

4 December 2007

Our ref: Standards 12.12.07
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To: The Chairman and Members of the Standards Committee of North Hertfordshire District Council

Mr N. Moss (Chairman), Mr P. Chapman (Vice-Chairman), District Councillors David Kearns, M.R.M. Muir and L.W. Oliver, and Parish Councillors M. Goddard and R. Wornham.

You are invited to attend a

MEETING OF THE STANDARDS COMMITTEE

To be held in the

**COUNCIL CHAMBER, COUNCIL OFFICES,
GERNON ROAD, LETCHWORTH**

on

WEDNESDAY, 12 DECEMBER 2007 at 1.30p.m.

Yours sincerely,



David Miley
Democratic Services Manager

AGENDA
PART I

ITEM	PAGE
1. APOLOGIES FOR ABSENCE	
2. NOTIFICATION OF OTHER BUSINESS Members should notify the Chairman of other business which they wish to be discussed by the Committee at the end of the business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chairman will decide whether the item(s) raised will be considered.	-
3. DECLARATIONS OF INTEREST To receive from Members of the Council any declarations of interest in respect of any business set out in the agenda. Members should either declare a prejudicial or personal interest and are required to notify the Chairman of the nature of any interest declared. Members declaring a prejudicial interest should leave the Council Chamber and not seek to influence the decision on that particular item of business.	-
4. REPORT INTO ALLEGATION OF BREACH OF THE PARISH CODE OF CONDUCT SBE 17622.07 (STANDARDS BOARD REFERENCE) To consider a complaint made to the Standards Boards for England against Councillor Mawer, Parish Councillor for St Ippolyts, which was referred to the Monitoring Officer for local investigation. The Monitoring Officer has concluded that investigation and the Standards Committee must decide if it is satisfied with the outcome of the investigation.	1

Next Meeting of Standards Committee – 20 December 2007 – 7.30pm

<p style="text-align: center;">STANDARDS COMMITTEE 12 DECEMBER 2007</p>

<p>*PART 1 – PUBLIC DOCUMENT</p>	<p>AGENDA ITEM No.</p>
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<p>REPORT INTO AN ALLEGATION OF BREACH OF THE PARISH CODE OF CONDUCT</p>	<p style="text-align: center;">4</p>
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<p>SBE 17622.07 (Standards Board reference)</p>	
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TITLE OF REPORT: REPORT INTO AN ALLEGATION OF BREACH OF THE PARISH CODE OF CONDUCT

SBE 17622.07 (Standards Board reference)

1. SUMMARY

This report concerns a complaint made to the Standards Boards for England against Councillor Mawer. Parish Councillor for St Ippolyts, which was referred to the Monitoring Officer for local investigation. The Monitoring Officer has concluded that investigation and the Standards Committee must decide if it is satisfied with the outcome of the investigation.

2. FORWARD PLAN

There is no requirement for this report to be contained in the Forward Plan

3. BACKGROUND

On the 19 February 2007 the Standards Board for England referred a complaint to the Council's Monitoring Officer, Frances Bogie, for investigation. The complaint alleged that on the 2 February 2007 Parish Councillor David Mawer breached the Parish Council Code of Conduct by:

- (1) failing to treat another with respect which would amount to a breach of paragraph 2(b) of the Parish Code, and
- (2) conducting himself in such a manner to bring his office or authority into disrepute which amounts to breach of paragraph 4 of the Parish Code.

Full details of the allegation and the investigation are set out in the report of the Monitoring Officer attached.

The Monitoring Officer concludes that there was not sufficient evidence to support the allegations that there had been a breach of the Code.

4. ISSUES

The Standards Committee must decide either

- (1) to accept the conclusions of the Monitoring Officer that there is no finding of failure, or
- (2) to refer the matter for hearing before the Standards Committee

Guidance on this stage of the process is given in the Standards Board guidance note for monitoring officers and standards committees entitled '*Local Investigations*'. This states that the Standards Committee should simply consider the report, it should not seek to interview witnesses or take representations from other parties. Its role is to decide whether at this stage, based on the facts set out in the report, it agrees with the findings or thinks that there is a case to answer.

If the Standards Committee believes that there is a case to answer the matter should be referred for a hearing, when witnesses can be called and any disagreement with findings of fact can be explored.

If, on the other hand, the Standards Committee agrees the findings of the Monitoring Officer a notice is published in a local paper, with the Parish Councillor's consent, confirming the findings of the report.

5. LEGAL IMPLICATIONS

The procedure governing investigations into breaches of the Code of Conduct is set out in the Local Authorities (Code of Conduct)(Local Determination) Regulations 2003 and the guidance issued by the Standards Board referred to in the previous paragraph. This is statutory guidance issued under section 57(5) Local Government Act 2000.

The Deputy Monitoring Officer will act as advisor to the Standards Committee when dealing with this report to avoid any conflicts of interest. The Standards Board for England advises that the same officer should not investigate and also advise the Standards Committee.

6. FINANCIAL AND RISK IMPLICATIONS

In considering the guidance it would appear that some risk may arise if the Standards Committee were to refer this complaint for hearing without proper justification. The Standards Board should therefore set out its reasons if it chooses not to accept the findings of the Monitoring Officer and refer this matter for hearing. The giving of reasons demonstrates that the Standards Committee has exercised its discretion properly and should avoid any prospective challenge.

7. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS

There are none arising from this report.

8. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

None required as this falls entirely within the remit of the Standards Committee

9. APPENDICES

Report of the Monitoring Officer

NORTH HERTFORDSHIRE DISTRICT COUNCIL
STANDARDS COMMITTEE

REPORT IN TO AN ALLEGATION AGAINST COUNCILLOR
MAWER
SBE 17622.07

REPORT OF THE MONITORING OFFICER

SBE REF:- 17622.07

1. The allegation

- 1.1 A complaint was made by Mrs Metrovich against Councillor D Mawer which alleges breach of the Code of Conduct applying to St.Ippolyts Parish Council, which Councillor D. Mawer had declared he would abide by.¹
- 1.2 The allegation is that on 2 February 2007 contractors were erecting goal posts in the St.Ippolyts recreation ground, which Mrs Metrovich believed were being erected in the wrong place. Mrs Metrovich spoke to the contractors about this and contact was made with the Parish Council. In response to this Councillor Mawer went to the ground. Mrs Metrovich alleges that he arrived "like a mad thing, shouting at me, raising his hands to my face and then pointing to his chest saying "I'm the Parish Council" repeatedly. Mrs Metrovich further alleges that Councillor Mawer came "back to me with his hands up to my face and told me to "Shut up. It has nothing to do with me"". Mrs Metrovich states that she was shocked and angered by these actions and what she considers to be Councillor Mawer's "appalling behaviour and lack of respect".²
- 1.3 The allegation was made to the Standards Board for England who referred the matter to an Ethical Standards Officer for investigation. The ESO decided to refer the matter for local investigation under s60(2) of the Local Government Act (LGA) 2000.

2. The Legislation

- 2.1 Section 58 of the LGA 2000 places the Standards Board under a duty to consider written allegations made under 58(1) in respect of alleged failures of members of relevant authorities to comply with the authority's adopted Code of Conduct. For the purpose of 58(1) LGA 2000 a member of a relevant authority includes members of parish councils.
- 2.2 Written allegations which the Standards Board consider should be investigated must be referred to an Ethical Standards Officer (ESO). An ESO may make a finding that the matters, which are the subject of an allegation, should be referred to the Monitoring Officer (MO) of the relevant authority concerned for local investigation. Where such a finding is made the ESO must refer the matters to the MO under section 64(2)(b) LGA 2000.
- 2.3 When an investigation is referred to the MO of the relevant authority, the MO is required to conduct an investigation into the allegation and, following investigation, prepare a written report on the investigation and the findings. The MO's written report is required to be submitted to the Standards Committee of the relevant authority, as the body responsible for monitoring the operation of the authority's Code of Conduct.
- 2.4 On receiving a written report from the MO, or from a person nominated by the MO under section 64(2) LGA 2000, the Standards Committee of the relevant

¹ Councillor Mawer's Acceptance of office

² Mrs Metrovich's Complaint Form and accompanying documents (Page 2)

authority must consider the report. If the report concludes that there has been no failure to observe the Code of Conduct the Standards Committee may accept the finding without a Committee hearing. In all other cases the Standards Committee must consider the report's findings at a hearing.

- 2.5 Following a hearing, the Standards Committee must make a finding as to whether the person subject to an allegation has failed to comply with the Code of Conduct. Where a Standards Committee finds that a breach of the Code of Conduct has occurred various sanctions can be imposed on the member subject to the finding.

3. The Code of Conduct

- 3.1 Section 50(1) and (2) of the LGA 2000 provides for a Code of Conduct governing the ethical behaviour of members of relevant authorities to be issued by the Secretary of State.
- 3.2 Under ss 51(1) and 83(1) of the LGA 2000 relevant authorities are required to pass a resolution adopting the Code of Conduct within 6 months of its issue. Furthermore, all members of a relevant authority must give the authority a written undertaking that they will observe the authority's Code of Conduct.
- 3.3 The Parish Councils (Model Code of Conduct) Order 2001 (SI No. 2001/3576) was issued by the Secretary of State and came into force on 27 November 2001. The Code of Conduct was in force at the time of the alleged behaviour which is the subject of the complaint. Councillor Mawer had undertaken to abide by this Code by way of signing his Declaration of Acceptance of office dated 9 September 2004.³

4. Alleged breaches

- 4.1 The matters alleged against Councillor Mawer relate to potential breach of the following provisions of the Code of Conduct:

Failure to treat others with respect, paragraph 2(b)
Behaviour likely to bring his office or authority in to disrepute, paragraph 4.⁴

- 4.2 With reference to paragraph 2(b) of the Code of Conduct the Standards Board provides that a failure to treat others with respect includes unfair, unreasonable or demeaning behaviour directed by one person against another and also bullying.

5. The investigation

- 5.1 The investigation in to the allegations has been conducted by Frances Bogie, Monitoring Officer for North Hertfordshire District Council.

The investigation was conducted by gathering evidence from:-

The complaint form and accompanying documents;⁵

³ Councillor Mawer's Acceptance of office

⁴ Copy of the Code of Conduct supplied by St Ippolyts Parish Council

⁵ Mrs Metrovich's Complaint form and accompanying documents

St. Ippolyts Parish Council minutes;⁶
 Letter from Chairman of the Council to Mrs Metrovich dated 17 February 2007;⁷
 Telephone interview with Mr Clements;⁸
 Interview with Mrs Metrovich;⁹
 Interview with Mrs Weiser;¹⁰
 Interview with Councillor Mawer,¹¹
 Note of incident by Councillor Mawer dated 8 February 2007,¹²
 Letter of Mrs Metrovich dated 15 October 2007,¹³
 Note of telephone conversation with Andy Bunker,¹⁴
 Letter of Andy Bunker dated 30 October 2007.¹⁵

Mrs Metrovich disputed the evidence of Mr Clements following receipt of the draft report and stated that it was the second contractor who had commented on Councillor Mawer's behaviour. Further enquiries led to contact with Mr Andy Bunker, of Clements Play Management Limited. An initial phone call was followed by written communication.¹⁶

Other disputes with the findings of fact are noted throughout the report.

6. Findings

- 6.1 Having considered the evidence available, on balance I do not consider there is sufficiently reliable evidence to support the allegation that Councillor Mawer failed to treat Mrs Metrovich with respect. On the basis of this finding, I do not consider there to be sufficient evidence to support a finding that his behaviour was likely to bring his office or authority in to disrepute.
- 6.2 I shall set out the evidence considered in reaching my conclusions and the reasons for them.

7. Background

- 7.1 The back ground to the incident of 2 February 2007 relates to the erection and siting of 2 goal posts in the recreation ground at St. Ippolyts. This investigation does not consider the merits of the decision for the location of the posts or the process for it being reached. The issue of where the posts were to be erected is the cause of the exchange between the complainant and Councillor Mawer. For this reason a brief explanation of the history of the issue is necessary context for the determination of this allegation.
- 7.2 Parish Council minutes show that the issue of the provision and location of the posts had been considered for over a year and that representations had been made by residents, as to where the posts were to be located.

⁶ St Ippolyts Parish Council minutes 03/07/06 – 08/01/07 – 05/02/07	Pages 24-42
⁷ Letter from Chairman of Council to Mrs Metrovich dated 17/02/07	Pages 22-23
⁸ Mr Clements transcript	Pages 58-59
⁹ Mrs Metrovich's Interview transcript	Pages 61-70
¹⁰ Mrs Weiser's Interview transcript	Pages 43-56
¹¹ Councillor Mawer's Interview transcript	Pages 71-87
¹² Note of incident by Councillor Mawer dated 8 February 2007	Page 88
¹³ Mrs Metrovich's letter dated 15 October 2007	Pages 89-92
¹⁴ Note of telephone conversation with Andy Bunker	Page 93
¹⁵ Letter of Andy Bunker dated 30 October 2007	Page 94
¹⁶ Letter of Andy Bunker dated 30 October 2007	Page 94

7.3 In response to the concerns of residents, a risk assessment of the location of a mini-football pitch had been carried out by RoSPA and a sub-committee of the Parish Council considered a number of options. Councillor Mawer was on this sub-committee. The sub-committee made recommendations to the Council after considering the options.

7.4 At a meeting of the Parish Council on 8 January 2007 the recommended citing of the posts was agreed. The minute states:-
“The PACIF sub-committee proposed to install one goal post at the pavilion end of the proposed pitch ...” This was unanimously agreed.
The minute goes on to state that Councillors Holden and Mawer would confirm the exact location of the posts with the Clerk.¹⁷

Mrs Metrovich and Mrs Weiser attended the meeting of 8 January.

The Clerk to the Council has advised that no written notes of this meeting now exist.

7.5 Subsequent to this, Councillors Holden and Veasey attended the recreation ground with the contractors, Clements Play Management Limited (CPM Ltd), to show them where the posts were to go.

7.6 Mrs Metrovich’s complaint form included a letter to the Chairman of the Parish Council, dated 3 February 2007, which stated that at that meeting she was “given the impression that there was to be one post erected and that this post would be to the right hand side of the recreation field looking down from Townsend Place.” She went on to state that “Despite the numerous letters of objection ... you have still insisted in erecting the single post in the very same area we were objecting to”.¹⁸

7.7 Mrs Weiser’s letter in support of Mrs Metrovich’s complaint, dated 12 February 2007 states that at the meeting of 8 January 2007, “we were led to believe because of the recommendation by RoSPA only one post would be used instead of the planned two and that it would be sited at the pavilion end of the proposed pitch (see minutes of meeting)”.¹⁹

7.8 In interview Mrs Weiser gave evidence that the posts “were going to be positioned alongside the main football pitch at the pavillion end”. Mrs Weiser made repeat reference to this and stated that “their words were “the proposed siting of the post will be alongside the main pitch at the pavilion end” that is exactly word for word what they said” She acknowledged that the minutes did not reflect this and stated that they were wrong. She could not recall who had used these words.²⁰

7.9 In interview Mrs Metrovich stated that “they told us at the last meeting in January they told us its was going to be positioned alongside the main football pitch, kicking towards the pavilion.”²¹

¹⁷ Council minutes 08/01/07 Item 11

¹⁸ Letter from Mrs Metrovich to the Chairman dated 03/02/07

¹⁹ Mrs Weiser’s letter dated 12/02/07

²⁰ Mrs Weiser’s Interview transcript

²¹ Mrs Metrovich’s Interview transcript

- 7.10 Parish Council minutes relating to the issue of where the goal posts were to be located show that reference to the posts being sited “alongside” the main pitch was made in the meeting of 3 July 2006. This option was rejected.²²

8. The Evidence

- 8.1 On 2 February 2007, two contractors from CPM Ltd came to the recreation ground to erect goal posts. They had previously been shown where these posts were to be put and they had sketched a map showing where this was.²³
- 8.2 Having started to dig a hole for the posts, the contractors were then approached by Mrs Weiser, who told them they were not working on the proposed site and they informed her that they were following the map and the instruction they had been given.

Mrs Metrovich’s evidence

- 8.3 Mrs Metrovich was returning from being out in her car and saw Mrs Weiser with the contractors. She joined them and spoke to Mrs Weiser who asked her to confirm where the posts were to go. In her interview Mrs Weiser stated that she then went to her parents’ house and phoned the Vice-Chairman of the Parish Council to complain that the posts were being put in the wrong place. The Vice-Chairman said a Councillor would come down. Mrs Weiser stated that Mrs Metrovich stayed at the ground talking to the contractors.²⁴
- 8.4 Mrs Metrovich also gave evidence in interview that she confirmed the location as she understood it and the contractors responded as to where they were told to put the posts. Mrs Metrovich stated she then left the ground and phoned the Vice-Chairman from her home, to complain about the location of the posts. She was told a Councillor would come down. She stated that when she returned Mrs Weiser was at the ground.²⁵

The Vice-Chairman contacted Councillor Mawer.

- 8.5 There is no dispute that Councillor Mawer attended the recreation ground in response to the concerns which were being raised by Mrs Metrovich and Mrs Weiser to the contractors.
- 8.6 In the original complaint Mrs Metrovich alleged that “When Mr D. Mawer arrived he was like a mad thing shouting at me. He raised his hands to my face and then pointing to his chest saying “I’m the Parish Council” many times. He went and spoke to the contractors. Then he came back to me with his hand up to my face and told me to “shut up, it has nothing to do with me”. She stated that she then walked away.²⁶
- 8.7 In a letter to the Parish Council Chairman, dated 3 February 2007 Mrs Metrovich alleged that “On his arrival Councillor Mawer approached the contractors insisting this site was correct. I tried to explain that we were under the impression that the site was down the side of the field facing the pavilion.

²² Council minutes 03/07/06 Item 11

²³ Map supplied by Mr Clements

²⁴ Mrs Weiser’s Interview transcript

²⁵ Mrs Metrovich’s Interview Transcript

²⁶ Mrs Metrovich’s Complaint form

However Councillor Mawer continually raised his hand in a halt position and shouted at me pointing to his chest “I am the Parish Council” repeating this more than once. He had no desire to listen to what I was trying to say, he raised his hand once again and told me to “Shut up” and that we had no say in this matter”.²⁷

- 8.8 In interview Mrs Metrovich stated that due to his “body language” she could tell Councillor Mawer was in a bad mood from the time he got out of the car and that he walked past her, to the contractors, who were around 3 metres away from her. She stated that he had a map or plan in his hand which he showed to the contractors and said “It has got to go there, it was always going here”. She said that she then spoke to Councillor Mawer to state that at the meeting in January it had been said that the “posts were to go alongside the main pitch”. She stated that he came within a metre of her, put his left hand up to her face and shouted “I am the Parish Council” a number of times. She gestured that the hand was palm open toward her. She went on to state that he then went back and spoke to the contractors, came back to her when she started to repeat her view, and put both hands to her face saying “Shut up, It has got nothing to do with you whatsoever”. She gestured to show that the hands were held palms open toward her. In response to questions she stated that he still had the map in his hand when he raised his hands. She stated that Councillor Mawer then walked to the edge of the field and stated that the post was 50 feet from the road and repeated that the posts were to go there.²⁸

Mrs Weiser’s evidence

- 8.9 In a letter dated 12 February 2007, written in support of Mrs Metrovich’s complaint to the Standards Board, Mrs Weiser alleged that “Mr Mawer refused to engage in any conversation, he simply raised his arm with his hand in the halt position shouting “I am the Parish Council” and repeated this many times pointing to his chest. Despite Mrs Metrovich appealing to him, he raised his hand and again this time telling her to “shut up” and that we had no say in the matter. Mr Mawer left, leaving us.”²⁹
- 8.10 In interview Mrs Weiser said that after phoning the Vice-Chairman she stayed at her parents house. When Councillor Mawer arrived she followed him on to the recreation area. She said that he was talking to the contractors and that Mrs Metrovich was interjecting to say what she believed had been stated in the January meeting. He was responding saying “yes, the pavilion end” to which Mrs Metrovich was saying the “pavilion end”. Mrs Weiser stated that Councillor Mawer “really did not want to listen”, that he put his hand up and said “this is where the post is going to go, it was always going to be here ...” and that Mrs Metrovich was still saying where she believed they were to go. Mrs Weiser stated that Councillor Mawer was indicating where the posts were to go and that he did not look up.³⁰
- 8.11 Mrs Weiser went on to state that Councillor Mawer was a couple of meters from Mrs Metrovich when he raised his hand and said “I am the Parish

²⁷ Letter from Mrs Metrovich to Chairman

²⁸ Mrs Metrovich’s Interview transcript

²⁹ Mrs Weiser’s letter dated 12/02/07

³⁰ Mrs Weiser’s Interview transcript

Council” a number of times. She stated that she then spoke to Councillor Mawer.³¹

Mrs Weiser said that the contractors could hear what was being said.

Mr Clement’s evidence

8.12 Derek Clements of Clements Play Management Ltd was at the recreation ground on the 2 February to erect the goal posts. In her letter of 3 February 2007 addressed to the Chairman of the Parish Council, Mrs Metrovich stated that the contractors “told me and Mrs Weiser that they had never witnessed anything like this before”.³² Mrs Weiser made reference to this in her interview.³³

8.13 Mr Clements stated that after he arrived to start the work a lady had objected to where they were digging the holes for the posts. Mr Clements told the lady he had clear instructions as to where the posts were to go. Mr Clements stated that this lady was “agitated”. He stated that they were joined by another lady. He was only able to identify Mrs Metrovich. He stated that a man he came to know as Councillor Mawer joined them and that he had a map which he showed the ladies. He stated that Councillor Mawer was calm and said “Sorry ladies, this is getting us nowhere. This is where the post is to go and I am acting as the elected representative.” He also recalled him saying “I am the elected representative” and “I am the Councillor and this is what was agreed” or “Excuse me ladies, I’m the Parish Councillor here, thank you for your help, this is what has been agreed”. He stated that he did not recall Councillor Mawer saying shut up and that it was possible he raised his hand to bring things to an end, but that this was not done in anger or with any aggression. He stated that Councillor Mawer used the map to show the ladies where the posts were to go and that he also used his arms to show them. He stated that Councillor Mawer was around 3 meters from the ladies at the time.³⁴

8.14 Mr Clements stated that the “ladies gave as good as they got” and that they weren’t prepared to listen to what Councillor Mawer was trying to say.³⁵

8.15 Mr Clements did not recall any further conversation between himself or his colleague and either lady.

Mr Bunker’s evidence

8.16 After receiving the draft report, Mrs Metrovich responded to state that the co-worker of Mr Clements (a Mr Andy Bunker) made the comment “that they had never witnessed anything like this before”. She stated that this was out of earshot from Mr Clements.³⁶ Contact with Mr Bunker was made by telephone. A note of this conversation was made. Mr Bunker recalled the incident and stated that he did not say “I have never seen anything like it”. He stated that he may have said something to the effect that Councillor Mawer

³¹ Mrs Weiser’s Interview transcript	Pages 50-51
³² Mrs Metrovich’s letter to Chairman dated 03/02/07	Page 4
³³ Mrs Weiser’s Interview transcript	Page 52
³⁴ Mr Clements transcript	Page 59
³⁵ Mr Clements transcript	Page 59
³⁶ Letter from Mrs Metrovich dated 15 October 2007	Page 90

was arrogant. Having been sent a draft statement for completion, Mr Bunker by letter stated that his “recollection is now somewhat clouded by the mists of time”. He went on to state “the females began the altercation and the local councillor responded in all good faith to their demonstration of irk”. He went on to state “The females found the councillor’s manner mildly officious but no doubt he was frustrated by their voliferous [sic] manner. At no time was anyone aggressive or threatening [sic].”³⁷

Councillor Mawers evidence

- 8.17 Councillor Mawer gave evidence that he attended the ground to confirm the position of the goal posts. He stated that he did not have a map or anything else with him. He stated that Mrs Metrovich and the 2 contractors were at the ground when he arrived and that he went over to Mrs Metrovich, shook her hand and said “Good morning”.
- 8.18 He stated that he spoke to the contractors and paced out the line where the posts were to go. He stated that there was some discussion with them as he thought the posts were to go further back. He said that Mrs Metrovich started to talk to him as he paced out the position and was “quite confrontational and said, “it is not that end that we was led to believe” ”.³⁸
- 8.19 He was discussing the field of play and pointing out the direction of this in relation to the play area. He said that he did not recall what he actually said but that he was explaining the field of play and that the posts were going where the children had always played football. He recalled Mrs Metrovich being 2-3 meters from him, “over his left shoulder”.³⁹
- 8.20 He stated that Mrs Weiser joined them 2-3 minutes after he had arrived and that she joined in the conversation after Councillor Mawer had indicated where the posts were to go. He said that “it got so aggressive I put my hands up and said “let me try and explain” I made a futile attempt to explain, but they didn’t seem to want to listen and I guess the conversation was pretty robust by then”. Councillor Mawer said that he was “sort of facing the two ladies” when he raised his hands. He denied saying shut up and stated “ I wouldn’t tell her to shut up. I simply wouldn’t do it. I would not say shut up, I might have said “please be quiet, let me try an explain” , but I certainly wouldn’t have said shut up.”
- 8.21 Councillor Mawer stated that he said “I am representing the Parish Council, I am carrying out the wishes of the Parish Council” and denied that he said “ I am the Parish Council”, stating that “ I wouldn’t be as bombastic as to say that”. He did not consider himself to have been annoyed but did think he may have spoken loudly.⁴⁰
- 8.22 He stated that Mrs Metrovich and Mrs Weiser left the ground before him.⁴¹

³⁷ Letter from Mr Andy Bunker dated 30 October 2007

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³⁸ Councillor Mawer’s Interview transcript

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³⁹ Councillor Mawer’s Interview transcript

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⁴⁰ Councillor Mawer’s Interview transcript

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⁴¹ Councillor Mawer’s Interview transcript

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9. Considerations

- 9.1 The evidence must be considered on the balance of probabilities to determine whether Councillor Mawer's behaviour towards Mrs Metrovich was disrespectful. An assessment must be made as to whether his behaviour towards Mrs Metrovich was unfair, unreasonable or demeaning or amounted to bullying.
- 9.2 In fulfilling the role of a Parish Councillor, regard must be had to the Principles of Public Life, including those of leadership and selflessness. In this regard it is clear that the standards expected of a Councillor acting in their official capacity are higher than those of the public. The circumstances of an incident must be considered in assessing the reasonableness or otherwise of an individuals behaviour.
- 9.3 It is important to consider that this was an isolated incident and that there has been no suggestion of a history of disrespectful behaviour. It is also important to remember that this incident happened in public. A single incident may be of such a nature that it is objectively considered to be unfair, unreasonable, demeaning or bullying.
- 9.4 In considering the evidence, to reach a finding of fact on the allegations it is necessary to balance the consistencies and inconsistencies in the available evidence.

10. Consistencies

- 10.1 It is agreed by all the witnesses that the location of the goal posts was in issue. Councillor Mawer and Derek Clements agreed the location. Mrs Metrovich and Mrs Weiser agreed where they thought the posts were to go and this differed from the opinion of Councillor Mawer and Derek Clements.
- 10.2 It is agreed that there was an exchange of views on the siting of the posts, primarily between Councillor Mawer and Mrs Metrovich. It is agreed that Councillor Mawer used his hands to indicate where the posts were to go. It is agreed that the exchange of views became repetitive and that there was some mutual feeling which could be described as frustration or annoyance. It is agreed that Councillor Mawer raised his hands with his palms open and that this signified a desire to bring the matter to an end.
- 10.3 Councillor Mawer, Mr Clements, Mrs Metrovich and Mrs Weiser refer to Councillor Mawer saying "I am the Parish Council". Councillor Mawer and Mr Clements recall this being said as part of sentences, Mrs Metrovich and Mrs Weiser recall it being a statement of personal identity.
- 10.4 Councillor Mawer's written statement of the incident dated 8 February 2007, is consistent with the version he recounted in interview.⁴²

11. Inconsistencies

- 11.1 Mrs Metrovich's letter of 3 February 2007 details where she had the impression the posts were to go after the January meeting. She does not

⁴² Note of incident by Councillor Mawer dated 8 February 2007

describe this as being “alongside” the main pitch but she does use this word in her interview.

- 11.2 Mrs Metrovich’s 3 accounts of the incident are materially different in respect of Councillor Mawer’s behaviour on arrival, who he spoke to first and whether he spoke to the contractors or not before he raised his hands for the second time and said “shut up”. In addition, there is a question as to how he raised both his hands palm flat if he held a map in one of them.
- 11.3 Mrs Metrovich’s account and that of Mrs Weiser are not consistent as to which one of them left the ground and which one remained before the arrival of Councillor Mawer. Mrs Weiser and Councillor Mawer recalled that Mrs Weiser was not at the ground when Councillor Mawer arrived. Mrs Metrovich recalls Mrs Weiser being there when she returned from making her phone call.
- 11.4 In addition, Mrs Metrovich related in interview that she left the ground before Councillor Mawer. Mrs Weiser stated that Councillor Mawer left the ground before anyone else. Councillor Mawer recalls both ladies leaving the ground before him.
- 11.5 In Mrs Weiser’s letter of 12 February 2007, she described where she believed the posts were to be placed and referenced the minutes of the meeting of 8 January 2007. She did not refer to these minutes being inaccurate.⁴³ In interview Mrs Weiser was very clear about the word “alongside” being used at the meeting of 8 January 2007 and that the minutes were inaccurate. At the interview Mrs Weiser produced an additional statement, undated, which referred to the meeting of the 8 January 2007 including use of the word “alongside” and stated that the minutes were inaccurate.⁴⁴
- 11.6 Mrs Weiser’s evidence is inconsistent in that her letter states that Councillor Mawer refused to engage in any conversation and yet in her interview account she related how he responded to Mrs Metrovich and her.
- 11.7 There is a discrepancy between the evidence of Mrs Weiser and Mrs Metrovich as to the distance each estimated Councillor Mawer to be from Mrs Metrovich when he raised his hand, which I consider to be material. Derek Clement’s and Councillor Mawer’s recollection of the distance agrees with that of Mrs Weiser, as being 2-3 metres. Mrs Metrovich’s complaint alleged his hands were in [her] face and in her interview she repeated this. She stated that he was around 1 metre away from her.⁴⁵
- 11.8 Mrs Weiser does not describe Councillor Mawer’s behaviour as being aggressive or wild. She stated that Councillor Mawer did not make eye contact the whole time. She stated that Mrs Metrovich was annoyed but not rude during the exchange. She stated that voices were “getting raised”.⁴⁶
- 11.9 Mr Clements evidence is materially different from that of Mrs Metrovich and Mrs Weiser’s in that he does not relate any aggressive or disrespectful behaviour. He relates that Councillor Mawer did listen to the views being put

⁴³ Mrs Weiser’s letter dated 12/02/07

Pages 6-7

⁴⁴ Mrs Weiser’s additional statement

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⁴⁵ Mrs Metrovich’s Interview transcript

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⁴⁶ Mrs Weiser’s Interview transcript

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to him and that he responded in a polite manner. His account relates that the exchange did become repetitive and suggests that this may have become heated. His recollection of the words used by Councillor Mawer is the same in general terms as that of Mrs Metrovich and Mrs Weiser but he denies the specific use of the terms "I am the Parish Council" and "Shut up". Mr Bunker stated that Councillor Mawer "responded in all good faith" to Mrs Metrovich and Mrs Weiser. He also stated that "no one was aggressive or threatening".

- 11.10 Mr Clement denies that he or his colleague made any comment on the incident after Councillor Mawer left the ground. Mr Bunker stated that he did not say he had never seen anything like it but may have commented that Councillor Mawer was arrogant. He also stated that Councillor Mawer did not say "Shut up".⁴⁷
- 11.11 Councillor Mawer's account differs from that of the other witnesses in that no one else relates him shaking Mrs Metrovich's hand. He does not recall having a map or plan with him or holding one when he was at the ground.⁴⁸

12. Findings

- 12.1 On balance, considering the variations in the accounts given, I am of the opinion that Councillor Mawer did not arrive as alleged, shouting and raising his hands to Mrs Metrovich's face. The interview evidence from Mrs Metrovich, Mrs Weiser, Councillor Mawer and that of Mr Clements does not support this element of the allegation.
- 12.2 The weight of the evidence supports the view that this was a relatively heated though brief incident in which voices probably became raised. It does not support a conclusion that there was shouting.
- 12.3 It is clear that Mrs Metrovich and Mrs Weiser felt disappointed that the location of the posts did not meet their expectations. As a result it is clear that they felt at least annoyed by the incident before Councillor Mawer arrived.
- 12.4 All witnesses agree in their interviews that Councillor Mawer spoke to the contractors before the exchange of views with Mrs Metrovich. This directly contradicts the original allegation. The weight of the evidence supports the view that Mrs Weiser was not standing with Mrs Metrovich at the time of the initial exchange.
- 12.5 The evidence shows that Councillor Mawer responded to the views of Mrs Metrovich and that he did seek to explain where the Parish Council had agreed the posts were to go. The evidence from all the witnesses shows that there was an exchange of contradictory views.
- 12.6 I consider it likely that Councillor Mawer stated "I am the Parish Council representative" as part of his explanation of the agreed decision on the position of the posts and the fact that this was to be stuck to. The evidence of all the witnesses shows that Mrs Metrovich and Mrs Weiser considered themselves to be right and I believe that this led them to feel that Councillor Mawer would not engage in conversation. However, the evidence of all

⁴⁷ Note of telephone conversation with Mr Andy Bunker

⁴⁸ Councillor Mawer's Interview transcript

witnesses shows that there were repeated exchanges of the contrary views, hence it is not factually sustainable to allege he would not engage in any conversation. It is understandable if Mrs Weiser and Mrs Metrovich felt they were not listened to but this must be seen as a subjective view point.

- 12.7 All the evidence given suggests that Councillor Mawer raised his hands in a halting gesture. The weight of the evidence supports the view that he was some 2-3 metres from Mrs Metrovich when he did so. It is clear from the evidence that Councillor Mawer was raising his arms and using his hands to indicate where the posts were to go. Councillor Mawer does not recall having a map or plan with him, but the other three witnesses do. On balance I consider it likely that he did have a map or plan in his hand at some point in the exchange and this leads to a query as to how he could have raised both hands with palms flat, as was indicated by both Mrs Metrovich and Mrs Weiser. I consider it likely that he indicated toward himself as well as to the location for the posts and toward Mrs Metrovich.
- 12.8 During interview Councillor Mawer tended to keep his head down. This supports Mrs Weiser's observation that he failed to make eye contact. Considering this behaviour and the fact that Councillor Mawer was using his hands whilst making his point, I consider it to be likely that his gesturing to halt was reflecting his desire to bring the exchange to an end as there was no room for a change in the Council's decision. I do not think the evidence shows this was a gesture of aggression or that it was close to or directed at Mrs Metrovich, much less close to her face. On balance then I do not consider this to be supporting the allegation that he raised his hands to Mrs Metrovich's face.
- 12.9 The final element of the allegation relates to whether Councillor Mawer told Mrs Metrovich to "shut up". Both Mrs Metrovich and Mrs Weiser were clear that this was said. Councillor Mawer denies this. Mr Clements and Mr Bunker do not recall this being said. On balance, considering the variations in other elements of the evidence I do not consider that the probability is high enough to prove that this was said. There is at least an element of doubt as to this having been said.
- 12.10 Mrs Metrovich was clearly upset by the exchange. She states she "does not sort of mess about, but if I think I am right I will keep on until I prove that I am right".⁴⁹ Mr Clements stated that the women "gave as good as they got"⁵⁰ and Mr Bunker stated that "the ladies started the altercation and that they were voliferous. Councillor Mawer found the exchange "confrontational". Councillor Mawer appeared shaken and drained by the allegation.
- 12.11 In interview Mrs Metrovich stated that if Councillor Mawer was prepared to apologise she would forget the incident.⁵¹ She had said this to the Chairman of the Council. Councillor Mawer denied being aware of any request for an apology and went on to say that he didn't feel he had done anything wrong so he would not have considered doing so. Councillor Mawer felt he was on the receiving end of aggressive behaviour.

⁴⁹ Mrs Metrovich's interview transcript

⁵⁰ Mr Clement interview transcript

⁵¹ Mrs Metrovich's Interview transcript

13. Conclusion

- 13.1 Having balanced the evidence available I conclude that Councillor Mawer sought to deal with a difficult situation in a calm manner. I believe the evidence shows that he attempted to treat Mrs Metrovich with respect. I conclude that the repetitious nature of the exchange and the fact that voices were raised meant that Councillor Mawer was coming under pressure but that an objective assessment of the established facts makes it reasonable to conclude that he maintained his composure relative to the situation.
- 13.2 Having considered and weighed the evidence, I do not consider it possible to find an allegation that Councillor Mawer failed to treat Mrs Metrovich with respect proven. I do not consider his behaviour to have been unfair or demeaning. I consider the balance of evidence shows that, under pressure, he acted reasonably in a difficult situation. I do not consider the evidence supports a finding of bullying behaviour. I therefore do not find paragraph 2(b) of the Code of Conduct breached.
- 13.3 It is clear that Councillor Mawer was acting in his capacity as a Parish Councillor. There could then be a finding that he had brought his office or authority in to disrepute. However, as there is insufficiently reliable evidence to prove that he failed to treat Mrs Metrovich with respect, I do not consider it possible to consider whether he brought his office or authority in to disrepute. I do not find paragraph 4 of the Code of Conduct breached.

This is my final report having considered all the available evidence and any subsequent representations made to me on the findings of fact.

14. Recommendations

- 14.1 I recommend that the findings of this investigation are noted and endorsed.
- 14.2 I do not recommend that there is a hearing into this matter.
- 14.3 I recommend that the Committee consider:
1. recommending to St Ippolyts Parish Council that written records of meetings and the minutes be kept for a period of 6 years.
 2. that the Council ensures that draft minutes are available with the agenda for meetings and minutes are publicly available within 5 days of being approved.
 3. that the full detail of Council decisions is minuted with relevant documents being referenced and kept for 6 years.