

Date: 24 August 2020

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Dear Mr Chisnall

Code of Conduct Complaint: Alastair Clark of Dogmersfield Parish Council

I am sorry for the delay, but I can confirm that the Council has now completed its assessment of your complaint.

Under the provisions of Section 28 para 6 (a)) of the Localism Act the complaint has been assessed in accordance with the adopted Arrangements for Dealing with Allegations [the Arrangements]:

https://www.hart.gov.uk/sites/default/files/4_The_Council/Councillors/Help_and_advice/Arrangements%20for%20dealing%20with%20Allegations%20draft%20February%202020%20versG.pdf

THE DECISION

Following consultation with the Vice-Chairman of the Standards Committee and the Independent Persons appointed by the Council under Section 28 of the Localism Act 2011 it has been decided not to investigate the complaint further:

1. **Para A page 2 of the Arrangements** - insufficient evidence has been submitted at the outset to demonstrate that there has been a prima facie breach of the Dogmersfield Parish Council Code of Conduct 2013 (the "Code" that was applicable at the time of the alleged breaches);
2. **Para H (i) page 2 of the Arrangements** - the alleged harm or injustice is not a serious or significant matter; and
3. **Para H (ii) page 2 of the Arrangements** - there is no public interest in pursuing the matter further.

Had the Council investigated the matter further it would have in any event concluded that no further action was necessary. This is because the Councillor had already apologised for the action that amounted to the most serious and severe alleged breach of the Code and that apology would have been sufficient to dispose of the complaint (**Appendix A, para H of the Arrangements**).

REASONS

At the outset I must set out the context for our role. We have no general parish council oversight role. It is not for us to pass comment on how individual councillors should generally go about their respective parish business and neither is it our role to arbitrate in internal disputes within a parish council. These are internal matters for the parish council or ultimately, the local electorate, to decide.

Our role is to investigate specific complaints where an individual has been caused an injustice as a direct result of an alleged breach, by a Councillor, of the Code (para 2(i) and (iii) of the Arrangements).

Having reviewed the complaint, we believe that many of the allegations that are made about Councillor Clark are not supported by sufficient information at the outset to demonstrate that there has been a prima facie breach of the Code or are in substance relatively trivial.

That conduct which is said to give rise to the most serious and severe breach of the Code (making unsubstantiated defamatory allegations about fellow councillors) appears in substance to be a complaint about the expression of robust, honestly held opinions about Parish Council business, including a particular statement made to Councillor Fillis about the need to declare a Disclosable Pecuniary Interest (DPI).

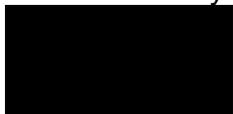
There is no evidence that Councillor Clark has made any comments without believing them to be true albeit he now recognises that he made those comments in error. However, even if (as appears to be the case) his comments caused offence, they will be protected by the right to free speech under Article 10 of the European Convention on Human Rights. Consequently, they will not have been in breach of the Code (specifically paragraphs 3.13-3.15). However, even if this might be wrong, Councillor Clark has apologised to Councillor Fillis for his mistaken statement that she might have breached the rules on DPIs, and this points to any further investigation not being in the public interest (since there is no realistic prospect of a different remedy being achieved by the complainant).

CONCLUSION

We appreciate that you will be disappointed with the outcome of our assessment, but we cannot achieve the outcome that you are seeking. Councillor Clark accepts that he made comments in error but that in itself does not amount to a breach of the Code of Conduct – he genuinely believed them at the time to be true but in any event he has already apologised. The other matters that you describe in your complaint are more internal matters where the resolution lies within the gift of the parish council itself.

This decision will be published on our Web page and a copy has been sent to Councillor Clark.

Yours sincerely



Daryl Phillips
Monitoring Officer