



**IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(Local Government Standards in England)**

ref no: LGS\2011\0565

ON APPEAL FROM:

Standards Committee of:
Decision Notice No:
Dated:

Bromsgrove Borough Council
03/10 04/10
18 October 2011

APPELLANT:

**Councillor David Matthews of Alvechurch
Parish Council**

RESPONDENT:

**Bromsgrove District Council Standards
Committee**

DATE OF HEARING:

3 February 2012

(Determined on the papers)

DATE OF DECISION:

10 February 2012

BEFORE:

**Judge: David Laverick
Member: Stan Szaroleta
Member: David Ritchie**

Subject matter:

**Appeal by a member of a local authority
against a Standards Committee decision**

DECISION OF THE FIRST-TIER TRIBUNAL

The appeal is allowed and the finding that the Appellant had been in breach of the Code of Conduct is rejected.

REASONS

1. This is an appeal against a finding that the Appellant failed to comply with paragraph 9 of his Parish Council's Code of Code because he did not declare a personal interest at two meetings of his Parish Council. The business at the two meetings included consideration of the proposed development of land in the village. One of the co-owners of the land concerned was the first cousin once removed of the Appellant.
2. The Appellant had told the Respondent that he did not wish to contest the complaint against him and that he apologised for his unintended breach of the Code of Conduct. In his appeal against the resulting decision, however, he seeks to challenge the finding that he had failed to follow the provisions of the Code of Conduct.
3. Paragraph 8 of the Code of Conduct provides that a Councillor has a personal interest when "a decision in relation to [the business of the Council] might reasonably be regarded as affecting the well being or financial position of a relevant person to a greater extent than the majority ofother council tax payers, ratepayers or inhabitants of " the relevant ward or area of the Council". "Relevant person" is defined by paragraph 8(2)(a) of the Code as including a member of the Councillor's family or a person with whom the Councillor has a close association.
4. The Respondent is required to have regard to guidance issued by Standards for England. That guidance stated:

"A member of your family should be given a very wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity, a parent, a parent in law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, an uncle or aunt, a nephew or niece, and the partners of any of these people".
5. The Tribunal has some concern about the advice from Standards for England that the term *family* should be applied widely. The usual rule of interpretation is that words should be given their ordinary and natural meaning and the Tribunal is unsure why Standards for England did not adopt that rule as its starting position.
6. Relevant definitions of *Family* in the Shorter Oxford Dictionary are:
 - A group of people living in one household;
 - The group of people consisting of one set of parents and their children whether living together or not;

- Any group of people connected by blood or other relationship.
7. The Standards for England guidance is encompassed by the third of those dictionary definitions but that definition (connected by blood or other relationship) is far too imprecise to be applied for the purposes of the Code of Conduct. Without a great deal of genealogical research it would be difficult for a Councillor to know everyone to whom he or she is connected by blood let alone those to whom he or she is connected by "other relationship". There is clearly a risk that, even if the particular family members are not personally close, others observing the matter might nevertheless assume that a Councillor might be influenced by the family connection. But that risk diminishes as one moves away from the immediate, into the extended family.
 8. The Respondent was of the view that the Appellant was not considered to have a close association with the particular first cousin once removed. The Tribunal might not have demurred had a different view been taken on that aspect but the point was not argued in the submissions before the Tribunal. Had there been a close association then, regardless of whether or not the co-owner was to be regarded as having a family connection with the Appellant, there would have been a personal interest.
 9. In the absence of a close association, the key point is whether the person concerned should be regarded as a member of the Councillor's family. If that depends on such a distant blood relationship as to fall outside even Standards for England's examples of a wide definition, an adjudicating body should be very wary of stigmatising the Councillor for failing to declare that interest.
 10. In the Tribunal's view it would be unrealistic and unreasonable for "a member of your family" to be interpreted for the purposes of the Code as encompassing the broader reaches of the extended family and it would be wrong to regard a first cousin once removed as coming within the definition. The Tribunal stresses that this does not mean that a Councillor will never have to declare an interest between himself and the particular member of the extended family. If, despite, the distance of the family connection, there is nevertheless a close association then the second limb of paragraph 8(2)(a) will come into play and require declaration of the interest.
 11. The appeal should therefore be upheld and the decision of the Respondent that there has been a breach of the Code of Conduct is rejected. The papers seen by the Tribunal lend support to the Respondent's view that the Appellant would benefit from some training on the application of standards in public life. That such a training cannot now be imposed on him as a formal requirement does not mean that it cannot voluntarily be undertaken.
 12. The written reasons for the Tribunal's decision will be published on the Tribunals website at www.adjudicationpanel.tribunals.gov.uk.
 13. Any request for permission to appeal needs usually to be made to the First-tier Tribunal within 28 days of receipt of the Tribunal's reasoned decision. Such applications need to be in writing.

David Laverick
Judge
Date: 10 February 2012