

BURY METROPOLITAN BOROUGH COUNCIL

**STANDARDS COMMITTEE – LOCAL DETERMINATION HEARING
4 OCTOBER 2005
FULL WRITTEN DECISION**

**COMPLAINT BY COUNCILLOR Y CRESWELL AGAINST COUNCILLOR A
K MATTHEWS (STANDARDS BOARD FOR ENGLAND REFERENCE
10429.05 DATED 17 JUNE 2005)**

HEARINGS PANEL MEMBERS:

Anne Brown - Independent Member (In the Chair)
Arthur Withington - Independent Member
Ken Wainwright - Independent Member
Councillor V D D'Albert
Councillor T Holt

Officers

W Lawley : Legal Adviser
J Hammond : Monitoring Officer
D Hanson : Clerk to the Panel

Also present at the Hearing

Councillor A K Matthews
L Wiberley (Representative)
C E Jones (Witness)
Councillor D Boden (Witness)
K Malde (Investigating Officer)
8 members of the public

1. Summary of the Allegations

The summary of the allegations as set out in the Investigating Officer's report are:-

- 1.1 Councillor Yvonne Creswell, a Member of Bury Metropolitan Borough Council (MBC), alleged that Councillor Alan Matthews, also a Member of Bury MBC, refused her permission to speak at a meeting of the Planning Control Committee on 18 January 2005 and, at that meeting, and also later in the local press, made erroneous comments about her behaviour at a previous meeting, and, by doing so, failed to treat her with respect.

- 1.2 Councillor Creswell further alleged that the comments made by Councillor Matthews about her behaviour and also the reason he gave for refusing her permission to speak, in that it was a “*decision of the committee*”, were misleading and, by behaving in this matter, brought his office and the Authority into disrepute.

2. Relevant sections of the Council’s Code of Conduct

- 2.1 Bury MBC approved its Code of Conduct (the “Code”) on 10 April 2002.
- 2.2 Paragraph 3.1(b) of the code states that,

“A member must treat others with respect”
- 2.3 Paragraph 3.3 of the Code states that,

“A member must not in his/her official capacity, or any other circumstances, conduct himself/herself in a manner which could reasonably be regarded as bringing his/her office or authority into disrepute”.

3. Evidence Considered and Representations Received

- 3.1 The allegations outlined in paragraph 1 above, relate predominantly to the actions of Councillor Matthews at the Bury MBC Planning Control Committee meeting held on 18 January 2005.
- 3.2 However, in her letter of complaint, Councillor Creswell also makes reference to a previous meeting of the same Committee held on 12 October 2004.
- 3.3 Evidence obtained from witnesses indicates that this complaint appears to extend over both meetings.
- 3.4 Evidence was sought from Councillors D Cassidy, S Cohen, M Connolly, Y Creswell, A J Cummings, W J Davison, E K Grime, S P Magnall, A K Matthews, P H Redstone, J W H Taylor, C Shillitto (Bury MBC’s Democratic Services Officer), A Woods (Bury MBC’s Democratic Services Officer), T Roberts (Trevor Roberts Associates), R Connor (The Bury Times).
- 3.5 The details of the events which took place during and immediately following the meetings of the Planning Control Committee on 12 October 2004 and 18 January 2005, as set out in the Investigating Officer’s Report, were taken into account.

- 3.6 Councillor Matthews' Witness Statement submitted at the meeting to which was appended a copy of his apology to Councillor Creswell dated 26 July 2005. In particular, the acceptance by Councillor Matthews in paragraph 2 of his Witness Statement that he had breached paragraphs 3.1(b) and 3.3 of the Council's Code of Conduct
- 3.7 The plea for leniency submitted by his representative.
- 3.8 The character references for Councillor Matthews given by Councillor D Boden and Mr C E Jones.
- 3.9 The oral report made by the Investigating Officer in which he suggested leniency.

4. Findings of Fact

The findings as to whether there was a failure to comply with the Code of Conduct, as set out in the Investigator's Report, are:-

- 4.1 That for the reasons stated in Section 5, of the Investigator's Report, Councillor Matthews failed to treat Councillor Creswell with respect, and by doing so, failed to comply with paragraph 3.1(b) of Bury MBC's Code of Conduct.
- 4.2 Furthermore, Councillor Matthews refused Councillor Creswell permission to speak at the Planning Control Committee meeting on 18 January 2005 without a valid reason, thus restricting her from conducting her duties as a Councillor effectively. It is also found that Councillor Matthews misled the meeting by saying that Councillor Creswell's behaviour at a previous meeting was "*disgusting*" and the decision to refuse Councillor Creswell permission to speak was made by the Council or the Planning Control Committee.
- 4.3 This matter is aggravated the comments made by Councillor Matthews to a reporter from the local press.

5. Conclusion

- 5.1 For the reasons stated in paragraphs 4.1, 4.2 and 4.3 above, the Hearings Panel finds Councillor Matthews behaved in a manner that would diminish public confidence in his office and the Authority and by behaving in this manner, it is considered that Councillor Matthews brought his office and the Authority into disrepute thus failing to comply with paragraph 3.3 of Bury MBC's Code of Conduct.

DECISIONS:

1. We find unanimously, that Sanctions should be imposed for breach of paragraph 3.1(b) of Bury MBC's Code of Conduct – in that Councillor Matthews failed to treat Councillor Creswell with respect, and also for breach of paragraph 3.3 of the Code in that Councillor Matthews behaved in a manner that would diminish public confidence in his office and the Authority and by behaving in this manner he brought his office and the Authority into disrepute.
2. We noted that the Investigating Officer had made no recommendations as to the future avoidance of these breaches.
3. That Councillor Matthews be required to make a written apology to Councillor Creswell in a form satisfactory to the Standards Committee, the draft to be submitted by Councillor Matthews to the Chair of the Standards Committee by 7 November 2005, for consideration by the Standards Committee at its meeting on 17 November 2005.
4. That Councillor Matthews be suspended from the Council for two weeks as from Monday, 14 November 2005.
5. That all reports and background papers considered by this Panel be made available to the press and public

Reasons for the decisions:

The above decisions are made on the basis of:

- (i) The Findings of Fact and the Findings as to whether there has been a failure to comply with the Code of Conduct, both as set out in the Investigating Officer's report.
- (ii) This is unacceptable behaviour on the part of Councillor Matthews taking into account the weight of evidence which shows the seriousness of the breaches to which Councillor Matthews has admitted. The Hearings Panel considers that there is no justification whatsoever for this behaviour.
- (iii) There is no evidence to support Councillor Matthews' action in denying Councillor Creswell her right to speak and represent her constituents.
- (iv) The inadequacy of the apology of 26 July 2005, together with the unsatisfactory timing of that apology.

- (v) Taking into account the remorse shown by Councillor Matthews and the mitigation submitted on his behalf, including Councillor Matthews' apology and the two character references.
- (vi) Councillor Matthews statement in his interview with Mr Malde that he did not recall making any comment to the press.
- (vii) Taking into account the length of Councillor Matthews' experience as a Councillor and as a Chair of various bodies.

A BROWN
Chair