



Financial Reporting Council

Edited for publication

IN THE MATTER OF:

THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL

- and -

SEAN ROBERT CLARK

SETTLEMENT AGREEMENT

The Settlement Agreement (which includes the Particulars of Fact and Acts of Misconduct) is a document agreed between Sean Robert Clark and the Executive Counsel. It does not make findings against any persons or entities other than Mr Clark and it would not be fair to treat any part of this document as constituting or evidencing an investigation into, or findings in respect of the conduct of, any other persons or entities.

1. This Settlement Agreement ("**Agreement**") is made on the [6th] day of November 2024 between Claudia Mortimore, Deputy Executive Counsel of the Financial Reporting Council ("**FRC**"), of 8th Floor, 125 London Wall, London, EC2Y 5AS ("**the Executive Counsel**") and Sean Robert Clark ("Mr Clark"). The Executive Counsel and Mr Clark together are described as "**the Parties**".
2. The Agreement is evidenced by the signatures of the Executive Counsel and by Mr Clark.
3. The Particulars of Fact and Acts of Misconduct ("**the Particulars**") concerning the actions of Mr Clark as a Member of the Association of Chartered Certified

Accountants (“**ACCA**”) annexed to this Agreement were prepared by Executive Counsel in accordance with the Accountancy Scheme of 1 January 2021, reissued on 30 March 2021 (“**the Scheme**”).

4. The Particulars concern the conduct of Mr Clark in relation to the operations and investment activities of Thurrock Council (“**the Council**”) for the financial years ended 31 March 2018 to 31 March 2022, and specifically the implementation by him of a “debt for yield” approach by which the Council borrowed large sums of money on a short-term basis and used it to make longer-term investments, some of which failed.
5. As set out in detail in the Particulars, the conduct of Mr Clark fell significantly short of the standards reasonably to be expected of him in that he:
 - a. Failed to comply with restrictions on the exercise of delegated authority;
 - b. Failed to comply with the relevant statutory framework in implementing the “debt for yield” approach;
 - c. Failed to ensure that the Council had access to the necessary skills and experience to pursue its “debt for yield” approach;
 - d. Failed adequately to manage and report on the risks arising from the “debt for yield” approach; and
 - e. Recklessly provided misleading information about the “debt for yield” approach (together, the “**Acts of Misconduct**”).
6. Mr Clark agrees the Particulars and admits the Acts of Misconduct in their entirety.
7. The Parties recognise that it is for the Tribunal Panel member appointed under paragraph 8(4)(i) of the Scheme to determine whether it would be appropriate for this Agreement to be entered into, in accordance with paragraph 8(4)(ii) of the Scheme.

Sanctions

8. The Parties agree the following sanctions:
 - a. Exclusion as a Member of the ACCA for a recommended period of 5 years.
 - b. A Severe Reprimand.

9. These sanctions have been determined in accordance with the approach set out in the Accountancy Scheme Sanctions Guidance of March 2021 (the “**Sanctions Guidance**”), as set out below.

Nature and Seriousness of the Misconduct

10. The following matters are relevant in assessing the nature and seriousness of the Misconduct:
- a. The Misconduct involved significant breaches of several fundamental principles governing the conduct of accountants, namely the principles of professional competence and due care, professional behaviour and integrity.
 - b. Mr Clark held a senior position with supervisory responsibilities. He had statutory responsibility for the administration of the Council’s financial affairs, and was in a fiduciary position in respect of the public funds under his control.
 - c. The Misconduct as a whole spanned a period of some five years, although the allegation of lack of integrity concerned a much narrower period of less than two months.
 - d. The Misconduct caused the loss of significant sums of money and adversely affected the 176,000 residents in the Council area.
 - e. The Misconduct has undermined confidence in the standards of conduct of Members in general and in the accounting profession generally.
 - f. The Misconduct was not dishonest or deliberate. It was not reckless, except in the case of the reckless provision of misleading information, which is reflected in the allegation of lack of integrity.
 - g. Mr Clark considered that he was acting in the best interests of the Council and residents, in seeking to address a significant projected gap in funding.
 - h. The Misconduct was not motivated by financial gain.
 - i. A statutory Best Value Inspection of the Council found that there were wider failings of leadership, governance and culture which allowed and encouraged Mr Clark to act as he did.
 - j. With exception of the admitted Acts of Misconduct in this matter, Mr Clark has an unblemished record of 36 years of public service.

- k. Mr Clark has already suffered significant financial and personal consequences as a result of the events at the Council and the resulting media attention.

Identification of Sanction

- 11. The Misconduct, taken as a whole, is so damaging to wider public confidence in the standards of conduct of Members and in the profession that removal of professional status is the appropriate outcome in order to protect the public or otherwise safeguard the public interest.
- 12. Having regard to the seriousness of the Misconduct as summarised above, exclusion from membership of the ACCA for a recommended period of 5 years and a Severe Reprimand are the appropriate sanctions.

Aggravating and Mitigating Factors

- 13. The relevant aggravating and mitigating factors have already been identified and taken into account when assessing the nature and seriousness of the Misconduct.

Deterrence

- 14. No adjustment for deterrence is required in this case, in light of the sanctions to be imposed.

Discount for Admissions and Settlement

- 15. While this Agreement was reached at Stage 1 of the disciplinary process (within the meaning of paragraph 73 of the Sanctions Guidance), no discount for settlement is appropriate, in light of the nature of the sanctions to be imposed.

Other Considerations

- 16. Having regard to Mr Clark's existing financial resources and future employment prospects, it would not be proportionate or necessary, in light of the aims and objectives of the Scheme, to impose any fine. Neither would it be appropriate to require Mr Clark to make any contribution towards the FRC's costs.

Final matters

- 17. If the decision of the Tribunal Panel member is to approve this Agreement, then the Agreement shall take effect from the next working day after the date on which the notice of the decision is sent to Mr Clark in accordance with paragraph 8(4)(iv) of the Scheme.

18. The Agreement and Particulars will remain confidential until publication, in accordance with paragraph 8(6) of the Scheme.

[redacted]

5 November 2024

Claudia Mortimore

Date

Deputy Executive Counsel

Sean Robert Clark

Date

[redacted]

[6 November 2024]