



6 December 2021

MEDIA RELEASE

ABERDEEN CITY COUNCILLOR CLEARED OF BREACH OF CODE OF CONDUCT

Aberdeen City Councillor, Alison Alphonse, was cleared by the Standards Commission at a Hearing held in respect of a complaint that she had breached the Councillors' Code of Conduct in relation to a visit she made to a constituent in February 2021.

Ashleigh Dunn, Standards Commission Member and Chair of the Hearing Panel, said:
"The Panel found that Cllr Alphonse had been unnecessarily confrontational and accusatory towards the constituent. The Panel considered that having decided to attend the property, Cllr Alphonse should have been more conciliatory and empathetic and should have chosen her wording more carefully. However, the Panel accepted that Cllr Alphonse was trying to resolve a difficult situation involving a matter of public concern and, having considered her enhanced right as a politician to freedom of expression under Article 10 of the European Convention on Human Rights, we concluded that a finding of a breach and imposition of a sanction was not justified in the circumstances."

At the online Hearing on 6 December 2021, the Commission's Hearing Panel heard that it was not in dispute that Cllr Alphonse made an unannounced visit to a constituent's property on 26 February 2021, during the Covid-19 pandemic, in respect of a neighbourhood dispute that had been ongoing for over a year.

The Panel heard evidence from a senior council officer to the effect that while it was not uncommon for councillors to visit constituents, such visits were usually arranged in advance. The Panel was of the view that an unexpected and unannounced visit could have caused some anxiety, and that it would have been reasonable for the constituent to have perceived Cllr Alphonse, as an elected member, to be in a position of power or influence. The Panel acknowledged the constituent's evidence that the visit caused him anxiety and upset.

Having listened to an audio recording made of the meeting, the Panel determined that while it may not have been Cllr Alphonse's intention, some of the comments made to the constituent were accusatory and confrontational. The Panel was of the view that Cllr Alphonse should have been more careful in her choice of words, given her position of authority and responsibility. As such, the Panel was satisfied, on balance, that when considered as a whole, Cllr Alphonse's conduct amounted, on the face of it, to a contravention of the requirement under paragraph 3.2 of the Code for councillors to treat members of the public with courtesy and respect.

The Panel noted, however, that Cllr Alphonse's remarks had been made in context of her visiting a constituent to discuss another constituent's concerns about a neighbourhood dispute that involved council land and the use of CCTV, and that the matter in question was

already the subject of engagement by the police, council services and at least four separate households. In the circumstances, the Panel considered that Cllr Alphonse would attract the enhanced protection of freedom of expression afforded to politicians, under Article 10 of the European Convention on Human Rights, when they are discussing matters of public concern.

The Panel further noted that the Courts have held that the less extreme 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. This was particularly the case if the individual was entitled to enhanced protection.

The Panel determined that the Respondent's conduct was not sufficiently offensive or gratuitous as to justify a restriction on her right to freedom of expression. As such, the Panel concluded that a breach of the Code could not be found.

Ms Dunn stated that:

"The Panel would wish to emphasise that the requirement for councillors to behave in a respectful and courteous manner towards members of the public is a fundamental requirement of the Code, as it protects the public and also ensures public confidence in the role of an elected member and the council itself not undermined."

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

ENDS

NOTES FOR EDITORS

1. Complaints about councillors 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](https://www.ethicalstandards.org.uk/) 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.