



5 October 2021

MEDIA RELEASE

ABERDEEN CITY COUNCILLORS CLEARED OF BREACH OF CODE OF CONDUCT

Two Aberdeen City Councillors, Steve Delaney and Ian Yuill, were cleared by the Standards Commission, in respect of a complaint that they had fallen foul of the Councillors' Code of Conduct in relation to comments they made about another councillor at a Council budget meeting on 10 March 2021.

Mrs Tricia Stewart, Standards Commission Member and Chair of the Hearing Panel, said: "The Panel considered that the remarks of Councillors Delaney and Yuill fell short of the behaviour expected under the Councillors' Code of Conduct. However, when we considered their right to freedom of expression under Article 10 of the European Convention on Human Rights, we concluded that the finding of a breach and imposing a sanction was not justified."

At the online Hearing on 5 October 2021, the Commission's Hearing Panel heard that it was not in dispute that at the council meeting, which was livestreamed via a webcast, Cllr Delaney referred to the complainer, Cllr Alan Donnelly, as the "resident sex offender" and suggested that "maybe it is time he realises what everyone else is saying and goes now." At the same meeting, Cllr Yuill referred to the complainer as a "convicted sex offender" and further stated that his presence was unwelcome.

The Panel noted that it was not in dispute that the complainer had been convicted of sexual assault at Aberdeen Sheriff Court on 13 December 2019. The complainer had subsequently been suspended for 12 months by the Standards Commission.

The Panel noted that the complainer's suspension had expired by the time of the events in question. While the Panel accepted that the complainer had been convicted of a sexual offence, it concluded that remarks to the effect that he was unwelcome at the meeting, or as a councillor, would have made him feel uncomfortable at work and offended. As such, the Panel was satisfied that the conduct of Councillors Delaney and Yuill amounted, on the face of it, to a contravention of the requirement in the Code for councillors to treat each other with respect.

The Panel noted, however, that Councillors Delaney's and Yuill's remarks concerned matters of public interest, namely whether the contribution of a councillor who had been convicted of a sexual offence was welcome and whether that councillor should resign. In such circumstances, the Panel considered that both Councillors Delaney and Yuill would attract the enhanced protection of freedom of expression afforded to politicians, including local politicians, under Article 10 of the European Convention on Human Rights.

The Panel noted that the Courts have held that politicians are subject to wider levels of acceptable criticism than officers or members of the public when matters of public concern were being discussed.

The Panel further noted that the Courts have held that the less egregious the conduct in question, the harder it would be for a Panel to conclude that a restriction on an individual's right to freedom of expression was justified.

The Panel determined that the conduct of Councillors Delaney and Yuill, in making comments to the effect that the complainer, as someone who had been convicted of a sexual offence and was not welcome / should resign, was not sufficiently gratuitous as to justify a restriction on their right to freedom of expression. As such the Panel concluded that a breach of the Code could not be found.

Mrs Stewart said: "The Panel wants to emphasise that the requirement for councillors to behave in a respectful manner towards each other is a fundamental requirement of the Code of Conduct, as it ensures a minimum standard of debate. We believe that a failure to reach this standard has the potential to undermine the reputation of a Council and public confidence in elected members."

A full written decision of the Hearing will be issued and published on the Standards Commission's website within 7 days.

ENDS

Issued on behalf of the Standards Commission for Scotland. For further information please contact Giselle.dye@pagodapr.com or barbara.fraser@pagodapr.com or phone **0131 556 0770**

NOTES FOR EDITORS

1. Complaints about councillors, including that they have been convicted of a criminal offence, are made to the Ethical Standards Commissioner (ESC). The Standards Commission and ESC are separate and independent, each with distinct functions. The ESC is responsible for investigating complaints. Following investigation, the ESC will refer its report to the Standards Commission for Scotland for adjudication. Email: info@ethicalstandards.org.uk, <https://www.ethicalstandards.org.uk/>
Tel: 0300 011 0550
2. 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 including in education, environment, health, culture, transport, and justice. The role of the Standards Commission is to encourage high ethical standards in public life; promote and enforce the Codes of Conduct; issue guidance to councils and devolved public bodies and adjudicate on alleged breaches of the Codes of Conduct, applying sanctions where a breach is found.
3. The [Codes of Conduct](#) outline the standards of conduct expected of councillors and members of devolved public bodies. In local authorities, there is one Code of Conduct, approved by Scottish Parliament, which applies to all 1227 councillors elected to Scotland's 32 Local Authorities.
4. A copy of the Standards Commission's Decision in the case about the complainer can be found at: www.standardscommissionscotland.org.uk/cases/details-of-alleged-breach.