



11 July 2019

MEDIA RELEASE

MIDLOTHIAN COUNCILLOR CENSURED FOR BREACH OF THE COUNCILLORS' CODE OF CONDUCT

A Midlothian councillor, Colin Cassidy, was censured by the Standards Commission at a public Hearing held in Dalkeith on 10 July 2019 for failing to comply with the Councillors' Code of Conduct at a meeting of Midlothian Council's Planning Committee on 3 April 2018 when a planning application by Dalkeith Lawn Tennis Club for the erection of screen netting was being considered. Objections to the application had been made by the owners of an adjacent house on the grounds that the netting would reduce the light to their property.

Cllr Cassidy remained in the room and took part in the decision-making on the proposal, despite in the past having been a member of the tennis club and on its Committee; having undertaken work for the club in terms of renewing the fencing; having lent equipment to the club; still having friend who were members of it; and having been to the objectors' property to move blaise material at the request of the club. The Panel also heard that Cllr Cassidy had previously put up and taken down the netting between the club and the objectors' property, and had also got to know the objectors while undertaking the work to move the blaise and also through joint membership of various community groups.

Prof Kevin Dunion, Chair of the Hearing Panel, said: "It is essential for the public to have confidence that councillors are making planning decisions objectively and in the public interest. The public must have confidence that councillors are not likely to be influenced by any significant association or relationship they may have with the parties.

"The test is not whether the Councillor believes he will not be influenced by such relationships. The key consideration is one of public perception, and in this case whether a member of the public, with knowledge of the relevant facts, would reasonably conclude that Cllr Cassidy's relationship both with the Tennis Club and the objectors could be sufficiently significant as to affect his discussion or decision-making of the planning application.

"The requirement to consider how any interests may reasonably be perceived by members of the public is a fundamental part of the Councillors' Code of Conduct.

"The public must be satisfied that councillors are considering any planning application on its individual merits, and that there is no question of any unfairness or bias towards any party."

The Panel noted the Code provides that councillors must declare any non-financial interests and are obliged to withdraw from the meeting in question if an interest in any item being debated was clear and substantial. In making such an assessment, councillors must comply with the 'objective test' and consider whether a member of the public, with knowledge of the relevant facts, would reasonably conclude that the councillor's interest could be sufficiently significant as to affect his or her discussion or decision-making.

The Panel accepted that Dalkeith was a small community, which meant that it was inevitable that Cllr Cassidy would know people and attend the same events. The Panel considered, however, that having taken Cllr Cassidy's relationship with both the tennis club and the objectors into account, that a member of the public, with knowledge of these relevant facts could reasonably have concluded that he had an interest in the matter before the Planning Committee that was sufficiently significant as being likely to affect his discussion or decision-making.

The Panel was not satisfied, therefore, that Cllr Cassidy had complied with the objective test under paragraph 5.3 of the Code and that he had given it sufficient consideration. It concluded that Cllr Cassidy's failure to do so amounted to a breach of the Code and censured him.

The full written decisions in respect of the Hearing will be issued and published on the Standards Commission's website within 14 days.

The Code of Conduct is based around nine key principles, including, integrity, honesty and respect.

The Standards Commission for Scotland is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies.

The public bodies include colleges, National Health Service boards and regional bodies, such as the Highlands and Islands Enterprise.

It also covers national organisations like the Scottish Qualification Authority, Sport Scotland and Scottish Water, among many others.

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