

For immediate release

Two Edinburgh Councillors found not to have breached the Councillor’s Code of Conduct

The Standards Commission for Scotland, at a hearing held in Edinburgh on 17 & 19 May and 8 June 2017 determined that Councillor Cameron Rose and former Councillor Jeremy Balfour of Edinburgh Council had not breached the Councillors’ Code of Conduct.

The Hearing Panel found that the Councillors had been discourteous and disrespectful by publicly identifying five Council officials at a meeting of Edinburgh Council’s Governance, Risk and Best Value Committee in the context of a discussion about accountability for alleged failings in the management of the Cameron House Community Centre building project. Although the names were disclosed without either Councillor making any critical comment, a clear inference could be drawn from the reading out of the names that those staff may have had some responsibility for any failures in respect of the Council’s management of the project.

However, the Hearing Panel also found that the Councillors had legitimate grounds for concern about the project and for taking the view that the Council Committee would not commission further reports without being convinced there were still officials employed by the Council who could assist with inquiries. The rationale of identifying staff was done for that purpose.

In the particular circumstances of this case, the Hearing Panel took the view that, as local politicians taking part in a discussion on matter of public concern, the Councillors should be afforded the enhanced protection of freedom of expression under Article 10 of the European Convention on Human Rights. The Panel also found that the Councillors’ right to this enhanced protection when performing their scrutiny role in an open and transparent way was not outweighed by the benefit of protecting officers from the potential inference that they had been involved in any of the alleged failings.

The Hearing Panel concluded that whilst it was regrettable that the five officers were named, this did not constitute a breach of the Councillors’ Code of Conduct in light of the application of the enhanced protection enjoyed by Councillor Rose and Mr Balfour to the right to freedom of expression.

The Panel Chair, Mr. Kevin Dunion, said:

“The Hearing Panel found the balancing exercise it had to undertake difficult in this case. On the one hand, the Councillors Code of Conduct is intended to prevent discourtesy and disrespect such as comment about the capability and performance of officials. On the other, Councillors are entitled to enhanced protection to freedom of expression, especially as in the case when pursuing a legitimate political aim and discussing matters of public concern. Having given careful consideration to the particular facts and specific circumstances of the case, we determined the restriction involved in the finding of a breach and the imposition of sanction was not justified.”

For further information contact the Standards Commission on 0131 348 6666 or by email to enquiries@standardscommission.org.uk

Note for editors:

(1) It should be noted that complaints in terms of the Councillors' Code are made to the Commissioner for Ethical Standards in Public Life in Scotland (CESPLS). It is for the CESPLS to investigate and determine if any matter should be referred to the Standards Commission for Scotland as alleged breach of the Councillors' Code. It is for the Standards Commission for Scotland to determine if there has been a breach and if so proven, to issue an appropriate sanction.

(2) The Hearing Panel concluded that neither Respondent had breached paragraphs 3.3, 3.5 and paragraph 20 of Annex C of the Councillors' Code of Conduct as alleged.

(3) The Hearing panel is comprised of 3 members of the Standards Commission. The Chair of this Panel was Mr Kevin Dunion, OBE, who is Convenor of the Standards Commission for Scotland.