



## 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 4 May 2021, the Monitoring Officer received a complaint concerning the alleged conduct of Cllr Mike Taylor of Borough Green Parish Council. The complaint was made by [REDACTED]. A general summary of the complaint is set out below.

### Complaint summary

The complaint alleged that Cllr Taylor:-

- Lied on a public forum (Facebook);
- Defended actions that are in breach of the Wildlife & Countryside Act (destruction of trees and scrub in bird breeding season);
- Replied to an email in a very unprofessional, rude and accusatory way.

[REDACTED] included with her complaint a copy of an email exchange with Cllr Taylor dated 16 April 2021.

On 6 May 2021 the Monitoring Officer informed Cllr Taylor of the complaint against him and invited him to submit any initial views in writing. In his response (dated 7 May 2021), Cllr Taylor set out the history of events leading to the social media post/ email exchanges in question. In particular, he explained how he had met with the owners of the site in question following concerns raised by local residents. He explained how the clearance work in question had been necessitated by fly-tipping on the land, and how he initially believed the work had been ordered by KCC/ Environment Agency. Cllr Taylor included with his email responses a number of attachments (inc email exchanges and social media posts) relating to the matter in question.

On 4 March 2013 Borough Green Parish Council adopted a new Code of Conduct as required by the Localism Act 2011.

Whilst not specified by [REDACTED] The Monitoring Officer considered that the following member obligations set out in the Borough Green Parish Council Code of Conduct may be relevant

*'When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/ she has the following obligations –*

*He/ she shall behave in such a way that a reasonable person would regard as respectful*

*He/ she shall not act in a way which a reasonable person would regard as bullying or intimidating'*

### **Consultation with the Chairman & Vice-Chairman 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 Chairman and Vice-Chairman of the Joint Standards Committee.

Paragraph 1.1 of the 'Procedure on receipt of a complaint' requires that complaints are assessed against the legal jurisdiction test in paragraph 1.2 and, if applicable, the local assessment criteria in paragraph 1.4.

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.

The 6 tests are:-

1. Did the alleged conduct occur before the adoption of the Code of Conduct?
2. Was the person complained of a member of the Borough or Parish Council at the time of the alleged conduct?
3. Was the person complained of acting in an official capacity at the time of the alleged conduct?
4. Did the alleged conduct occur when the person complained of was acting as a member of another authority?
5. 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?
6. The complaint is about dissatisfaction with the Borough or Parish Council's decisions, policies and priorities, etc

The Monitoring Officer did not consider that the complaint satisfied all elements of the legal jurisdiction test. In particular, he did not consider that, if proven, Cllr Taylor's conduct would breach the Borough Green Parish Council Code of Conduct.

Whilst the email exchanges between [REDACTED] and Cllr Taylor are robust, the Monitoring Officer did not consider them to be sufficient to amount to a breach of the Code. Both [REDACTED] and Cllr Taylor clearly feel very strongly about the fly-tipping and subsequent clearance, but engaging in a robust exchange does not necessarily amount to disrespect. If [REDACTED] had been subjected to an unreasonable personal attack by Cllr Taylor then the position may be different, but the Monitoring Officer did not regard the email exchanges as sufficient in that regard.

Cllr Taylor accepted in his response to the Monitoring Officer that the statement he posted on Facebook i.e. that the clearance operation had been ordered by KCC and the Environment Agency, was an overstatement, based upon a misunderstanding on his part of a conversation between Robert and Shaun Body, and his understanding that the owner would have been required to remove the fly-tipping under the relevant rules. Whilst the statement on Facebook was therefore inaccurate, that is not sufficient in itself to amount to a breach of the Code of Conduct. Nor is it a breach of the Code for a Councillor to be unaware of the provisions of the relevant wildlife legislation.

It therefore failed test 5 of the Legal Jurisdiction Test.

## Decision

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

## Notification of decision

This decision notice is sent to the:

- Complainant ( [REDACTED] )
- Cllr Taylor

## Appeal

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

Signed:  Date 16 June 2021  
Print name: Adrian Stanfield

Monitoring Officer of the Tonbridge and Malling Borough Council

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