



South Bucks District Council

Non- Executive Delegated Decisions Made by Officers

Regulation 7 of the Openness of Local Government Bodies Regulations 2014 requires a written record to be produced as soon as reasonably practicable after an Officer has made a decision under delegation. This means that in order to comply with these new requirements, Officers discharging delegated powers which would otherwise have been taken by the relevant local government body, or a committee, sub-committee of that body or a joint committee in which that body participates, but it has been delegated to an officer of that body either under a specific express authorisation; or under a general authorisation to officers to a) grant a permission or licence; b) affect the rights of an individual or c) award a contract or incur expenditure which in either case materially affects the Council's financial position must complete the form below.

1. **Name and role of officer:** Edwina Adefehinti, Deputy Monitoring Officer

2. **Date of decision:** 7th February 2020

3. **Summary of the decision:**

3.1 The Monitoring Officer received a complaint in July 2018 concerning the alleged conduct of Councillor Trevor Clapp of Farnham Royal Parish Council. In accordance with the Council's Complaints Procedure Councillor Clapp was invited to comment on the complaint. The complaint was considered under Stage 2 of the Procedure.

3.2 At stage 2 the Deputy Monitoring Officer considers whether the complaint should be referred for investigation or whether no further action is warranted taking into account the following criteria set out in the Council's Complaints Procedure: -

- The complaint appears to be vexatious, malicious, politically motivated, relatively minor, insufficiently serious, tit-for-tat, or there are other reasons why an investigation may not be in the public interest.
- The same, or substantially similar, complaint has already been the subject of assessment or investigation and there is nothing more to be gained by further action being taken.
- It appears that the complaint concerns or is really about dissatisfaction with a Council decision or policy rather than a breach of the Code of Conduct.
- There is not enough information currently available to justify a decision to refer the matter for investigation.
- The complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and therefore it is not in the public interest to pursue.
- Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter and it is considered in the public interest that it be investigated.

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- Where the event/s or incident/s took place more than 6 months prior to the date of complaint being received or where those involved are unlikely to remember the event/s or incident/s clearly enough to provide credible evidence.
- The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain.
- If it is considered that the subject Member has offered a satisfactory remedy to the complainant (for example by apologising) or the complaint is capable of other informal resolution such as mediation and the Member complained of is amenable to such approach.
- If it is satisfied that having regard to the nature of the complaint and the level of its potential seriousness, the public interest in conducting an investigation does not justify the cost of such an investigation.
- Where the allegation discloses a potential breach of the Code of Conduct but it is considered that the complaint is not serious enough to warrant any further action and:
 - the Member and Officer resource needed to investigate and determine the complaint is wholly disproportionate to the matter complained about; or
 - in all the circumstances there is no overriding public benefit or interest in carrying out an investigation

3.3 Having carefully considered: -

- the details of the complaint,
- an assessment report produced by an external assessor,
- the comments and representations on these reports received from the complainant Councillor, the former Parish Clerk and former Councillor Clapp
- the external assessor's further assessment of the complaint,
- the Parish Council's Code of Conduct,
- the referral criteria set out above and
- the views of the Council's Independent Person

the Deputy Monitoring Officer decided in consultation with the Chairman of the Audit and Standards Committee, that the complaint should not be referred for investigation because the complaint appears to be tit for tat, and the Member who the complaint is about has resigned and is no longer a Member of the Parish Council and it is not in the public interest to pursue an investigation. Furthermore, having regard to the nature of the complaint and the level of its potential seriousness, the public interest in conducting an investigation does not justify the cost of such an investigation.

4. Reasons for the decision:

Background to the Complaint.

4.1 The complainant who is also a member of Farnham Royal Parish Council alleged that Cllr Clapp while chairing a public meeting on 17 April 2018 withheld relevant information and made false statements to the residents attending, which shows a lack of openness, honesty and integrity. It was alleged that the actions of Cllr Clapp brought the Parish Council into disrepute. The integrity of five other councillors was also brought into question by the statements made by the complainant, in

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suggesting that the majority of the councillors of the Parish Council had a hidden agenda to support development in the Green Belt.

Reasons for the Decision.

- 4.2 At the material time Cllr Clapp was an elected member and Chairman of Farnham Royal Parish Council. He resigned on 25 June 2018.
- 4.3 The complainant councillor alleges that Cllr Clapp withheld relevant information and made false statements to the residents attending the meeting on 17 April 2018 which showed a lack of openness, honesty and integrity. In particular, the complainant councillor states that Cllr Clapp;
- (i) stated at the meeting that “development on the Green Belt was inevitable” which the complainant councillor states was Cllr Clapp’s personal opinion;
 - (ii) stated that it was the Parish Council’s policy to oppose inappropriate development in the Green Belt when this was not the case and
 - (iii) that Cllr Clapp was asked whether there were any plans relating to the housing threat to this land and Cllr Clapp said there were none, but had met with Berkeley Homes on 8th November 2017 and knew about Land & Partners plans for the area and therefore did not provide accurate information to the questions asked.
 - (iv) Whilst the complainant has stated in his correspondence that he felt that he was bullied following the meeting of 17th April 2018, this has not been included in his complaint form and this issue has therefore not been addressed.
- 4.4 Cllr Clapp made a statement to the Parish Council meeting on 25th June 2018, about the serious allegations made against him, the Clerk and other members of the Parish Council. In this statement, he said that the allegations were without foundation but sufficiently serious that he asked the Clerk to refer them to the Monitoring Officer for investigation.
- 4.5 In response to the complaint, Cllr Clapp denies the alleged breach of the Code. He has stated that his efforts have been to take a pro-active stance in what he sees as inevitable development in the Green Belt and he feels this is best served by engaging with those seeking to develop in the areas so that the Parish Council has a say from the outset in any one considering developing in the parish. He states that these allegations were made following a finding by the Parish Council that the complainant councillor had breached the Code of Conduct and that complainant councillor’s aspirations to be Chairman of the Parish Council had got in his way of supporting the Parish Council in what it collectively did. Cllr Clapp said that the complainant councillor in his desire to further his own aspirations, through criticism of his fellow councillors, had seriously harmed the credibility of the Parish Council and the work done by the Parish Council, by the allegations. Cllr Clapp felt that the mistrust of himself, the Clerk and fellow Councillors was irreparable and a severe hindrance to the Parish Council’s work to tackle the general threat to the Green Belt and Slough’s proposed expansion north.
- 4.6 The Deputy Monitoring Officer does not find that Cllr Clapp failed to provide leadership to the council and communities by personal example because he

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provided information that was openly available to the public at the meeting on 17 April and subsequently self-referred himself to the Monitoring Officer following the meeting.

- 4.7 The Deputy Monitoring Officer can find no evidence in any of the documents considered that Cllr Clapp bullied Cllr Robinson or anyone else.
- 4.8 The Deputy Monitoring Officer found no evidence that Cllr Clapp breached the confidentiality of information received as a member. Whilst it could be said that his article in the press was unhelpful to the whole situation, the Deputy Monitoring Officer does not consider that this amounts to a breach of confidentiality, as the complainant councillor had openly made statements at the 17 April meeting, suggesting that the Council was in support of development on Green Belt land and by extension that other councillors were being untruthful about their position. It is understandable in the circumstances that Cllr Clapp felt the need to defend his reputation. Accordingly, the threshold for a breach has not been met.
- 4.9 The Deputy Monitoring Officer does not find that Cllr Clapp misconducted himself in a manner which was likely to bring the Council into disrepute. Having considered all the documents provided, there is no evidence to support a breach of Paragraph 3.5 of the Code.
- 4.10 The Deputy Monitoring Officer does not find that Cllr Clapp used his position for personal advantage in any circumstance. Focusing on the meeting with the developers which Cllr Clapp attended with the Clerk, it is noted that Cllr Clapp informed the Council he had met with the developers at the Council meeting on 27 November 2017 and he recommended that a parish meeting be held to inform residents of the developer's proposals as in his view, this might be the best way forward to get a clear steer from parishioners and avoid criticism that the Council was not being active. In the Deputy Monitoring Officer's view this approach ensured the appropriate probity and openness. Whilst meeting with the developers can be seen as a misjudgement on Cllr Clapp's part, the Deputy Monitoring Officer cannot find that there was a dishonest or self-serving reason behind this.
- 4.11 The Deputy Monitoring Officer found that Cllr Clapp supported the Council's scrutiny functions as he self-referred himself to the Monitoring Officer and passed on notes of the meeting with the developers to all Council members. Accordingly, no breach of Paragraph 3.9 of the code was found.
- 4.12 With regard to the allegation that Cllr Clapp withheld relevant information, made false statements to the residents or that he made false allegations against the complainant councillor at the meeting held on 17 April 2018, the Deputy Monitoring Officer does not find a breach for the following reasons:
- (i) The word "inappropriate" had been in the draft parish report at least since 2017. It was formally agreed by the Council.
 - (ii) Cllr Clapp set out the Council's position on Green belt which was openly available in the Parish Council's policy statement.
- (i) The Deputy Monitoring Officer can find no evidence in any of the documents considered that Cllr Clapp made false comments against the

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complainant councillor. Furthermore, the Deputy Monitoring Officer can find no evidence that any of the statements made by Cllr Clapp at the meeting on 17 April 2018 was made with intent to tarnish the complainant councillor's character.

4.13 The Deputy Monitoring Officer however considers it was unhelpful that the minutes of the public meeting (held on 17 April 2018) failed to record the complainant councillor's speech. The Deputy Monitoring Officer considers that to make a formal complaint against the complainant councillor and remove him from the working groups he was appointed to and to remove him from his role as signage manager, on the basis of minutes that were incomplete understandably led to criticisms of the Council and concerns about a breach of natural justice and fairness.

4.14 The Deputy Monitoring officer considers that as no substantive breach of the code on Cllr Clapp's part has been found, it is not in the public interest to refer the complaint for investigation and that it would be disproportionate to incur significant costs of appointing external investigators to conduct such an investigation.

4.15 The Deputy Monitoring would recommend that Farnham Royal Parish Council consider providing training to all Parish Councillors on the Code of Conduct, particularly on the obligation to treat others with respect, and reviews its procedures for removing councillors from working group and revoking internal councillor appointments, to ensure that governance is strengthened.

5. **When making the decision did the officer take into account information from another report?** Yes No The background papers for this decision are exempt information under paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972.

6. **Details of any alternative options considered and rejected by the officer when making the decision:** The option of referring the complaint for investigation under Stage 2 of the Complaints Procedure was considered but having regard to the criteria adopted by the Council and for the reasons stated at paragraph 4 above the Deputy Monitoring Officer considered that because the complaint appears to be tit-for-tat and the Member who the complaint is about has resigned and is no longer a Member of the Council concerned, it is not in the public interest to pursue an investigation. Furthermore, having regard to the nature of the complaint and the level of its potential seriousness, the public interest in conducting an investigation does not justify the cost of such an investigation.

7. (a) **Details of any conflict of interests declared by any Member who was consulted regarding the decision:** No conflicts of interest.

(b) **Note of dispensation:** Not applicable.

Does this notice contain any exempt information? Yes (if yes, select reasons below) No

- 1. Identifies individuals (names, addresses, contact information etc.)
- 2. Likely to reveal the identity of an individual
- 3. Financial or business affairs of any person or organisation
- 4. Consultations or negotiations in connection with any labour relations

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- 5. Legal professional privilege that could be used in legal proceedings
- 6. Any enactment (prosecution) to a person or organisation
- 7. Any action taken to do with prevention/investigation/prosecution of crime

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