**FULL WRITTEN DECISION OF THE STANDARDS COMMITTEE – HEARINGS SUB-COMMITTEE OF EREWASH BOROUGH COUNCIL**

**Case Reference Number:** 16/19

**Member Concerned:** Parish Councillor Michael Wallis

Assisted by: Parish Councillor Terence Holbrook

**Complainant:** Mr Ron Parker

**Chairman of Hearings Sub-Committee:** Councillor Valerie Custance

**Other Members:**

Councillor Chris Corbett

Councillor Mrs Linda Frudd

Parish Councillor Linda Webster

Independent Member Matthew Kane

Independent Person Peter Purnell
**Investigating Officer**: Alan Tasker, Wilkin Chapman LLP Solicitors

**Assisted by:** Gill Thompson

**Monitoring Officer**: Mr Brendan Morris

**Democratic Services Officers**: Angelika Kaufhold and Lynne Ghent

**Date of Hearing:** Friday 20 November 2020

1. **Introduction**

A complaint was made to Erewash Borough Council by Mr Ron Parker alleging that Parish Councillor Michael Wallis had breached the Ockbrook and Borrowash Parish Council’s Code of Conduct.

The complaint was considered by the Monitoring Officer in consultation with an Independent Person and it was decided that an investigation should take place.

The Monitoring Officer appointed Mr Alan Tasker of Wilkin Chapman LLP Solicitors to carry out an investigation and report.

The press and public were excluded from the Hearing in accordance with the provisions of section 100(A)(4) on the grounds that the investigation report contained personal details of third parties who were not the subject of the complaint.

1. **The Allegation**

The complaint made against Parish Councillor Wallis, who at the time of the alleged events, was the Chairman of Ockbrook and Borrowash Parish Council is that in an attempt to prevent one or more fellow parish councillors ceasing to be members of the Parish Council due to failure to attend meetings under section 85 of the Local Government Act 1972 he constructed an attendance register for a meeting that had not taken place. In furtherance of this Parish Councillor Wallis and another parish councillor signed the register purporting to have been present at the fictitious meeting.

1. **Evidence Considered by, and representations made to, the Hearings Sub-Committee**

The Sub-Committee carefully considered the evidence presented in the Investigation Report dated 19 February 2020 prepared by Wilkin Chapman LLP Solicitors and the evidence submitted by and submissions made on behalf of Parish Councillor Wallis.

The material facts summarised in the investigation report concluded that Parish Councillor Wallis did produce an attendance register for a meeting of the Parish Council’s Environment Committee indicating that the meeting took place on Tuesday 20 June 2017 at 7.00pm.

Furthermore that Parish Councillors Wallis and Knapp signed the register indicating that they were in attendance at the meeting whereas no such meeting took place.

Parish Councillor Wallis accepted that he drew up the attendance register for a meeting that had not taken place but sought to justify his actions by casting aspersions on the capability of the then Parish Clerk.

In particular Parish Councillor Wallis said that the then Parish Clerk advised that Parish Councillor Knapp, having failed to attend a Parish Council meeting for 6 months, had lost her seat and an election would have to be called. Parish Councillor Wallis also criticised the Clerk for not notifying the member concerned that she was in danger of running out of time under section 85, insisting that it was the duty of the parish clerk as proper officer to do so.

In the event the advice that Parish Councillor Knapp had lost her seat through non-attendance was incorrect as Parish Councillor Knapp had been present at a meeting which qualified as attendance for the purposes of section 85 of the Local Government Act.

Whilst it may be good practice for the Parish Clerk to advise members if they are at risk of losing their seats for non-attendance under section 85 it is the individual councillor’s personal responsibility to ensure their attendance.

The Sub-Committee do not consider that to attempt to fabricate a false record of a meeting was an appropriate response to the situation in which one or more members were at risk of losing their seats through non-attendance at meetings.

Parish Councils have the ability to approve the reason for a member’s failure to attend meetings of the authority under section 85 and it would have been open to any parish councillors at risk of losing their seats to request the Parish Council to approve the reason for their non-attendance.

However by seeking to circumvent the law by falsifying a meeting that did not take place the effect would have been to undermine the democratic process.

Parish Councillor Wallis also referred to health issues that he had at the time of the events and that he was overworked in his capacity as Chairman of the Parish Council and a Lead Member of the Borough Council.

Insofar as Parish Councillor Wallis’ workload is concerned that was a personal choice and he could easily have reduced his commitments at the Parish or Borough by stepping back from his roles or delegating some of his duties to other parish councillors.

In his interview with the Investigators Parish Councillor Wallis referred to having made an error of judgement in doing as he did. However his actions took place over a period of time sufficient to draw up the false attendance register, sign the document himself, obtain the signature of Parish Councillor Knapp and ask the Parish Clerk to obtain the signatures of other councillors named in the register. To that extent there was plenty of opportunity to reconsider his actions which only came to a stop after it became apparent that one of the councillors named on the attendance register was out of the country on the date of the purported meeting.

Parish Councillor Wallis also suggested that one of his motivations for doing as he did was to save the Parish Council the cost of a by-election.

In the circumstances the Sub-Committee find that the facts as summarised in the investigation report are made out.

In light of the above findings the Sub-Committee considered the representations made as to whether the facts amount to a breach of the Code of Conduct.

The Investigation Report recommended that the actions of Parish Councillor Wallis did amount to a breach of the Code in a number of respects, as follows:

**Integrity**

The relevant paragraph of the Code defines Integrity as: “Holders of Public Office should not place themselves under any financial or other obligations to outside individuals or organisations that might seek to influence them in the performance of their official duties.”

The Compact Oxford English Dictionary definition of Integrity includes: “1 the quality of being honest and morally upright.”

The actions of Parish Councillor Wallis did not reflect the quality of being honest and morally upright that would be expected of an elected member.

**Honesty**

The relevant paragraph of the Code defines Honesty as: “Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.”

Honesty is defined within the seven principles of public life as: “Holders of public office should be truthful.”

Although by remaining as parish councillors not in accordance with the law the individuals concerned would not gain financially as parish councillors do not receive an allowance they would retain the status as members of the parish council.

In addition the production of a false attendance register was a dishonest act.

**Selflessness**

The relevant paragraph of the Code defines Selflessness as: “Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefit for themselves, their family or their friends.”

Selflessness is defined within the seven principles of public life as: “Holders of public office should act solely in terms of the public interest.”

Although Parish Councillor Wallis denied that any of the affected persons were friends he did accept that they were colleagues.

It is also the case that had the plan to concoct a bogus meeting succeeded it would have benefitted the parish council by saving the cost of holding a by-election.

**Leadership**

The relevant paragraph in the Code in relation to the foregoing principles states: “Holders of public office should promote and support these principles by leadership and example.”

“Leadership” is one of the principles of public life. The Committee on Standards in Public Life guidance under the heading “leadership” states: “Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.”

Leadership is therefore a broad principle, encompassing all other principles, and includes promoting and supporting high standards.

When producing and signing a false attendance register Parish Councillor Wallis did not act with integrity.

The circumstances to which Parish Councillor Wallis refers as pertaining at the time of the events in question, namely receiving inaccurate advice from the then Parish Clerk, his ill health and pressure of work do not, in the Sub-Committee’s view excuse or justify Parish Councillor Wallis’ actions.

**Accordingly it is the Sub-Committee’s decision that for the reasons given above Parish Councillor Wallis has breached the Code of Conduct in respect of Integrity, Honesty, Selflessness and Leadership.**

1. **Decision on Sanctions**

The Sub-Committee heard submissions from Mr Tasker and Parish Councillor Wallis on whether and what sanctions should be imposed.

The Sub-Committee deliberated in private and considered the appropriate sanctions that were open to them.

**The Sub-Committee, in recognising Parish Councillor Wallis’ long service as a parish councillor, determined to report its findings to Ockbrook and Borrowash Parish Council for information by way of sanction.**

Signed ……………………Date …………………………..2020

Councillor Valerie Custance

Chairman of the Erewash Borough Council Standards Committee – Hearings Sub-Committee