s election.

Councillor Barham's conduct towards [REDACTED]

4.30 [REDACTED] told us that a previous Clerk (prior to Gary Willard, who was jailed) had been with the Parish Council for approximately twenty-five years and that during Councillor Barham's previous stint as a member of the Parish Council, Councillor Barham had got used to being able to manipulate this Clerk.

4.31 [REDACTED] said that after the theft, Kent Association of Local Councils had recommended [REDACTED] to the Parish Council as a highly experienced Clerk who would be a good appointment to restart everything. [REDACTED] told us: [REDACTED] *wasn't going to stand for any nonsense. In meetings, he wanted the proper procedure followed, and they weren't used to that. They [Councillors [REDACTED] and Barham] came back into the Council after a break of a few years, and things had very much changed under [REDACTED]'s chairmanship. Things were being done properly. Proper procedures were followed, and the Council at that time had got used to that way of working. There were one or two councillors on there, [REDACTED] as an example. [REDACTED] who, sadly, is no longer with us. They had been part of the previous [Councillor] Barham chaired Council, but they'd all sort of conformed and transferred over to following the proper procedures. It was all going along nicely. I think what they [Councillors Barham and [REDACTED]] didn't like was that it wasn't going to be the little cosy thing of, 'You know what... we'll sort this out amongst ourselves - you can have the grass cutting contract, and I'll do this.' It wasn't like that anymore. It may have*

been like that years ago, but you can't do that anymore. You have to be transparent. Electors have to be able to trust what you're doing as a council."

- 4.32 ██████████ told us that Councillor Barham was critical of him before he was even re-elected to the Parish Council in May 2019. ██████████ told us that during his first Annual Parish meeting as Clerk, Councillor Barham (attending as a member of the public) had told the Chair that he didn't like the way in which ██████████ had presented the accounts. ██████████ said: *"The Barham family are well known, and they own two thirds of the village. After he was elected, it became obvious that Councillor Barham was going to try and trip me up at every opportunity and make life very difficult for me. Every month, he wanted a full breakdown of what the expenditure was and where we were with finances etc."*
- 4.33 ██████████ told us that immediately after the Parish Council meeting in June 2019, Councillor Barham *"took me to one side, and he said, 'This Clerk, he's not for us. He's not from the village.' I said, 'Well, that's a good thing at the moment, because we need an experienced clerk to sort out the mess. He is an experienced Clerk. And the fact that he's not from the village [means] he's got no preconceived ideas. He's not influenced in any way. So, I actually think he'll be really good.'* And [Councillor Barham] said, *'No, no. We don't want him, I'm going to make it my mission to get rid of him.'* I said, *'Well, I will fight you all the way on that.'* And he said, *'Well, if you do... not only will I bring the Clerk down, but I will bring you down too.'*
- 4.34 Councillor Barham told us that he did have immediate doubts about ██████████'s ability to support the Parish Council as Clerk, telling us: *"I could see ██████████ was struggling from the very first meeting after the election. He was all over the place with the AGAR and the finances, which was the first thing we needed to sort out. He didn't have a grasp of the situation at all⁵. I did ask ██████████ if the Clerk was the right one for us at that meeting. She wouldn't accept it, but I think that was because of personal animosity towards me from decades ago. What I said to ██████████ about the Clerk was a question, not a statement."*
- 4.35 ██████████ told us that in her view, Councillor Barham's subsequent conduct towards ██████████ demonstrated that he intended to carry out his threat to remove him as Clerk. ██████████ said: *"What would happen was that in the week or so before a meeting, or just before the agenda came out, Councillor Barham would start to find fault with the Clerk's agenda. Asking why we were not doing this or that, and why things weren't on the agenda. He wanted things on the agenda that were more to do with his own personal projects. He had a habit of trying to make his own personal projects look like a Parish Council project in order to get funding for it. He had a bench funded by the Parish Council to commemorate the Queen's Diamond Jubilee, and things like that. When we*

⁵ In her response to the draft report, ██████████ pointed out that any Clerk coming into the situation the Parish Council found itself in would have initially found it difficult, as all relevant documents and Council funds were gone. ██████████ added that the disagreement between Councillor Barham and the new Clerk - whether money paid out on behalf of the Parish Council by the District Council should be included in the AGAR – was resolved when the Parish Council were advised that the Clerk's position was correct.

rules apply, so I wouldn't have said these things in public. He was very much [REDACTED]'s man, and we had no correspondence with him. We would be fortunate to get two emails from him per month [and] the minutes and the agenda. I didn't even have a phone number for him. I used to ask him to put things on the agenda, but he very rarely did because he and [REDACTED] would control the agenda. I don't recall emails that I have sent which find fault in the Clerk's agendas or performance; no doubt [REDACTED] can produce these."

- 4.40 Neither [REDACTED] nor [REDACTED] could provide any emails to support their concerns, telling us that they had not saved any and no longer had access to their Parish Council accounts. [REDACTED] did highlight that an independent governance review had taken place (in April/May 2021), which stated:

"Without exception all those who replied mentioned the prevalence of some bullying. Whilst lively council debate and differing views is expected and encouraged, aggressive actions are not. Bullying and aggressive behaviour has been reported as also extending beyond meetings.

Bullying can lead to intimidation and hampers council business being achieved. Some councillors have experienced personal and unkind behaviour, verging on the threatening.

Whilst accepting the shortcomings of the past and the fraud of the previous Clerk, the parish council as a corporate body was exonerated, and nearly all Councillors wish to move on from the past. However, there is a minority element who wish to blame those councillors in position at the time of the fraud and even force resignations. The councillors on the council at the time the funds were stolen are naturally defensive. Constant reference to the past is in danger of seriously hampering the current and future business of the council."

- 4.41 [REDACTED] stated: *"In response to the report, new policies were adopted by the council, The Member/Officer Protocol (May 2021) and the Dignity at Work Policy (Oct 2021, revised Oct 2022). These actions were reported to the village [REDACTED] [REDACTED] These measures were later further strengthened by all councillors signing up to the Civility & Respect Pledge in Oct 2022. Sadly, none of this had any effect on the behaviour of Cllr Barham... and since the election of May 2023 it has escalated, largely in response to events linked to the failure by Cllr Barham to sign his Acceptance of Office within the required time frame (despite being granted an extension) which resulted in a casual vacancy being created."*

- 4.42 It was evident from our discussions that the relations between [REDACTED] and Councillor Barham deteriorated further after the Parish Council election in May 2023. Following his re-election, Councillor Barham's failure to attend the next two Parish Council meetings or sign his acceptance of office within the specified period led to [REDACTED] contacting the Elections Officer at the Borough Council and then subsequently declaring a vacancy because Councillor Barham had not accepted his seat.

4.43 In her letter of complaint, ██████████ stated that these events increased the number of unpleasant emails from Councillor Barham. She also highlighted a public statement made by Councillor Barham at the Parish Council meeting on 20 July 2023. Minute 908 of that meeting explains the situation regarding Councillor Barham's declaration. It states:

“908. Parish Council Vacancies:

b. The Streyte:

At the May 2023 election Mr E Barham was elected to represent the Streyte, however he requested by email on 12th May that it was unlikely that he would be attending the May meeting due to a family commitment and requested that he be allowed to sign his Declaration of Acceptance of Office at a subsequent meeting. The Parish Council resolved that the Acceptance could be signed at the next scheduled meeting of the Parish Council.

On 14th June Mr Barham emailed the Chairman, copying in the Clerk, to say that he would be unable to attend the Parish Council meeting the next day as he had to attend a reception of the National Garden Scheme at Sissinghurst Castle. No request was made to extend the time to complete the Declaration of Acceptance of Office. The Clerk spoke with the Chairman and it was agreed that advice should be sought from Electoral Services at Ashford Borough Council as to the process to be followed. This advice was sought by email and a response was received on the day of the meeting from the Electoral Services Manager that if the Declaration of Acceptance of Office was not signed at the meeting then a casual vacancy will have arisen. As Mr Barham did not sign his Declaration of Acceptance of Office Ashford Borough Council issued notice of vacancy as a result of failure to sign the acceptance...”

4.44 Minute 910 of the meeting states:

“910 Public participation:

Mr Barham read a statement disagreeing with the way that his non signing of his declaration of Acceptance of Office was dealt with implying that the Clerk had exceeded his authority and should be made to pay for the election.”

4.45 ██████████ provided a transcript of the public statement made by Councillor Barham at that meeting. It included Councillor Barham asserting that the Parish Clerk had been preparing this “*manoeuvre*”, misinterpreted the rules, and acted beyond his remit without the authority of the Parish Council. Councillor Barham's statement ended: *“I invite the Council to review the actions of the clerk who has gone far beyond his status and is making decisions on behalf of the Council which he is not entitled to do. In doing so he brings unrest, expense, an unnecessary election to the Council and discredits himself. He demonstrates his lack of knowledge, lack of attention to detail, biased nature of his office and*

unsuitability for the post he holds. A review and disciplinary action should follow whilst as a matter of honour he reviews his position. And this from a man who has almost laughably been put forward as a good clerk. And who is to bear the perhaps unnecessary expense of the by-election? If ABC have incorrectly led us to this position we should look to them. Otherwise the clerk perhaps.”

4.46 ██████████ told us that he considered the criticism of him to have been unfair, saying: *“The decision was taken out of my hands, and they [Electoral Services] said if he [Councillor Barham] doesn’t sign it, he is out of the Council. I notified the Borough the morning after the second meeting. Councillor Barham took umbrage with me, saying I didn’t know what I was doing. And I’d cost the Council money [because] this forced a by-election. Which he rigged by going round to get people to put in a request for an election. He admitted he did this to make sure he got back onto the Council. Had the by-election not been called, the Council would have been able to co-opt members.”*

4.47 When we asked Councillor Barham about this matter, he told us that in his view, ██████████ and ██████████ conspired to have him deliberately removed from the Parish Council⁸. Councillor Barham also made the point that he had been speaking as a member of the public at that meeting, not as a councillor.

Councillor Barham’s conduct during Parish Council meetings

4.48 ██████████ told us that Councillor Barham and ██████████ would always sit together at Parish Council meetings, spending their time picking holes in the way ██████████ ██████████ said that she often saw Councillor Barham nudge ██████████ to speak at specific points. She also told us that if anyone disagreed with Councillor Barham, ██████████ ██████████ often reacted by banging the table and shouting. ██████████ added that she could recall this happening particularly with female councillors.

4.49 When we asked ██████████ if she could recall specific meetings where Councillor Barham behaved badly, she told us that ██████████ used to record Parish Council meetings and so might have these as evidence (though she added that she thought he might delete the recordings once the minutes were agreed). ██████████ referred to two incidents that had stuck with her:

- a. *“At one meeting myself and ██████████ had to go outside the meeting, because we were members of the War Memorial Trust. And there was a War Memorial Trust, 106 funding on the agenda. Because it was a summer’s evening, we went outside the village hall and we sat on a bench in the car park. Two local police officers came to the meeting. They would sometimes turn up just to give a local crime report. They came to the meeting and they sat and did their little report. And they sat in on the rest of the meeting...it was a particularly bad tempered meeting. We went outside for this particular item, and we could hear the*

⁸ In her response to the draft report, ██████████ stated that it would have been stupid for her and the Clerk to conspire to remove Councillor Barham from the Parish Council as he would easily have been co-opted back on to it.

shouting and all the arguing from inside and banging on the table and swearing and we were thinking, God, this is not good... It was just degenerating into the most awful thing. One of these policemen came out and said, 'I have never seen anything like this. The behaviour is absolutely appalling. Is there nothing you can do about this?' I said, there wasn't, and he said, 'There must be something you can do'. I said, 'Well, certain aspects of [a] councillors' misbehaving can be a criminal offence, but when I spoke to the Community Safety Officer who used to sometimes come to the association of local council meetings and asked him if we called him when these meetings were getting out of hand, would he come? Will anything happen? He said they won't come for that as they haven't got the resources. The policeman said he couldn't believe that, or what we had to deal with every month. He said he was going to go back and speak to his Inspector about it. He emailed me back and said he was really sorry, but that I was absolutely right. They haven't got the resources to do anything about it."

- b. "Another really bad meeting was the December meeting of 2022. It was just horrible. I made up my mind then that [REDACTED] I think it was 2022, it might have been 2021. But it was a December meeting and that was one which the Clerk was recording. I know he kept it for a while. It was a Zoom meeting. Councillor Barham was so unpleasant. They [Councillors Barham [REDACTED] were making accusations that myself and [REDACTED], who has since died, were involved in the fraud. And that we had helped the clerk do it, and we'd probably benefited from it, they were hell bent on going to a solicitor and seeing if we could be sued personally to retrieve the funds, which was a horrible thing to have. Whilst we were going through the insurance claim process, trying to reclaim the funds in that way. The insurance company wouldn't pay out because we used to do our bank reconciliations after the meeting so as not to interrupt the flow of the meeting, so our minutes didn't record that we'd done a bank reconciliation. The insurance company said we'd got no evidence that we'd done bank reconciliations so they were not going to pay out. Once it had been finalised, that we weren't going to get the money back from there, then Councillor Barham and [REDACTED] were looking at other ways of getting the money back. That's when they started these attacks on myself and [REDACTED] alluding to the fact that we were involved. We'd benefited from it, and they were trying to make us personally liable. We were going to lose our houses. They even took legal advice on that. I don't know why they thought that. I'm not even sure they did really think that. I think it was just a way of getting rid of Councillors that didn't bow down to their way of thinking. They had a go at [REDACTED] as well, but he resigned as he couldn't take it. Once he'd gone, they concentrated on me."

- 4.50 [REDACTED] told us that Councillor Barham did not raise his voice during meetings, but that he was very forceful. [REDACTED] told us: "I do think that [REDACTED] and Councillor Barham did bully people. It was mainly verbal. [REDACTED] on his own at a meeting was quite mellow and always polite. It was quite obvious at other meetings that he was being fed what to say by Councillor

Barham. There would be looks and nods between them. ██████████ could be loud at meetings on more than one occasion. I don't recall ██████████ banging the table though."

4.51 When asked for an example of Councillor Barham's bullying behaviour during meetings, ██████████ told us that he would often make unnecessary comments to other councillors. ██████████ told us: "[Councillor Barham] was often very disrespectful to ██████████ in particular. At one meeting, I recall that he wanted her to be quiet and said, 'Shut up ██████████'. ██████████ would always try and bring the meeting back to order."

4.52 This incident has also been highlighted by ██████████ in her complaint. She included a letter written by former Councillor ██████████ to the Monitoring Officer in which she stated:

"At the latest elections to the Parish Council Mr Edward Barham was elected along with ██████████ They work together to disrupt the meetings and bully the clerk, ██████████ myself and ██████████. At a meeting on the 21 July last year Mr Barham shouted at me 'Shut up ██████████ when I was trying to explain the accounts to him. At the last meeting (by Zoom) the Chairman explained that we had just received a copy from Lloyds Bank of the Bank Mandate which bore the signatures of ██████████ (now deceased) and myself. The Chairman pointed out that it was neither of our signatures, but forgeries. On looking in my diary I was in hospital at the time and could not have signed the mandate. (You are, I understand, already aware that the previous Parish Clerk stole £85,000 from Parish Council Funds and pleaded guilty to forging bank signatures on cheques, mandates and bank statements). At the meeting Mr Barham suggested that I was helping the clerk to commit fraud. At the time I was under treatment ... and not taking part in Parish Council affairs.

...

The only time Messrs Barham and ██████████ behaved was when I asked our local PCSO to attend the meeting. The purpose of this letter is to make you aware of events at the Parish Council so they can be put on record. ... All this pressure is upsetting and is stopping me from contributing to the meeting due to his rude and dismissive behaviour. I would be grateful for any advice you can give me regarding this continuing situation."

4.53 When asked about this incident, Councillor Barham told us: "I don't shout, but I can make some cutting remarks. I do recall saying 'Shut up ██████████' to ██████████ on a Zoom call during Covid. She was whining on and butting in and talking over other people. So, in desperation I did say it."

4.54 About his conduct more generally at meetings, Councillor Barham told us: "There may have been occasions when my own behaviour crossed the line slightly. I'm not proud of it, but it got so heated, and I am a guy that is inclined to fire back when I'm slapped down. It was in desperation though. ██████████ and the Clerk had all the knowledge, contacts and the Monitoring Officer at his fingertips, and they were not prepared to share the benefit of the advice. They

were being absolutely unreasonable. Yes, I might have crossed the line and not gone home very happy about it, but they were not happy meetings. I'm afraid [REDACTED] was beyond her pay grade [REDACTED]⁹.

4.55 Late into the investigation, [REDACTED] provided us with the video recordings of six Parish Council meetings that all took place over Zoom; these included the Parish Council meetings of July 2020 (where Councillor Barham had already told us that he said “Shut Up [REDACTED]”) and December 2021 (where Councillor Barham is alleged to have accused [REDACTED] of being involved in the previous Clerk’s fraudulent activity).

4.56 With regards to the meeting of 21 July 2020, the recording shows:

- a. What we would describe as a tense discussion between councillors about the auditor’s report, with different councillors interjecting and talking over each other. Councillor Barham is shown to generally wait patiently for the chance to speak. [REDACTED] is seen regularly interrupting other councillors, including Councillor Barham.
- b. When Councillor Barham is given the opportunity to speak, [REDACTED] again interjects. It is at this point that Councillor Barham is shown to say: “Will you keep quiet [REDACTED].” (He does not say “Shut Up [REDACTED]”).
- c. [REDACTED] immediately intervenes (as Chair) and tells Councillor Barham that if he cannot be civil towards other councillors, he will be muted.
- d. [REDACTED] reiterates that he is not allowed to speak to [REDACTED] like that and other councillors encourage [REDACTED] to mute Councillor Barham. [REDACTED] does not; instead, she asks councillors to keep quiet and listen to what Councillor Barham has to say. Councillor Barham then continues to make his point.

4.57 In relation to the meeting of 15 December 2021, the recording shows:

- a. Members discussing agenda item 655, which concerned a motion put forward by Councillor Barham, seconded by Councillor Bryant, which proposed: “If by the 31st of January 2021, the funds have not been recovered, then the Council will consider the appointment of a working group to take over the recovery of the said funds.”
- b. [REDACTED] informs members that following the former Clerk’s criminal actions, the Parish Council’s insurance company was refusing to pay out on the grounds that the Parish Council could not show that it had complied with certain clauses of their insurance policy. This included that bank reconciliations had not been properly minuted, because they had been done outside of meetings. [REDACTED] informs members that enquiries with the

⁹ In her response to the draft report, [REDACTED] stated that it was demeaning rude comments such as this that she had to contend with all the time and that Councillor Barham had no idea about her education/career background.

bank are ongoing and that solicitors have been instructed; however, things had not really progressed since the last update.

- c. Councillor Barham tells members that the issue of trying to get the money back needed a fresh set of eyes, and that he has experience of a similar case in which a particular firm of solicitors had been successful in getting all the money back. Councillor Barham says that he believes the current solicitors to be ineffective and that the bank and insurance company were behaving appallingly.
- d. Councillor █████ continues: *"... and I'm sorry to say it is no doubt that the previous council behaved appallingly, but I have been speaking to Ashford Borough about this and you know probably, pursuit of individuals is not the outcome that we need. But it cannot be dismissed totally. And I therefore think that some people around this room need to accept that they have a one percent chance of a vested interest in this. And you've got to let go, and let others take control of this. And give it to a decent firm and give it a good punching. Because drifting on like this is not acceptable. We've got to get an outcome for it. Which is why I put to you... █████. You need to stand aside from this and let a new team take the helm."*
- e. █████ agrees that more needs to be done and that she and Councillor Barham are effectively on the same page.
- f. Councillor Barham replies that then maybe he is just on a different paragraph, because he does not believe that █████ should be leading on in the matter.
- g. When asked why by █████ Councillor Barham states: *"Because, speaking frankly, she, you, and others present here tonight were the parties who were grossly incompetent as parish councillors and permitted this to happen. I'm sorry to use those words, but I am struggling to, find it hard to ... (interjection)."*
- h. █████ and then █████ both state that they did not feel guilty about what happened.
- i. Councillor Bryant states: *"Well we realise that there has been no apology and no real humility",* to which █████ and █████ both effectively state: *"And there won't be Steve [Bryant]. The person responsible is in prison. We weren't responsible."*
- j. Councillor Bryant says that the money had been stolen *"on your watch, from right under your noses and someone here has got to accept responsibility, and it is time for you to step aside and let a fresh set of eyes to look at this to move this on..."* though █████ is heard making further denials throughout.
- k. What we would describe as a heated and emotionally charged discussion continues on the matter. Councillor Barham though took no further part.

- i. When the proposal is put forward for a vote, Councillor Barham objects to certain councillors voting on the matter. When asked why, he states: *“you are culpable... until someone can tell me that you have no liability, then it’s a possibility.”*
- m. The vote is then deferred so that legal advice can be obtained on whether [REDACTED] or [REDACTED] should be allowed to vote on the matter.

4.58 In his written response to this aspect of the complaint, Councillor Barham stated: *“Following the conviction of [the former Clerk], the Parish Council have naturally investigated and sought to recover the funds lost. In doing so, it has been necessary to legitimately scrutinise former councillors on their decisions and the practices and policies which enabled the significant fraud to go undetected. This was always going to be difficult for these parish councillors but this did not mean one could shy away from this as I and others had to act in the best interests of the parish. This was not bullying as alleged but fair and robust scrutiny of holders of a public office, as required by the Nolan Principles. It is critical that holders of a public office are accountable to the public for their decisions and they must submit themselves to the scrutiny necessary to ensure this.”*

4.59 Our review of the six Zoom meetings provided by the former Clerk did not reveal any other occasions where we considered that a detailed examination of Councillor Barham’s conduct was necessary. Having carefully watched all the footage, we would comment that the subject of the money stolen by the previous Clerk was an emotive issue that was discussed regularly. Councillors Barham and [REDACTED] were not members of the Parish Council when the money was stolen, whereas Councillors [REDACTED] were. Both [REDACTED] and Councillor Barham expressed the view at various times during these meetings that those councillors in post at the time of the theft/fraud had been negligent when allowing the previous Clerk too much control over the Parish Council’s bank accounts. Discussions around this matter invariably resulted in tense debate, with councillors regularly interrupting each other. Councillor Barham is shown as one of those most likely to wait for the Chair’s permission to speak and least likely to interrupt anyone else.

[REDACTED]’s resignation

4.60 When we asked [REDACTED] to specify what prompted her resignation from the Parish Council [REDACTED], she told us: *“It was just an accumulation of things that led up to me resigning. I knew [REDACTED] was going to retire and it got to the point where we were not actually achieving anything at meetings, which I wasn’t used to as during Duncan’s time and my first few years [REDACTED] we got things done for the village. We improved things. We had projects in the pipeline to make it a better place to live. Prior to my resignation, we had gone 6 to 8 months without achieving anything. We were just arguing in meetings, and ended up deferring decisions as a result. A lot of people started to abstain, because they were frightened to vote against Councillor Barham and [REDACTED] That’s no good. You don’t get anywhere like that. I thought ‘I’m not*

achieving anything anymore. Why are you going to take that sort of toxic environment and that upset, every month - leading up to and following the meeting. Why would you put yourself through that every month if you're not achieving anything?' Periodically, I would go backwards and forwards with Terry Mortimer, the MO, and his advice was nearly always the same - keep a record of it, call the Police if it gets so bad. But we knew the Police wouldn't come."

Councillor Barham's conduct, 19 January 2024

- 4.61 This Parish Council meeting was the first since the resignation of five members of the Parish Council, including ██████████ attended the meeting as a member of the public, along with approximately fifty other residents. Councillor Barham was appointed temporary Chair of the meeting, as his name was first alphabetically.
- 4.62 ██████████ told us: *"At the meeting in January, which was the first one after ██████████ the village hall was packed. People were very cross. People were booing Barham and ██████████ Calling them cowards. Telling them to go home. Telling them they weren't wanted there. Not me, but members of the public. I sat near the back. I kept my head down, I'd gone there to observe, and I wasn't going to say anything. A member of the public got up and said statistics show that there are four reasons why people resign from Parish Councils. These are: because of bullying and intimidation; in support of another councillor who suffered bullying; because they disagree with the way the Council's being run; and another reason (I can't recall what that was). The member of the public asked, 'Can the councillors that have resigned tell us which of those reasons they've resigned for?' I wasn't prepared to answer that in public, and people knew anyway. There were lots of questions directed at Councillor Barham in the Chair, because people were angry. And he wouldn't answer any of the public's questions at all. Now, he says that's because they were hostile, and he didn't want to get into that. But he was rude to the public. He was dismissive of them. He was very arrogant. He was saying: 'I'm not answering your questions. Why should I?' And then a couple of members of the public and our Borough Councillor (Councillor Kate Walder) paid tribute to the work that I've done... and said what a shame it was that it had come to what it had come to. And wanted to thank me for what I've done. The audience was clapping and cheering. Councillor Barham said that I was not the saint people thought I was, and he didn't share their good opinion of me."*
- 4.63 ██████████ told us: *"At the January meeting there were quite a few members of the public present. They asked Councillor Barham questions. His responses were rude, abrupt and he refused to answer some questions... There was email traffic just before this meeting suggesting holding meetings without the public being allowed access. Councillor Kate Walder... stamped down on this quite hard and said they could not do that as it was illegal."*
- 4.64 Councillor Barham told us: *"The meeting of January was the first after ██████████ ██████████ There were a lot of members of the public in attendance. It was better than watching Eastenders that night. They wanted blood. They wanted to be able to shout at me. And the rules of the Council are*

that any member of the public can speak. I had been elected Chairman by rotation that night under some complicated and ill thought-out scheme, but it just seemed to be a way of progressing it. So, the first letter in the alphabet was me. We had approximately 50 people. They wanted to know what had happened, and they were all barking on about how terrible I was, and there's no way that I can, from a standing start, respond to things. I'm not required to respond. And I just said: 'Right, okay, thank you, next item.' They were very unhappy with that. It was entirely democratic and in fact, the sensible thing. And again, people came up to me in the street after that and said; 'Well done for defusing that one. Because how can one person win against 50?' I just closed them down and said, 'We're not going there.' They were all against me. A lot of them were put there by [REDACTED]. She had a friend revved up for it¹⁰. Mrs [X] (our edit) was there whipping it up, and they were baying for blood. I didn't give it to them. I just didn't see the need or the reason why I should. I'm not obliged to do that."

4.65 When we asked Councillor Barham for his recollection of the part of the meeting where is alleged to have been critical of [REDACTED], he told us: *"Councillor Kate Walder made a statement at this meeting. She is very good friends with [REDACTED] and they operate as a team¹¹. She made a statement about how brilliant [REDACTED] and [REDACTED] were. She said that [REDACTED] was one of the most qualified and impressive Clerks in the country. I disagree with that, and history has proven me right. The minutes of the meeting state that I did not respond to Councillor Walder's statement. [REDACTED]'s record of this meeting is incorrect. Or at least she is being economic and creative with the truth, and I refute the allegations."*

4.66 Councillor Barham told us that the minutes of the meeting clearly stated that he made no response to Councillor Walder's statement. The minutes of the meeting, which were prepared by [REDACTED], state: *"Cllr Walder stated that the Parish Council is functioning, although there are some things that we need to work through. There are two people who have suffered throughout this process, [REDACTED] who was an impressive public servant, and the Clerk, who has endured an unpleasant barrage of accusations. According to the Kent Association of Local Councils he is one of the most qualified and impressive clerks in the country. In closing Cllr Walder asked Cllrs Barham and [REDACTED] you two broke it, how are you going to sort it. The Chairman did not respond."*

Councillor Barham's conduct, 21 May 2024

4.67 On 21 May 2024, the Parish Council meeting was held at Rolvenden Church. [REDACTED] attended along with eighteen other members of the public. A Locum

¹⁰ In her response to the draft report [REDACTED] stated this was absolutely not true, that she had only decided to go to the meeting at the last minute and had been surprised by the turnout.

¹¹ In her response to the draft report [REDACTED] stated that during her time as [REDACTED] she had developed a successful working relationship with Councillor Walder and they had worked together on several village projects.

Clerk was supporting the Parish Council, as ██████████ had retired as Clerk. Councillor ██████████ chaired the meeting¹².

4.68 ██████████ told us that at the end of the meeting, Councillor Barham asked if she would speak with him privately in the vestry. ██████████ told us: *“I said he could speak to me here. He said ‘Oh, come on. Don’t be ridiculous. I’d rather speak in private’. I raised my voice slightly, to make people around me aware that there was a situation, and repeated he could speak to me here. Some people did realise that there was a situation, including ██████████ and his wife and the local neighbourhood watch lady. They saw that there was something happening. He [Councillor Barham] said to me that the skill set of this new Parish Council, was the best we’d had for years, but there are gaps in their knowledge. And he wondered if I would help them with that. I looked at him, I was absolutely incredulous. I said, ‘Why would I do that? You have spent the last five years criticising and finding fault with every single thing that I have done. Why would I help you now? No, I’m not doing it.’ He said, ‘Oh, come on. Don’t be like that.’ I said, ‘No, I’m not doing it, Edward. I don’t want to know. If they’re so marvellous, let them get on with it.’ He said, ‘Oh, well. I was going to ask you an intelligent question, but you’re not capable of answering one. And in any case, you’re not worthy’. And I did raise my voice. And I did swear. I said to him, ‘You will never bloody change’. I walked out. I stormed out of the church. And everybody was looking, because everyone was in the aisle coming out of the pews to leave. I was barging everybody out the way. I was so furious with the way he’d spoken to me.”*

4.69 Councillor Barham told us: *“The new Chairman, ██████████, was struggling. He was new and had never been a councillor before. ██████████ sat in the front or second row of the church and frequently butted in. She shouldn’t, because members of the public are only allowed to speak at the beginning of the meeting. But in fact, that’s what made the meeting work. Because the Clerk couldn’t control it, because she was on speakerphone. The Chairman didn’t know what was going on. I wasn’t the vice Chairman and ██████████ had the answers to many of the questions that were coming up. Because actually, she is a good servant at the parish. So, she was constantly butting in [but] to the betterment of the meeting as it happened.”*¹³

4.70 Councillor Barham confirmed at interview that he did approach ██████████ after the meeting, telling us: *“I went up to her and asked if I could have a word with her. And I said, ‘Just step over here.’ She said, ‘No. If you’re talking to me, you’re talking to me right here in the middle of everyone else.’ I said, ‘Look, we need you. Would you help the parish? Help continue to help the parish and bring the skills she’s got back into the Parish Council.’ She responded with vindictiveness at me. The councillors who heard what she said were absolutely shocked that ██████████ came up with that language. It was an olive branch for me, but it went completely wrong. My response to ██████████’s outburst was nearly*

¹² In her comments on the draft report, ██████████ queried the accuracy of the minute that recorded 18 members of the public being present. She said that most of the pews were full and that the Clerk was operating remotely, so could not see who was there.

¹³ In her comments on the draft report, ██████████ stated that she had not “*butted in*”; the Chair knew nothing and was looking for guidance and answers that she was able to help with.

identical to what ██████████'s complaint stated. They may not have been the exact words, but it was pretty true. I just quipped back at her after she had unleashed a tirade at me. She was absolutely furious with me. I was being genuine; she was assisting in difficult circumstances, and we could have co-opted her back onto the Council. I was being conciliatory, and I recognise she has a huge knowledge. She wrote the local neighbourhood plan. She could bring immense skill to the Council. But I suspect she won't serve on the Parish Council again whilst I am there. I was quite surprised by the force of her reaction that day."

Matters related to the allegation that Councillor Barham failed to declare the necessary interests when the Parish Council considered requests from Rolvenden Football Club to access money from a section 106 agreement signed by Councillor Barham

- 4.71 ██████████ and ██████████ both alleged that Councillor Barham failed to declare his interest in agenda items relating to applications from RFC to access money raised via a section 106 agreement ('the s106 agreement'). ██████████ alleged that this occurred most recently at Parish Council meetings on 7 December 2023 and 19 January 2024. ██████████'s allegation only concerned the latter meeting. Both complainants stated that Councillor Barham's interest arose because he owned the land used by RFC and was a signatory (in his private capacity) on the relevant s106 agreement. It was alleged that the s106 agreement provided that if any of the funds went unused, the money would go to Councillor Barham's family.

Background

- 4.72 On 5 January 2015, Councillor Barham and other members of his family ('the owners') signed an agreement with the Borough Council and Kent County Council under section 106 of the Town and Country Planning Act 1990. The agreement concerned the owners' land at Halden Field and related to an outline planning permission granted for a 40-dwelling development. At the time of the agreement, the site was a playing field that was used by RFC.
- 4.73 Under the terms of the s106 agreement, the owners agreed not to start construction of any of the permitted dwellings until 'The Replacement Playing Fields Development' was fully constructed, ready for use, and leased to RFC with a minimum term of 25 years and the option to extend the lease by 10 years on the same rental terms in the event that it was necessary to obtain funding for a pavilion on the land. The initial rent was set at £250 a year, to be reviewed every 5 years, with any increase no more than inflation, but with a 100% increase in the event a pavilion was constructed. The conditions of the s106 agreement included that this new site could only be used as playing fields by RFC and the public, and could only be terminated by the owners in the event RFC ceased to use the land for 2 years.
- 4.74 The s106 agreement also required the owners to pay the Borough Council £2500 on signing (as a legal costs contribution), £1000 (+ indexation index) on the date construction starts, and additional amounts per dwelling at various phases of the

development. In turn, the Borough and County Council were required to use the money for specified purposes (such as improvement to allotments and associated facilities, carbon off-setting, the provision of or improvements to children's and young people's play space and associated facilities, the provision of or improvements to informal/natural green space and associated facilities in the area, a monitoring fee for the s106 and planning permission, and the provision or improvement of outdoor sports pitches). The s106 agreement also stated that any part of the contributions listed that were not spent within a set period (between 2 – 10 years of receipt, depending on the purpose) would be refunded to the owners.

- 4.75 On 26 August 2016, Councillor Barham entered into a lease agreement with RFC (represented by trustees Councillor Bryant and Mr Adams) relating to land forming the new football field, known as Barrett Field. The agreement meant that Councillor Barham remained as RFC's landlord.
- 4.76 In 2020, Taylor Wimpey Homes began the construction of the development at Halden Fields. On 9 July 2020, a s106 deed of modification was made between Taylor Wimpey, the Borough Council, the County Council and West Kent Housing Association. The deed of modification saw Taylor Wimpey and West Kent seemingly take on many of the owners' obligations (save any modifications), however, there is no reference to what now happens to any unspent s106 monies and the owners' obligations towards RFC remained as set out above.

Councillor Barham's Register of Interests

- 4.77 As part of the investigation, we were provided with a copy of Councillor Barham's register as published on the Parish Council's website on 29 August 2023.
- 4.78 Councillor Barham's employment is shown as *"Self-employed partner of Hole Park & Director of related trading company Hole Park Developments Ltd."*
- 4.79 Part D of Councillor Barham's Register, which concerns his interest in any beneficial land within the area of the Parish Council, reads: *"Holding and managing land tenancies at Hole Park Estate TN17 4JA including Rawlinson Farm TN17 4JD Halden Lane Farm TN17 4JG Halden Place TN17 4JG Windmill Farm TN17 4PF Lambsland Farm TN17 4PX Maytham Farm TN17 4QA Field, Regent Street & Cornex Garage, High St and associated houses, barns & premises."*
- 4.80 Although Barrett Field is not specifically referenced in Councillor Barham's Register, we are satisfied that it forms part of Windmill Farm and shares the same postcode – TN17 4PF.

General matters related to the declaration of interests

- 4.81 Councillor Barham told us: *"I'm the fourth generation of my family to serve on the Parish Council. And I'm the big bad landowner in the village. I've got a lot of assets so when it comes to declarations of interests you would need a page or*

two to get it all down with so many properties, including providing employment and housing to ██████████'s family, we are absolutely intertwined over generations, we've employed, three if not four generations of her family on this estate." Councillor Barham told us that he ensured that he was not on the Parish Council during the period that he was actively involved in the development.

- 4.82 Councillor Barham told us that he does not read out all his declarations at the start of meetings because he includes his assets in his Register, adding: "*If ██████████ says that he was not happy that I didn't make a declaration of interests or remain present, why did he not say anything during the meetings.*"

Parish Council meetings of 7 December 2023 and 19 January 2024

- 4.83 Councillor Barham attended the meeting of 7 December 2023 in his capacity as a member of the Parish Council. During the agenda item 'Declarations of interest', Councillor Barham declared his other significant interests as "*trustee of Basil Russel Trust, trustee of the Windmill Trust, Royal British Legion.*" No specific agenda item was noted as relevant to these interests.
- 4.84 Item 978 of the agenda related to a request that had been made by RFC for the release of s106 funds to pay for the repair of the roof at the football pavilion in the sum of £5,100 +VAT. The minutes record that the Parish Council resolved to authorise the Clerk to submit a request to the Borough Council for the release of s106 funds to repair the roof. There is no record of any councillor present declaring an interest in the item or withdrawing from the chamber when the vote took place.
- 4.85 Councillor Barham also attended the meeting of 19 January 2024 in his capacity as a member of the Parish Council. During the agenda item 'Declarations of interest', Councillor Barham again declared his other significant interests as "*trustee of Basil Russel Trust, trustee of the Windmill Trust, Royal British Legion.*" No specific agenda item was noted as relevant to these interests.
- 4.86 Item 994 related to another request from RFC to the Parish Council asking for the release of section 106 funds by the Borough Council. On this occasion, it was for a sum of £5,350 to fund the purchase of a toilet block and associated effluent tank. The minutes record that the Parish Council resolved to defer the decision pending the receipt of further information from the football club, including the plans for the toilet block. Again, there is no record of any councillor present declaring an interest in the item or withdrawing from the chamber when the vote took place.
- 4.87 ██████████, who had previously served on the Parish Council, told us that he believed that Councillor Barham should not have been involved in any decisions pertaining to the s106 monies due to having a financial interest in the matter. ██████████ said: "*My understanding of the section 106 agreement as a result of the sale of the Barham's land for housing was that if this section 106 money was not used, it would go back to the Barham family and not Taylor Wimpey, who then developed the land. It is my belief that Councillor Barham should not be involved in any agenda items that relate to section 106 money from this development.*"

██████████ added that he was aware that Councillor Barham owned Barrett Field, where RFC were now based and therefore, had an interest in the site where they wanted to build the toilet block.

4.88 ██████████ told us that he had longstanding concerns about Councillor Barham's apparent failings in this area, saying: *"When I was on the Parish Council every interest was declared every time. Councillor Barham owns a lot of land and properties in the village, so most of the time there is something on the agenda that requires him to declare an interest. But he very rarely does. Other councillors did, but he didn't. Other members did bring this up with him, but he was the Chair and running the show."*

4.89 ██████████ also told us that she believed that Councillor Barham should have declared an interest and taken no part in any decisions pertaining to the spending of s106 monies or any decisions concerning RFC. ██████████ told us: *"Edward [Councillor Barham] is a signatory on the original 106 agreement, and his family would benefit from unspent contributions. And he's also the landlord of the football club. The majority of the 106 money was for improvements to sports facilities. The original hope was that we would build a joint pavilion with that money, because tennis, cricket and football are all there in a little triangle in the village. Unfortunately, we couldn't get agreement between the three sports clubs on how or what that should be. So, then we went down the road of 'each club can have money for different projects'. It was generally agreed that because the football club had been displaced by that Taylor Wimpey development, they should get the lion's share of that money. The original senior Football Club has disbanded, but there is now a very strong youth presence - Rolvenden Tigers - and they are doing brilliantly. They've put in several applications for s106 funding: to improve their facilities, their toilet block, the showers, etc. What seemed to be happening was that whilst Councillor Barham was happy for the tennis club to have s106 money. and the cricket club, he was putting obstacles in the way of the football club. Whenever something came up about s106 funding, he would say we hadn't got enough information. Let's defer it; keep putting it off. The football club had an arson attack, and all of their changing facilities were destroyed. So we were trying to help them by getting the s106 funding fast tracked through to replace it. And he [Councillor Barham] was putting all sorts of obstacles in the way. The lease on the football club says that if football isn't played there for a certain period of time, then he can take the land back. It's adjacent to three other plots of land that he's recently entered in a call for sites to Ashford Borough Council for development, and I guess it would be considered a brownfield site. So, I think it's in his interest for football not to be played there. The junior teams that are there; he's tried to say that they're squatters. That they have no right to be playing there, because they're not the original Football Club. There're all sorts of shenanigans going on behind the scenes."*

4.90 Councillor Barham confirmed at interview that he owned Barrett Field and was RFC's landlord. Councillor Barham also confirmed that he had signed the s106 agreement in relation to Halden Fields, although he pointed out that the land had not been owned by him personally, but by a family trust of which he was a trustee. Councillor Barham told us that if any s106 monies have not been spent

within 10 years of the start of the development, his family trust could apply for the remaining money to be returned. Councillor Barham also told us that he believed that Taylor Wimpey would be entitled to 50% of any returned monies due to the terms of the sale of Halden Fields.

- 4.91 Despite this, Councillor Barham wholly rejected the allegation that he was in some way trying to make sure that not all the s106 money was claimed by RFC. Councillor Barham told us: “██████████ is saying that I was trying to block the section 106 money going to the Football Club. She's totally misinterpreting activities.” Councillor Barham was adamant that none of the money would go unspent, saying: “Much of this money has already been spent. The allocation for schools and libraries has gone. Most of the allocation for the allotments has gone. The only money left of any consequence is for open spaces, and this will be spent.”
- 4.92 When we asked Councillor Barham about the meeting of 7 December 2023, he told us: “There was an agenda item to release section 106 funds to the football club. This was voted on and approved, so I wasn't trying to block any funds - although at Rolvenden, nothing is really voted on. It's just approved by consensus. I don't read out all my declarations at the start of meetings because they are declared when I sign [my Register]. I have 200 tenancies on the Estate. I have an interest in everything that goes on in Rolvenden. Did I have a financial interest? Yes. But I was in favour of them having the money. I just wanted them to have it correctly. I've never stood to gain. All I've done is try to make sure things are done correctly.”
- 4.93 When we asked Councillor Barham about the meeting of 19 January 2024, he made the additional point that the Parish Council could not have considered the matter had he and ██████████ both withdrawn, because the meeting would not have been quorate (due to the recent resignations).
- 4.94 Councillor Barham did acknowledge that it was increasingly difficult for him to manage his interests as a member of the Parish Council. Councillor Barham told us: “I'm the landlord of the football club. We were obligated to provide football pitches to FA standard. We moved the Portacabins from the site of the old Football pitches. They never had consent to do that; we just moved them over. They never had planning¹⁴. They then replaced these with new ones, again without planning. The football club, as in the traditional village kick about team of which Councillor Bryant was chairman, actually folded through lack of support. Now Rolvenden had these two fantastic pitches with nobody playing on them. At the same time, an adjacent Parish Council was totally unable to produce their own football pitches, despite millions of pounds they had been given by the Government for development... Rolvenden is the envy of many. We get everything we want, because my family provides it. We built the football pitch¹⁵. We've provided the cricket pitch. What more do they want? So we keep on

¹⁴ In her response to the draft ██████████ stated that this was not true and stated that planning application 13/00749/AS had been granted. This application was granted and shows the applicant as Mr E Barham and it included the relocation of existing changing facilities.

¹⁵ ██████████ pointed out that this was a condition of the planning permission, not a charitable act.

providing. Every time we provide, this comes down to politics of envy, which is behind a lot of this."

4.95 Councillor Barham went on to explain that the demise of RFC saw a neighbouring club - Tenterden Tigers Football Club - effectively change their identity to Rolvenden Tigers (registering as Rolvenden Football Club Limited) so that they could base themselves at Barrett Field and apply to access the s106 monies. Councillor Barham told us that as far as he is concerned, his obligation under the s106 agreement to provide a lease to the trustees of RFC did not extend to this new organisation, who he described as squatters on his land. Councillor Barham added that this being the case, he did not think they were entitled to access the s106 money, saying: *"We're still trying to sort this one out. I don't mean any ill towards the directors of Rolvenden Football Club Limited, but they are squatters, and if something goes wrong, where is the mud going to stick?"*

5: Analysis

Capacity

5.1 Section 27(2) of the Localism Act 2011 requires all relevant Authorities to adopt a code of conduct *"dealing with the conduct that is expected of members ... when they are acting in that capacity"* (our emphasis). The Parish Council has reiterated this in its own Code of Conduct.

5.2 It is clear then that the Code of Conduct does not seek to regulate what members do in their purely private and personal lives. The Code of Conduct only applies to members when conducting Parish Council business or when carrying out their constituency work. Conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by the Code of Conduct; a link to that person's membership of their authority is needed.

5.3 In offering our own views on this, we recognise that the Localism Act is vague on the key point of what acting in 'official capacity' involves, nor do we have any case law arising from the Localism Act to assist us on this. What we do have, however, is guidance from the Local Government Association on their model code of conduct ('the LGA guidance') well-established case law from earlier hearings. Whilst the wording in the current model code varies slightly from the previous model codes of conduct, cases concerning the former model codes remain of relevance as to how Councils must interpret what 'official capacity' means.

5.4 The LGA guidance states:

"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.”*

5.5 The LGA guidance further states:

“There is no formal description of what the role of a councillor is, but aside from formal local authority business it would include promoting and representing the local authority in the local community and acting as a bridge between the community and the local authority. The LGA’s for new councillors is a helpful reference point.

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.*

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

For something to fall within the code there must be a clear link to a local authority function or your role as a councillor. For example, an argument with a neighbour which does not relate to local authority business would not engage the code, even if your neighbour happens to know you are a councillor and therefore complains to the local authority about being treated disrespectfully.”

5.6 The only occasions relevant to these complaints where it is clear that Councillor Barham was not acting in his capacity as a member of the Parish Council was at those times when he was not a sitting councillor, including prior to his election in May 2019, and when he made his public statement at the Parish Council meeting of 20 July 2023.

5.7 We agree that Councillor Barham cannot have been acting in his official capacity when he was not a councillor. This would include his conduct at the meeting of 20 July 2023. Despite having been successfully elected in May 2023, Councillor Barham’s failure to sign the necessary declaration within the designated period¹⁶ meant that he could not legally act as a councillor and his position on the Parish Council was declared vacant. While I note that the Parish Council had agreed to

¹⁶ Before or at the first meeting of the relevant council after being elected, in the presence of an authorised officer.

grant Councillor Barham an extension initially, it had clearly run out prior to 20 July 2023.

- 5.8 At all other times relevant to these complaints, we are satisfied that Councillor Barham was acting in his official capacity and therefore that the Code of Conduct was engaged.

Code of Conduct Principles

- 5.9 The intention of the Code of Conduct is to ensure that the conduct of public life at the local government level does not fall below a minimum level which engenders public confidence in democracy. To objectively assess Councillor Barham's conduct, it is important for us to set out clearly what we understand each requirement (relevant to these complaints) to mean, and what a breach of that requirement looks like. We will then determine whether the conduct as found represents a breach of the Code of Conduct or not.

- 5.10 **Respect:** The LGA guidance states that:

“Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurred are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurred, who observed the behaviour, the character and relationship of the people involved, and the behaviour of anyone who prompts the alleged disrespect. Disrespectful behaviour can take many different forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as the demeaning treatment of others. It is subjective and difficult to define.

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.”

That is not to say that councillors cannot be critical about others or robustly defend themselves from criticism. In the everyday running of a local authority, it is inevitable that councillors will have disagreements with officers and other councillors from time to time. The Code of Conduct is not intended to constrain councillors' involvement in local governance, including the role of councillors to challenge the performance of officers. Councillors can question and probe poor officer performance provided it is done in an appropriate way. The Standards Board for England Case Review 2010 (2011 Edition), which focused on the way in which local councillors should treat others, and in particular each other, provides guidance on treating others with respect by indicating a 'rule of thumb' comparison: "You're talking drive!" is likely to be an acceptable expression of disagreement. Calling someone an "incompetent moron", on the other hand, is more likely to be a failure to comply with the Code of Conduct. We can see that

the first comment is aimed at the expression of an idea or argument. The second is aimed at the person and their personal characteristics. Whilst some care must be taken in adopting wholesale a test applicable to a provision of the former national model code, it is the personalisation of comments that cause the user to breach the Code of Conduct.

5.11 Bullying, harassment and discrimination: We assess bullying using the same definition used by ACAS. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour involving an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation. Examples of bullying may include verbal abuse, such as shouting, swearing, threatening, insulting, being sarcastic towards, ridiculing or demeaning others with the use of inappropriate nicknames or humiliating language.

Harassment is any unwanted conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Bullying and harassment can happen to anyone, no matter their job, position, or workplace. It can be obvious, like physical threats or intimidation, or it can be more hidden, happening privately or in ways that are hard to spot at first. For example, it might start with small things like constant criticism or picking on someone, but over time, these actions can add up and turn into more serious behaviour, allowing the bully to isolate and control the person. Some bullies lack insight into their behaviour and are unaware of how others perceive it. Others know exactly what they are doing and will continue to bully if they feel they are unlikely to be challenged. Bullying and harassment can sometimes be overlooked, because of common euphemisms being used by way of explanation or justification, referring to someone as having a "poor communication style" or a "bad attitude", for example, or to the problem being due to a "personality clash".

The LGA guidance states, about bullying:

"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."

5.12 Failure to disclose an interest: A member's duty to register and declare their pecuniary and non-pecuniary interests was introduced as part of the Localism Act 2011. The interests that constitute DPIs are set out in Regulations made by Parliament. All Local Authorities have the authority to define which interests should be included in their Members' Registers; however, registration of DPIs is compulsory.

When attending meetings of their authority, where a matter arises at a meeting which directly relates to a councillor's DPI (or that of their spouse/partner), a councillor must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation. DPIs include, in relation to a councillor or their spouse/partner:

- Employment or business carried on for profit/gain
- Sponsorship (e.g., election expenses paid by others)
- Contracts between the councillor and the council
- Land and property ownership within the council's area
- Licences to occupy land (e.g., renting)
- Shareholdings above a certain level in companies with council dealings

The Parish Council also requires its members to register and declare other non-financial interests that might influence decision-making. These include any membership of external bodies (e.g., charities, trade unions, political groups) and any position of influence in local organisations.

Further to the above, where a matter arises at a meeting which directly relates to a councillor's financial interest or well-being (and is not a DPI) or a financial interest or well-being of a relative or close associate, they must disclose the interest. They may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, they must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

5.13 Freedom of speech: When considering whether any councillor has failed to comply with the Code of Conduct, we must balance the right of others not to be subjected to unreasonable or excessive personal attack with the right of any councillor to challenge and criticise the conduct of others. Any considerations must give due regard to the right to free speech and to the realities of political life.

Particularly relevant to this matter are the principles that any restrictions must reflect a 'pressing social need' and that 'political expression' must be interpreted widely and include open discussion on political issues including public administration and public concern, as well as comments about the adequacy or inadequacy of the performance of public duties by others. Councillors operate in a political environment and must be free to make political points and discuss matters of public concern without undue interference.

In *Heesom v Public Service Ombudsman for Wales* [2014] EWCH 1504, it was made clear that Article 10 protects not only the substance of what is said, but also the form in which it is conveyed: *"Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated."* The ruling, which drew attention to a number of earlier cases, made it clear that a higher level of protection was offered to political expression, and that political expression should be considered

a broad concept, extending to comments about the performance of public duties by others. The Heesom ruling also stressed that politicians are required to have a thick skin and be tolerant of criticism and adverse comment in the area of political commentary.

In our experience, those who involve themselves in the Town/Parish tier of local politics often do not consider themselves to be ‘politicians’. The Heesom ruling made it clear that the propositions described above apply equally at all levels of politics, including local. That said, the Localism Act, under which the Parish Council has adopted a Code of Conduct, provides that a councillor’s freedom of speech may be legally restricted. In considering whether such restrictions are necessary, it is important to recognise that one of the primary objectives of the Code of Conduct—and any sanctions imposed for breaches thereof—is to safeguard the reputation and rights of others from offensive, abusive, and defamatory remarks. The right to freedom of expression is not absolute. Councillors must understand that limitations can be imposed to protect the rights and reputations of others, and to enable officers to carry out their duties without undue interference. Councillors should, therefore, carefully consider both the content and manner of their communication, as well as how their conduct might be perceived. There is no reason why councillors cannot fulfil their roles in scrutinising, representing the public and constituents, or advancing political arguments in a respectful, courteous, and appropriate manner, without resorting to personal attacks, offensive language, or unnecessary disruption. Indeed, such conduct is encouraged.

Councillor Barham’s conduct

Matters related to the various allegations that Councillor Barham failed to treat others with respect and /or bullied any person

- 5.14 When assessing ██████████’s complaint, the Borough Council’s Deputy Monitoring Officer recognised that paragraph (f) of its Local Assessment Criteria stated that a complaint about an incident or incidents which occurred more than three months before receipt would not generally be accepted.
- 5.15 While many of the allegations made by ██████████ did predate this period, one of her specific allegations concerned Councillor Barham’s conduct on 19 January 2024. Furthermore, it was recognised that ██████████ ██████████ ██████████ citing Councillor Barham’s behaviour as one of the reasons. The Deputy Monitoring Officer assumed that this behaviour could include *“the threats, intimidation, and demeaning behaviour towards both myself as chairman, and especially the clerk”* referred to more generally in ██████████’s complaint.
- 5.16 Bullying can most often be assessed as behaviours over a period of time, and the cumulative impact of repeated ‘minor’ incidents should not be underestimated. Therefore, if it were found that Councillor Barham demonstrated bullying behaviour towards ██████████ or indeed any person during the three-month period prior to ██████████’s first complaint (8 February 2024), and that this behaviour was found to be part of a course of conduct

against that individual, then Councillor Barham's earlier conduct toward that person could also be considered as part of this investigation.

- 5.17 Having discussed Councillor Barham's behaviour at length with both [REDACTED] and [REDACTED], giving them the opportunity to provide any evidence they might have to support their concerns, we found that almost all incidents pre-dated 8 November 2023. The only recent incidents referred to by [REDACTED] during the investigation were the interactions between her and Councillor Barham that occurred [REDACTED] during or immediately after the Parish Council meetings of 19 January and 21 May 2024 (We consider here the second complaint that was made by [REDACTED], which also has the potential to be considered part of a wider course of conduct).
- 5.18 To briefly recap, based on the evidence we have seen, we are satisfied that during the meeting of 19 January 2024, Councillor Barham refused to meaningfully engage with what appears to have been a very hostile public gallery (including a Borough Councillor) who blamed him and [REDACTED] for [REDACTED] and others. While we note Councillor Barham's denial and the lack of any minute to support the allegation that he openly refuted the praise being proffered by others about [REDACTED] and [REDACTED], we consider it more likely than not that it was clear to all present that he disagreed with it. Indeed, we are inclined to believe [REDACTED]'s account that Councillor Barham told the meeting that she was not the saint people thought she was, and that he did not share their good opinion of her. In our view, his making such a comment is consistent with other comments he has acknowledged making about her, including those he made at the meeting on 21 May 2024.
- 5.19 When considering Councillor Barham's conduct after the meeting of 21 May 2024, we note that he was somewhat complimentary about [REDACTED]'s interjections from the public gallery during their initial exchange (though we would also comment that we saw evidence, including during our interview, of Councillor Barham occasionally making similar remarks about her and [REDACTED] sarcastically). When [REDACTED] then rejected Councillor Barham's suggestion that she assist her replacement as Chair, we are satisfied that he said: *"Oh, well. I was going to ask you an intelligent question, but you're not capable of answering one. And in any case, you're not worthy."*
- 5.20 When considering whether Councillor Barham's comments represent a failure to treat others with respect, we must recognise his right to be critical of others and make comments that might offend. In our view, however, by stating that [REDACTED] was not the saint people thought she was, incapable of answering an intelligent question, and 'not worthy', Councillor Barham went beyond what we believe the Code of Conduct considers acceptable. While councillors are allowed to disagree and criticise another person's views or actions, these comments could more reasonably be described as a personal attack.
- 5.21 Accordingly, we recommend that Councillor Barham be found to have failed to treat [REDACTED] with respect on 19 January and 21 May 2024.

5.22 While we consider Councillor Barham's behaviour towards ██████████ to have been disrespectful, it cannot automatically be classed as bullying. We recognise that Councillor Barham's comments on 19 January 2024 were made during a particularly heated and politically hostile meeting, where the praise being afforded to ██████████ and others could reasonably be interpreted in part as an attack on him and ██████████. In those circumstances, his comments could be viewed as an attempt to defend himself rather than a deliberate attempt to undermine and humiliate ██████████. Furthermore, we recognise that his exchange with ██████████ on 21 May 2024 only took place in front of others at ██████████'s insistence¹⁷, and that his rude comments about her were made in direct response to ██████████ strongly rejecting his conciliatory overtures. While it does not excuse Councillor Barham's behaviour, it does lead us to consider that these incidents do not represent bullying or harassment.

5.23 As stated above, the Borough Council has a 'three-month' rule ingrained within their arrangements, meaning that only those matters that occurred within three months of ██████████'s first complaint (8 February 2024) could be considered, unless we were satisfied that incidents of bullying and/or harassment within that period formed part of a course of conduct that would allow the earlier allegations also to be considered. In light of our findings that Councillor Barham did not bully ██████████ on the two occasions that were alleged to have taken place within the relevant 'three-month' period, we do not consider that they form part of a course of conduct. As such, the various incidents alleged to have occurred before 8 November 2023 fall outside the scope of our considerations.

Matters related to the allegation that Councillor Barham failed to declare the necessary interests when the Parish Council considered requests from Rolvenden Football Club to access money from a section 106 agreement signed by Councillor Barham

5.24 Shortly after introducing the current standards framework, the Department for Communities and Local Government produced a document titled: "*Openness and transparency on personal interests. A guide for councillors*" in which it states:

"Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that '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. Your registration of personal interests should be guided by this duty, and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register. All sitting councillors

¹⁷ ██████████ wanted it recorded that she only insisted on others being present because she wanted to ensure she had witnesses to their exchange.

need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority’s code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union.”

- 5.25 Looking firstly at Councillor Barham’s Register of Member’s Interests, which can be found at annex B of this report. In the Deputy Monitoring Officer’s assessment of these complaints, it stated that these matters should be referred for investigation because although Councillor Barham has clearly registered some of his interests, there is a lack of clarity about the registration and about his declarations.
- 5.26 Part D of the Member’s Registers requires Councillor Barham to register any beneficial interest he or his wife has in land or property within the area of the Council – ‘land’ excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.
- 5.27 The land relevant to these complaints is Councillor Barham’s ownership of Barrett Field, which he leases to RFC. Although Barrett Field is not specifically referenced in Councillor Barham’s Register, we are satisfied that it forms part of Windmill Farm (which is in his Register) and shares the same postcode – TN17 4PF. We therefore do not consider that Councillor Barham has failed to comply with his legal requirements when registering his interest in Barrett Field.
- 5.28 That said, we do recommend that Councillor Barham revisit his Register and consider how he might better record this information. When councillors record their beneficial interest in any land, it is best practice to set out not only sufficient detail to identify the land, but also to state the nature of their interest and, as is the case here, the purpose of the land if it is relevant to potential conflicts of interest. This could include a full postal address, if it’s a residential or commercial property. If it’s land without a formal address (e.g., agricultural land, allotments), then councillors can include landmarks, map references, how the land might be known locally or a clear description of its boundaries. In addition, councillors should clearly state the type of interest they hold, including whether they are the owner, tenant, landlord, have a beneficial interest through a trust (you benefit from the land, even if you’re not the legal owner) or simply a legal option to buy the land. Furthermore, a councillor should provide the purpose of the land if it is relevant to potential conflicts of interests, such as in this case the fact that it is leased to RFC.
- 5.29 Turning to the allegation that Councillor Barham failed to declare the necessary interests at the Parish Council meetings of 7 December 2023 and 19 January 2024: Both of the relevant agenda items concerned applications from RFC to access s106 money arising from an agreement Councillor Barham and other members of his family made with the Borough and County Council when securing planning permission for land at Halden Field. While at the time of these meetings, Councillor Barham no longer owned Halden Field, he told us that an agreement between his family Trust and Taylor Wimpey Homes would see 50%

of any unspent s106 money being returned to him and his family. While I note Councillor Barham's assertion that it is not credible to consider that this will occur, the possibility does clearly exist. And regardless, this still amounts to a financial interest as it is understood by the Code. In these circumstances, we are of the view that Councillor Barham should declare an interest in the any application pertaining to the section 106 monies and withdraw from the room while any decision was taken.

5.30 Further to the above, both of the relevant agenda items concerned applications from RFC for money to improve the facilities on Barrett Field. As RFC's landlord and owner of the land on which the money would be spent, we consider that as a minimum, Councillor Barham should have declared this as an interest. Councillor Barham also told us that he is in dispute with the current iteration of RFC (describing them as squatters), on the basis that they are not the same entity as the original football club he leased the field to. While we do not know the strength of Councillor Barham's legal position in relation to that dispute, the s106 agreement includes a termination clause which allows Councillor Barham to cancel the lease if RFC ceases to use the land for 2 years. In those circumstances, we consider that Councillor Barham should not involve himself in any decision that may impact on RFC's ability to continue to use Barrett Field as their home ground, which would include the provision of necessary facilities.

5.31 We therefore consider that Councillor Barham did fail to declare his Disclosable Pecuniary Interest in the agenda items referred to above on 7 December 2023 and 19 January 2024 and withdraw from the meeting at the necessary time. We are also somewhat concerned by Councillor Barham's comment that he likely has a declarable interest in everything that happens in Rolvenden, given his family history and wide-ranging financial interests in the area. While we suspect this comment was not made wholly seriously, it does perhaps betray a somewhat cavalier attitude to his responsibilities under the Code of Conduct.

6. Recommendations

6.1 Given the considerations above, we are of the view that Councillor Barham did fail to treat ██████████ with respect on 19 January and 21 May 2024; and did fail to declare his Disclosable Pecuniary Interest in the agenda items referred to above on 7 December 2023 and 19 January 2024.

6.2 When considering what action the Monitoring Officer should consider taking as a result of our investigation, we note that the Borough Council's arrangements for dealing with Code of Conduct Complaints states:

"Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

- (a) take no action, or*
- (b) seek informal resolution or*
- (c) refer the matter for consideration by the Hearing Panel."*

- 6.3 Given our findings, we do not consider that it would be appropriate to take no action. Neither, though, do we believe that the formal determination of these allegations through the hearing process is necessarily in the public interest either, particularly given the limited sanctions available and Councillor Barham's willingness to co-operate with this matter.
- 6.4 We therefore recommend that the Monitoring Officer seek an informal resolution to the matters raised in this report. The flexibility of doing so has built-in advantages and fits in with a locally owned process. The resolution should
- ensure that Councillor Barham recognises that on the occasions described above, his conduct fell below the standards expected of him by the Parish Council. This may include his offering an apology to [REDACTED] for failing to treat her with respect.
 - Include the provision of Code of Conduct training for Councillor Barham, to ensure that he understands his responsibilities under the Code. This training could be offered more widely to other members of the Parish Council.
 - Include a meeting between Councillor Barham and the Clerk to ensure that his Register is up to date and reflects his interests in sufficient detail. We would also encourage Councillor Barham to discuss his various financial interests with the Clerk and consider how, in the future, any conflicts of interest should be declared and managed (including, if appropriate, the use of dispensations).
 - Finally, the Monitoring Officer may consider it appropriate to provide a summary of the findings of the investigation and the outcome of the local resolution to the Parish Council and the Borough Council's Standards Committee.
- 6.5 If Councillor Barham does not engage with the informal resolution in a manner that the Monitoring Officer considers sufficient, we recommend that the breaches of the Code highlighted in this report should be referred to a hearing for formal determination.

Annex A Statement of [REDACTED] attached to Code of Conduct complaint

I attended the parish council meeting of January 19th, 2024, as I was concerned for the future of the parish council, [REDACTED] [REDACTED] due to continual bullying and intimidation [REDACTED] and the clerk from Cllr Barham and my concern over his repeated failure to declare his interests and vote on agenda items where he had interests.

Cllr Barham was in the chair for the meeting. Although I sat at the back of a packed meeting and tried to keep a low profile, during the meeting residents and another councillor paid tribute to the work that the [REDACTED] councillors had done which resulted in applause from those present. Cllr Barham, knowing I was present, took the opportunity to make a very public statement that he did not agree with their sentiments and certainly did not share their good opinion of me. This was typical of the sort of behaviour I had endured [REDACTED]

By way of background, my family have lived in the village for six generations and being passionate about the village I decided to run for parish council. I was elected to Rolvenden Parish Council [REDACTED]

Following the parish council elections of May 2019 Edward Barham returned to the council after an absence of several years. He had served as a councillor previously, but had not been eligible to stand for a while following a Code of Conduct Censure in June 2008, (<https://ashford.moderngov.co.uk/Data/Standards%20Committee/200806161030/Agenda/Standards%2016.06.08%20-%20Item%205.pdf>)

The election of 2019 was bitterly contested, with some candidates suggesting that members of the previous council were responsible, or even complicit, in the theft of council funds by former clerk Gary Willard - see yellow election leaflet issued by Edward Barham and two others.

There had also been some bad feeling towards me (and others on the PC) from Mr Barham following a First Tier Tribunal, Land Registration Division hearing [REDACTED] Some councillors, serving as parish council representatives on Rolvenden War Memorial Trust (a registered charity) had been involved in the case, which found in favour of the Trust.

[REDACTED]

Problems began at the first meeting of the new council when Mr Barham, having been chairman for several years in the past, failed to get a seconder in his bid to be chairman again and [REDACTED]

At the next meeting (June 2019) the behaviour from Cllrs Barham was appalling, particularly towards myself and the clerk. After the meeting Cllr Barham took me to one side to say, "this clerk is not for us". I disagreed to which he replied that he would make it his mission to get rid of the clerk and if I supported the clerk, he would bring me down too.

I enclose documents labelled A detailing emails sent to the Monitoring Officer at the time voicing my concerns and those of our ward member.

Throughout the period from June 2019 to December 2023 Cllr Barham has maintained an orchestrated and sustained campaign of bullying and intimidation towards me and the clerk, and at times to 2 other female Cllrs. This would take the form of clutches of emails being sent every month, around the time of our meeting, questioning procedure, undermining my ability and integrity [REDACTED] and finding fault with the performance of the clerk. During the meetings he would demean the clerk and criticise [REDACTED] often threatening to sue me and other Cllrs if we spoke out against him. Attempts to restore order would often be ignored and there have been times when agenda items have had to be deferred due to the level of disruptive behaviour, or a meeting abandoned.

The spectre of the stolen funds was also regularly used as a weapon against me, and against two other councillors who had served on the previous council. During this time, I would frequently have to seek advice from both the Monitoring Officer and the Legal Advisor at KALC regarding the behaviour and other councillors also expressed their concerns to both the parish council and the Monitoring Officer - enclosed documents labelled B.

This had a detrimental effect on my mental health and every month as the meeting date approached, I would suffer [REDACTED], dreading how each month's meeting would go. I often returned home from meetings distressed by the appalling behaviour of Cllr Barham, not just towards me but especially his treatment of the clerk. After almost every meeting I would feel disappointed in myself for being unable to stop the poor behaviour and I would regularly ring the clerk to check on his well-being, concerned for his resilience and mental health.

In December of 2020 the pressure I felt from the constant bullying and intimidation brought me close to a breakdown and I felt I had no option [REDACTED]. However, support from our ward member and some fellow councillors, together with the suggestion that we bring in a specialist company, Hoey Ainscough, to conduct a governance review, persuaded me to continue in my role.

The governance review was carried out in March/April of 2021 and reported there was evidence of bullying and intimidation within the parish council - see document labelled C. In response to the report new policies were adopted by the council, The Member/Officer Protocol (May 2021) and the Dignity at Work Policy (Oct 2021, revised Oct 2022). These actions were reported to the village [REDACTED]

These measures were later further strengthened by all councillors signing up to the Civility & Respect Pledge in Oct 2022. Sadly, none of this had any effect on the behaviour of Cllr Barham and since the election of May 2023 it has escalated, largely in response to events linked to the failure by Cllr Barham to sign his Acceptance of Office within the required time frame (despite being granted an extension) which resulted in a casual vacancy being created. Subsequently Cllr Barham had to re-apply for election to the council.

These events increased the number of unpleasant emails and at the meeting of July 2023, Cllr Barham read out a public statement, slating the clerk for his actions - see document labelled E.

It became impossible to conduct the meaningful and important business of the council due to the threats, intimidation, and demeaning behaviour towards both myself [REDACTED] and especially the clerk. Other councillors reported that they felt it was a waste of time being there, with one saying she felt "paralysed" by the behaviour and another saying he thought he would resign as it was affecting his mental well-being. He did subsequently resign [REDACTED]
[REDACTED]

[REDACTED]

Since the meeting of Jan 19th two more councillors have resigned which now leaves the parish council in the very sad situation of being inquorate, with only Cllr Barham and one other remaining.

Non declarations of interest by Edward Barham

21/07/2022 Minute 770 grass cutting of the football pitches - EB is the land owner of the pitches.

21/09/2023 Minute 938 s106 funding - EB is a signatory on the \$106 agreement and his family benefit from unspent contributions.

18/10/2023 Minute 952 \$106 funding-reasons as above

07/12/2023 Minute 978 s106 funding-reasons as above

19/01/2024 Minutes not yet available, s106 funding-reasons

Annex B Councillor Barham's Register of Member Interests

This register of interests was published on Tuesday, 29th August, 2023, 2.23 pm.

I, Edward Barham give notice that I have the following financial interests 123456789

1. Which Parish Council, Town Council or Community Council are you a member of?

I am a Member of

Rolvenden Streyte Ward of Rolvenden Parish Council

2. Part A: Employment Any employment, office, trade, profession or vocation carried on for profit or gain. member/husband/wife/civil partner or a person with whom you are living as husband / wife

Self-employed partner of Hole Park Estate & Director of related trading company
Hole Park Developments Ltd

3. Part B: Sponsorship Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period* in respect of any expenses incurred by you in carrying out duties as a member, or towards the election expenses of yourself. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. *'relevant period' means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Localism Act 2011.

member/husband/wife/civil partner or a person with whom you are living as husband/wife

None

4. Part C: Contracts Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest*) and the Council. (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged *'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities* of which the relevant person has a beneficial interest; 'director' includes a member of the committee of management of an industrial and provident society; *'securities' see definition at Part G member/husband/wife/civil partner or a person with whom you are living as husband/wife

None

5. Part D: Land Any beneficial interest in land or property* within the area of the Council *'land ' excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income member / husband / wife / civil partner or a person with whom you are living as husband/wife

Holding and managing land tenancies at Hole Park Estate TN17 4JA including: Rawlinson Farm TN17 4JD Halden Lane Farm TN17 4JG Halden Place TN17 4JG Windmill Farm TN17 4PF Lambsland Farm TN17 4PX Maytham Farm TN17 4QA Field, Regent Street & Cornex Garage, High St and associated houses, barns & premises

6. Part E: Licences Any licence (alone or jointly with others) to occupy land* in the area of the Council for a month or longer *'land' excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

member/husband/wife/civil partner or a person with whom you are living as husband/wife

None excepting internal licences and tenancies between family members for better management at property in D above

7. Part F: Corporate Tenancies Any tenancy where (to your knowledge) - (a) the landlord is the Council; and (b) the tenant is a body in which the relevant person has a beneficial interest *'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities* of which the relevant person has a beneficial interest 'director' includes a member of the committee of management of an industrial and provident society 'securities ' see definition in Part G

member/husband/wife/civil partner or a person with whom you are living as husband/wife

None

8. Part G: Securities Any beneficial interest in securities* of a body where - (a) that body (to your knowledge) has a place of business or land in the area of the Council; and (b) either - (i) the total nominal value of the securities exceeds £25,000 (face value) or one hundredth (1/100th) of the total issued share capital of that body; or (ii) if the share capital of that body is a more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class *'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective

investment scheme within the meaning of the Financial Services and Markets Act 2000 and securities of any description, other than money deposited with a building society.

member/husband/wife/civil partner or a person with whom you are living as husband/wife

With my wife own 100% shares in Hole Park Developments Ltd as referred to in A above