

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE STANDARDS COMMITTEE**

**TUESDAY, 18TH OCTOBER 2011 AT 5.15 P.M.**

PRESENT: Independent Members: Mr. N. A. Burke (Chairman), Ms. K. J. Sharpe (Vice-Chairman) and Mrs. G. Bell

District Councillors: S. R. Colella and Mrs. M. A. Sherrey JP

Parish Councils' Representatives: Mr. I. A. Hodgetts and Mrs. K. May (substituting for Mr. J. Cypher)

Subject Member: Councillor D. Matthews

Investigating Officer: Mrs. T. Lovejoy

Officers: Mrs. S. Sellers and Ms. D. Parker-Jones

34/11 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from District Councillors Mrs. S. J. Baxter and L. C. R. Mallett.

Mrs. K. May, Deputy Parish Councils' Representative, substituted for Mr. J. Cypher, Parish Councils' Representative, who was precluded from participating in the proceedings as both he and the Subject Member were Members of Alvechurch Parish Council.

35/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

36/11 **FINAL DETERMINATION OF COMPLAINT REFERENCES 03/10 AND 04/10**

Further to Minute No. 17/11 of the meeting of the Standards Committee held on 8th July 2011, the Committee considered a report of the Investigating Officer on an alleged failure by Parish Councillor David Matthews to follow the Alvechurch Parish Council Code of Conduct. The allegation (which arose from two linked complaints) concerned Councillor Matthews's failure to declare an interest during discussions of a proposed development of a site in Alvechurch at three Alvechurch Parish Council meetings.

It was noted that at the meeting on 8th July 2011 the Committee had agreed to make public the Investigating Officer's report, subject to certain personal data contained in both the Investigating Officer's report and Schedule of Evidence which had to remain exempt and which could not therefore be

discussed in public. It was further noted that no request had been made by Councillor Matthews as part of the pre-hearing process for any part of the hearing to take place in closed session, and with the agreement of all parties present it was agreed that the hearing would continue in public.

A report of the Investigating Officer dated 27th June 2011, which found that Councillor Matthews had failed to follow the Alvechurch Parish Council Code of Conduct in relation to the allegation, was considered. The Committee was asked to determine whether, based on the facts set out in the report and the representations made at the hearing, it agreed with the Investigating Officer's findings.

A copy of a letter from Councillor Matthews dated 29th August 2011, which included an apology from him for an "unintended" breach of the Code together with a statement for the Committee's attention in relation to the complaints, was included in the agenda papers.

Councillor Matthews was present at the hearing and represented himself. No witnesses were called by either Councillor Matthews or the Investigating Officer.

**RESOLVED:**

- (a) that Councillor Matthews had failed to follow the Code of Conduct by not declaring a personal interest at meetings of Alvechurch Parish Council on 13th July 2009 and 14th September 2009, contrary to paragraph 9 of the Alvechurch Parish Council Code of Conduct; and
- (b) that the following sanction be imposed on Councillor Matthews:
  - 1. that Councillor Matthews be required to attend training on the Code of Conduct to be arranged by the Monitoring Officer, such training to take place by 1st December 2011; and
  - 2. that Councillor Matthews be subject to a partial suspension from Alvechurch Parish Council limited to not attending two meetings namely:
    - (i) the meeting of the Planning Committee of Alvechurch Parish Council on 7th November 2011; and
    - (ii) the full Parish Council meeting on 14th November 2011.

There were no recommendations to the authority but the Committee agreed, as an additional action, that the Chairman of the Committee would write to the Chairmen and Clerks of the parish councils within the Bromsgrove District endorsing the Code of Conduct training provided by Bromsgrove District Council and encouraging all parish councillors to attend.

(A copy of the Committee's full decision, together with the reasons for it, is appended.)

The meeting closed at 7.40 p.m.

Chairman

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE HEARING**

**FULL WRITTEN DECISION**

*Reference number 03/10 and 04/10*

<b>Member subject to allegation</b>	Parish Councillor David Matthews
<b>Investigating Officer</b>	Mrs. T. Lovejoy
<b>Date of report:</b>	27 June 2011
<b>Name of Member's representative:</b>	N/A
<b>Relevant authority concerned:</b>	Alvechurch Parish Council
<b>Date of the hearing:</b>	18 October 2011
<b>Names of Standards Committee members:</b>	
Chairman:	Mr. N. A. Burke Mrs K. J. Sharpe Mrs. G. Bell Mr. I. A. Hodgetts Councillor S. R. Colella Councillor Mrs. M. Sherrey Mrs. K. May (substituting for Mr. J. Cypher)
<b>Standards Committee Legal Adviser:</b>	Mrs. S. Sellers
<b>Committee Services Officer:</b>	Ms. D. Parker-Jones

### ***Referral for investigation and subject matter of complaint***

On 15th June 2010 the Standards Assessment Sub-Committee met and considered two complaints made by Mr David Boardman and Mr Peter McHugh that Councillor David Matthews of Alvechurch Parish Council had breached the Alvechurch Parish Council Code of Conduct. Specifically, it was alleged that Councillor Matthews had failed to declare an interest during discussions of the proposed development of a site at Birmingham Road, Alvechurch at meetings of Alvechurch Parish Council. The Assessment Sub-Committee decided to refer the complaints for investigation. Accordingly, the Monitoring Officer appointed Mrs Tracy Lovejoy as the Investigating Officer.

The Investigating Officer's report into her enquiries was issued on 27th June 2011. The Investigating Officer's report was considered by the Standards Committee on 8th July 2011. The report contained one finding that Councillor Matthews had failed to follow the Code of Conduct by not declaring a personal interest during consideration of the proposed development site at Birmingham Road at the Alvechurch Parish Council meetings of 13th July 2009 and 14th September 2009. The Standards Committee referred the matter to a final hearing.

### ***Summary of the Allegation***

That Councillor Matthews failed to comply with the Code of Conduct for Alvechurch District Council by failing to declare a personal interest at meetings of Alvechurch Parish Council 13<sup>th</sup> July 2009 and 14th September 2009 contrary to paragraph 9 of the Alvechurch Parish Council Code of Conduct.

### ***Preliminary Issues***

The Standards Committee had decided at the hearing on 8<sup>th</sup> July 2011 to lift the exemption on the complaint being considered in private session. Accordingly the committee reports and the Investigating Officers reports were released into the public domain with the papers being redacted to remove any personal information.

The Standards Committee considered this issue again at the start of the hearing and no representations having been made to ask for any part of the hearing to be held in private the Committee agreed to proceed with the hearing in public session.

## ***Findings of fact***

The Committee made the following decision:

1. That the facts set out at paragraphs 5.1 to 5.14, and at 5.18 to 5.23 of the Investigating Officer's Report were undisputed and would be adopted by the Committee as the facts of the matter.
2. The Committee noted the conflict in the accounts of the Subject Member and the witnesses given at paragraphs 5.15 to 5.17 of the Investigating Officer's report, and further noted that the Investigating Officer had not been able to form a view on this aspect. As the contents of the report were not disputed by the Subject Member the Committee did not hear oral evidence on this part of the report. The Committee acknowledged that it would not be possible to get to the bottom of exactly what happened. However, the Committee agreed that between 12<sup>th</sup> January 2009 and 2<sup>nd</sup> March 2009 the subject member became aware that JM was the co-owner of the site at Birmingham Road and decided that this be adopted as the statement of facts in relation to paragraphs 5.15 to 5.17.

## ***Summary of submissions by the Investigating Officer***

Mrs. Lovejoy confirmed that the contents of her report were correct and accurate. She summarised the inquiries she had made and addressed the Committee in relation to the facts. She commented that the discrepancies relating to paragraphs 5.15 to 5.17 could be due to lapse of time and stated that this element in itself was not of overwhelming significance. She explained the reasoning she had applied in reaching her conclusions that based on the facts Councillor Matthews has breached the Code of Conduct for Alvechurch Parish Council. She answered questions from the Members in relation to the definition of a family member and whether there had been a prejudicial interest.

## ***Summary of submissions by the Subject Member***

Councillor Matthews was present at the hearing but was not represented. Councillor Matthews did not seek to dispute any of the facts in the Investigating Officer's report and did not call any witnesses. Councillor Matthews apologised for not having declared a personal interest which he said had been "an unintended" breach of the Alvechurch Parish Council Code of Conduct. A copy of a letter he had written to the Council setting out his apology dated 29<sup>th</sup> August 2011 was included in the papers which had been circulated to Members in advance of the hearing. He confirmed that he is not close to JM but that they are related. He stated that having declared a personal interest at the meeting on 2<sup>nd</sup> March 2009 he had not appreciated that he would have to repeat this declaration when the subject was discussed at later meetings. He stated that he had not attended any training on the Code of Conduct since being elected to the Parish Council 11 years ago. This

was mainly due to not having the time to attend. He further stated that he now realised that he should have gone to training and that this was a mistake on his part. Councillor Matthews has recently taken over as the Chairman of the Planning Committee for Alvechurch Parish Council.

***Finding as to whether the Subject Member had failed to follow the Code including reasons***

The Standard Committee found that Councillor Matthews had failed to follow the Code of Conduct by not declaring a personal interest at meetings of Alvechurch Parish Council 13<sup>th</sup> July 2009 and 14<sup>th</sup> September 2009 contrary to paragraph 9 of the Alvechurch Parish Council Code of Conduct.

The reasons for the Committee's decision were as follows:-

- The facts were not disputed by Councillor Matthews and the Committee agreed with the finding of the Investigating Officer that what occurred represented a breach of the obligation imposed on Councillor Matthews by paragraph 9 of the Code of Conduct to disclose personal interests when business was being considered at meetings of the Parish Council.
- Although the relationship between Councillor Matthews and JM was not a close one and they met infrequently, they were related and the Committee were of the view that the family connection was such that this did create an obligation under the Code for Councillor Matthews to declare a personal interest. The Committee accepted that Councillor Matthews did not know about the ownership of the land until the period between 12<sup>th</sup> January 2009 and 2<sup>nd</sup> March 2009. However, having declared an interest at the meeting on 2<sup>nd</sup> March Councillor Matthews should have repeated this declaration at the meetings on 13<sup>th</sup> July and 14<sup>th</sup> September. There was a lack of understanding on the part of Councillor Matthews relating to the requirement for elected members to repeat declarations of interest at every meeting at which the business they are affected by is being considered.
- The rules requiring elected members to declare interests are designed to ensure transparency of decision making. This is a fundamental principle of local government. In this instance the failure to make the declaration meant that the other Parish Councillors at the meeting and any of the public present would not have been made aware of the family connection between Councillor Mathews and the owner of the site. The Committee noted that the minutes from the meeting on 13<sup>th</sup> July revealed quite a detailed contribution to what was under discussion from Councillor Matthews who actively participated in this item at the meeting. At the subsequent meeting on 14<sup>th</sup> September, again no declaration was made and the Members agreed to make no objection to the application. The Committee were of the view that the other Councillors at the meetings may have regarded the comments of

Councillor Matthews in a different light had they been aware of the interest that existed.

- Although at the hearing Councillor Matthews acknowledged that he needed to attend training on the Code of Conduct and offered to do so, the Committee was concerned by the lack of insight he showed into the rules around interests and by the fact that he had never attended training on the Code of Conduct having been a member of the Parish Council for 11 years. The Committee noted that in the last two years the District Council had provided training courses on the Code of Conduct to members of Parish Councils in the area. There had been three sessions in the last 18 months and it was unfortunate that Councillor Matthews had not attended any of these.

### ***The Sanctions imposed and reasons for them***

The Committee gave careful consideration to the issue of imposing a sanction and was referred to the Standards for England guidance in deciding what level of sanction would be appropriate

Having taken into account the facts of the case and the Standards for England guidance the Committee decided that a sanction should be imposed as follows:-

1. That Councillor Matthews be required to attend training on the Code of Conduct to be arranged by the Monitoring Officer, such training to take place by 1<sup>st</sup> December 2011.
2. That Councillor Matthews be subject to a partial suspension from Alvechurch Parish Council limited to not attending two meetings namely:
  - (i) The meeting of the Planning Committee of Alvechurch Parish Council on 07 November 2011, and
  - (ii) The full Parish Council meeting on 14<sup>th</sup> November 2011.

In considering the penalty the Committee had regard to the following:

- The Committee welcomed the apology made by Councillor Mathews together with his acknowledgment that he needed to attend training and his willingness to co-operate with this.
- The Committee also noted the fact that Councillor Matthews has been a Councillor for many years and acknowledged his clear dedication to serving the residents of Alvechurch.
- The Committee noted that the Parish Council was not the ultimate decision making body relating to the planning application. There was

no suggestion of any dishonesty and the issue appeared to have arisen due to a mistake on the part of Councillor Matthews.

- The Committee did regard the failure to make the declaration as a serious matter that affected the ability of the public to have confidence in the decision making process.
- The Committee was concerned by the lack of insight into the Code of Conduct and that the clear need to receive training on this had not been addressed by Councillor Matthews either in the period he had been a Parish Councillor, or since he had become aware of this complaint in the summer of 2010. The Committee regarded the need for training as vital particularly since Councillor Matthews has now taken over as the Chairman of the Planning Committee. For this reason the Committee decided to impose a requirement for Councillor Matthews to receive training by 1<sup>st</sup> December 2011.
- Further, the Committee took the view that as the complaint related to a planning issue a partial suspension from the next planning committee meeting and the Council meeting following (at which any planning issues would then be considered by the full council) should be imposed.

### ***Recommendations to the authority or additional actions***

There were no recommendations to the authority but the Committee agreed an additional action as follows:-

That the Chairman of the Standards Committee write to the Chairs and Clerks of the Parish Councils within the Bromsgrove District endorsing the Code of Conduct training provided by Bromsgrove District Council and encouraging all Parish Councillors to attend.

### ***Right of Appeal***

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee's finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member's receipt of the Standards Committee's full written decision.

.....  
Chairman of the Standards Committee

Dated: