



CODE OF CONDUCT COMPLAINT

DECISION NOTICE

Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature, or may be personal information.

Complaint

On 2 August 2024 the Interim Monitoring Officer received a complaint about Cllr Taylor of Borough Green Parish Council. The complaint was made by Mr [REDACTED], a local resident.

Complaint summary

Mr [REDACTED]'s complaint relates to what he describes as a 'misleading and inflammatory article in the local press concerning the village hall committee.'

Subsequent to his original complaint Mr [REDACTED] sent a series of further messages via the Council's online portal, in which he made further allegations against Cllr Taylor. These may be summarised as follows:

Cllr Taylor accused the [REDACTED] of accessing a confidential page on the Parish Council website

Cllr Taylor sent an email to Mr [REDACTED] thanking him for his complaint -

'Dear [REDACTED]

For many years I held a record of having had more Standards Complaints lodged against me than any other Councillor in Kent. I wear them as badge of pride because I will fear no man in standing up for my community, and my achievements over the past 30 years tell that story.

But a few years back I lost my record when a former Parish Councillor betrayed the PC and got 11 complaints in one hit - he went into a violent and abusive rant and got four more, making 15.

With the help of you and [REDACTED] I am slowly sneaking back up to retaking my record. Keep up the good work.'

Cllr Taylor copied Mr [REDACTED] into his response to the initial complaint. Mr [REDACTED] wrote to the Monitoring Officer to express his concern that there was 'No acceptance of responsibility or an apology' in the response from Cllr Taylor

Cllr Taylor's note to the press (i.e. the article in the Voice) concerned a private part of a meeting and was therefore confidential.

The Monitoring Officer wrote to Cllr Taylor to inform him of the complaint made against him and invited him to submit any initial views in writing.

The Code

Borough Green Parish Council adopted the National Association of Local Councils model Code of Conduct for members as amended, under the provisions of the Localism Act 2011.

Mr [REDACTED] did not identify an obligation in the Members Code of Conduct that he felt had been breached.

Consultation with the Chair & Vice-Chair of the Joint Standards Committee and Independent Person

In accordance with the arrangements adopted by the Borough Council for dealing with complaints that a councillor has breached their authority's code of conduct, the complaint was assessed by the Monitoring Officer in consultation with the Independent Person and the Chair and Vice-Chair of the Joint Standards Committee.

Paragraph 2.1. of the 'Procedure on receipt of a complaint' requires that complaints are assessed against the legal jurisdiction test in paragraph 2.2 and, if applicable, the local assessment criteria in paragraph 2.4.

The legal jurisdiction test contains 6 elements. If a complaint fails one or more of the jurisdiction tests, no further action will be taken and the complaint will be rejected.

Did the alleged conduct occur before the adoption of the Code of Conduct? If the answer to this is 'Yes' the test is failed	No
Was the person complained of a member of the Borough or Parish Council at the time of the alleged conduct? If the answer to this is 'No' the test is failed	Yes
Was the person complained of acting in an official capacity at the time of the alleged conduct? If the answer to this is 'No' the test is failed	Yes
Did the alleged conduct occur when the person complained of was acting as a member of another authority? If the answer to this is 'Yes' the test is failed	No

<p>If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?</p> <p>If the answer to this is 'No' the test is failed</p>	<p>No</p> <p>At this stage in the initial assessment process, the Monitoring Officer is not required to determine if there <i>has</i> been a breach. Rather, the test is whether the alleged conduct is <i>capable</i> of amounting to a breach of the code.</p> <p>The question is therefore whether Cllr Taylor's conduct is capable of amounting to a breach of the code of conduct.</p> <p>With the exception of one element of the allegations, the Monitoring Officer did not consider that the complaint against Cllr Taylor was capable of amounting to a breach of the code of conduct.</p> <p>The one element that could possibly amount to a breach is Cllr Taylor's email to Mr [REDACTED] dated 8 August 2024, in which Cllr Taylor thanks Mr [REDACTED] for his complaint as it will serve to move him back towards the position of having had more complaints against him than any other elected member. This email is capable of amounting to a breach of obligation 1 of the Parish Council Code i.e. a member shall behave in such a way as a reasonable person shall regard as respectful</p>
<p>The complaint is about dissatisfaction with the Borough or Parish Council's decisions, policies and priorities, etc</p> <p>If the answer to this is 'Yes' the test is failed</p>	<p>No</p>

The complaint therefore passed the Legal Jurisdiction Test within the adopted arrangements for dealing with complaints.

If a complaint satisfies the legal jurisdiction test, I am then required to apply the following local assessment criteria test –

- (a) The complaint is substantially the same as a complaint which has previously been made.
- (b) The complaint is anonymous, unless the Monitoring Officer is of the view, on the basis of corroborating evidence that it is in the public interest to accept the complaint. The Monitoring Officer may consult the Independent Person and the Chair/ Vice-Chair of the Joint Standards Committee.
- (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant.
- (d) The complaint is malicious or relatively minor, and, in the view of the Monitoring Officer, the public interest would not be served by taking further action.
- (e) The Complainant is unreasonably persistent, malicious and/or vexatious.
- (f) The alleged misconduct happened more than 3 months prior to the submission of the complaint.
- (g) Dealing with the complaint would have a disproportionate effect on both public money and/or officers' and Members' time.
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action.
- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken.
- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g., where there is no firm evidence on the matter.
- (k) The complaint is about a deceased person.
- (l) The complaint is about a person who is no longer a Borough or Parish Councillor or Co-opted Member.

If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected.

The view of the Monitoring Officer was that paragraphs (d) and (g) are relevant. There is evidently a degree of personal animosity between the parties, this being the third complaint made by Mr [REDACTED] against Cllr Taylor during the period June to August 2024. Whilst the Monitoring Officer regards Cllr Taylor's email to Mr [REDACTED] as an unnecessary and avoidable provocation, he did not consider that the public interest would be served by taking any further action.

Decision

Having consulted and taken into account the views of the Independent Person and Chair and Vice-Chair of the Joint Standards Committee, the Monitoring Officer decided to reject the complaint.

Notification of decision

This decision notice is sent to:

- Mr [REDACTED]
- Cllr Taylor
- Clerk to Borough Green Parish Council

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Signed: *Adrian Stanfield* Date 21 November 2024

Print name: Adrian Stanfield

Monitoring Officer of the Tonbridge and Malling Borough Council

Gibson Building

Gibson Drive

Kings Hill

West Malling

Kent ME19 4LZ