

STANDARDS COMMITTEE

9 July 2007

COMPLAINTS RELATING TO PARISH COUNCILLORS MILLER AND ROGERSON
(BISHOPS WALTHAM PARISH COUNCIL)

REPORT OF CORPORATE DIRECTOR (GOVERNANCE) – AS MONITORING OFFICER

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RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

At the outset and for the avoidance of doubt, this complaint is based upon the provisions of what may now be termed the 'old' Parish Code of Conduct, and not the revised version which is currently being considered for adoption by parish councils under the 2007 Regulations. For the benefit of Members, a copy of the 'old' Parish Code has been supplied with the report (to the Committee only).

This report relates to complaints made by Mr John Hayter, a parishioner, against Parish Councillors Stephen Miller and Andrew Rogerson, which were referred by the Standards Board for England to the Monitoring Officer for local investigation. The complaint against Parish Councillor Miller relates to the Parish Council's consideration of a proposal for a skate park at Priory Park in Bishops Waltham and his alleged failure to abide by the Code of Conduct, during certain stages of that consideration. The complaint against Parish Councillor Rogerson relates to another open space matter at Pondside, Bishops Waltham, plus his alleged failure to report the alleged Code infringements of Parish Councillor Miller as set out above.

Both Stephen Whetnall (Monitoring Officer) and Howard Bone (Deputy Monitoring Officer) had some previous involvement both in this matter and other complaints raised by Mr Hayter, in relation to the proposed skate park and other open space issues.

For this reason, Stephen Whetnall restricted his role to making arrangements for the investigation and hearing, and did not undertake the investigation himself. The parties were advised that the investigation would be undertaken by Bevan Brittan LLP, a firm of solicitors with some expertise in this work; their report is attached as Annexes 1 and 2. The role of advising the Committee will also be undertaken independently by Mr Michael Mundy. Mr Mundy is a former Monitoring Officer and now a partner at solicitors Clarke Willmott; he also has expertise in this area.

In summary, the complaint regarding Councillor Miller is that he:-

- failed to declare personal and/or prejudicial interests at certain meetings of the Parish Council when the skate park proposal was discussed;
- failed to draw the Parish Council's attention to certain aspects of a noise report concerning the skate park proposal and, in failing to do so, used his position to improperly confer or secure an advantage, and brought the authority into disrepute by his actions.

The allegation is set out in more detail in Section 1 of Annex 1

In summary, the complaint regarding Councillor Rogerson is that he:-

- failed to declare a personal interest in respect of the proximity of his home to the Pongside site, which was the subject of an open space compulsory purchase order;
- failed to refer the alleged breaches of the Code by Parish Councillor Miller to the Standards Board.

The allegation is set out in more detail in Section 1 of Annex 2

Bevan Brittan has concluded that, in the case of both Parish Councillors, there were no breaches of the Code of Conduct.

RECOMMENDATIONS:

- 1 That the Committee determines whether:
 - (a) it accepts the conclusions of the Investigator's report, stating its reasons, that there have been no breaches of the Code of Conduct, or
 - (b) it considers that the matter should be considered further and determined by a Standards Sub-Committee.
- 2 That, if the Committee accepts the conclusions of the Investigator's report, it should also consider whether there is a need for any general guidance arising from the issues raised.

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DETAIL:

1 Introduction

- 1.1 The Ethical Standards Officer at the Standards Board for England has referred complaints affecting the above Parish Councillors to the Monitoring Officer for local investigation.
- 1.2 Bevan Brittan were appointed to undertake the investigation and they have produced separate reports for each Councillor, because different allegations are involved. The reports are set out as Annexes 1 and 2.
- 1.3 The detailed supporting papers to the report are also attached as Appendices I to V, but for Members of the Committee only.

2 Role of the Committee

- 2.1 If the Investigator had found that there had been a breach of the Code, then the Local Government Act 2000, associated regulations and guidance, would require a formal hearing to be held. The formal procedure would be conducted in accordance with Standards Board Guidance for local hearings. A Standards Sub-Committee, chaired by an Independent Member, would conduct the hearing with the Investigator and Councillors concerned having the opportunity to state their cases.
- 2.2 However, if an Investigator considers that there has not been a breach of the Code, then the procedure is for that report to be made to a full meeting of the Standards Committee itself, to see if the Committee accepts that view. The purpose of the meeting is not to conduct a hearing. Neither the Parish Councillors, nor others involved, are allowed to give evidence or make representations at the meeting. For that reason, and to avoid additional expense, Bevan Brittan will not be at the meeting.

3 Procedure at the Meeting

- 3.1 Michael Mundy from Clarke Willmott will be available to advise on law and procedure. Members should first raise any questions of this nature in public session.
- 3.2 It is the Committee's decision whether or not it debates the issue in public session or whether it goes into exempt session (under paragraph 7(c) Schedule 12A Local Government Act 1972) to consider its findings.

- 3.3 The Committee's decision should be announced in public session. The options are that the Committee accepts the report's conclusions that there have been no breaches of the Code, or that it considers that the matter(s) should be considered further and determined by a Standards Sub-Committee.
- 3.4 After determination of the matter(s), a public notice has to be placed in the press indicating the finding and giving reasons. However, the Councillor(s) can request that the notice is not published, if the finding is that there has not been a breach of the Code.
- 3.5 If the Committee decides there is no need for a hearing, it should then consider whether there are any issues for future general guidance. If a hearing is thought to be needed, then any issues of this nature should be left for the Sub-Committee to determine.
- 3.6 The complainant, Mr Hayter, has corresponded with the Standards Board since the Investigator's final report was made available to him. A copy is attached as Appendix IV. It is understood that the Board consider that the matter is now within the local Standards Committee's jurisdiction. Comments from the investigator at Bevan Brittan are included as Appendix V.

OTHER CONSIDERATIONS:

4 CORPORATE STRATEGY (RELEVANCE TO):

- 4.1 An Efficient and Effective Council.

5 RESOURCE IMPLICATIONS:

- 5.1 The cost of using an external firm to undertake the investigation, plus an external advisor for the Committee, the associated internal costs, and estimated costs of statutory adverts is likely to total around £14,000. This cost estimate is to the stage of the preliminary hearing by the Committee on 9 July 2007. The cost is met from existing City Council budgets. If the matter proceeds to a full hearing by a Standards Sub-Committee additional costs outside this estimate will be incurred.

BACKGROUND DOCUMENTS:

Report from Bevan Brittan LLP, and appendices.

APPENDICES:

Annex 1 – Report of Investigation by Bevan Brittan LLP regarding Parish Councillor Miller.

Annex 2 – Report of Investigation by Bevan Brittan LLP regarding Parish Councillor Rogerson.

Appendices I - III – supporting background documents to the Reports (supplied to the Committee, Parish Councillors Miller and Rogerson, and the complainant only).

Appendices IV and V – Additional comments by Mr Hayter to the Standards Board and response of Bevan Brittan LLP (supplied to the Committee, Parish Councillors Miller and Rogerson, and the complainant only).