



27 May 2024

MEDIA RELEASE

FORMER MEMBER OF CAIRNGORMS NATIONAL PARK AUTHORITY FOUND TO HAVE BREACHED CODE OF CONDUCT

At a Hearing held online on 27 May 2024, Deirdre Falconer, a former member of Cairngorms National Park Authority was found by a Hearing Panel of the Standards Commission to have breached the Cairngorms Park Authority Members' Code of Conduct.

Suzanne Vestri, Standards Commission Convener and Chair of the Hearing Panel, said: "The Panel found that Ms Falconer failed to declare an interest at a planning meeting of the Park Authority on 10 December 2021, when applications for planning permission to build two self-catering units and access roads on an estate were being considered. Instead, Ms Falconer took part in the discussion and decision-making."

The Panel found that Ms Falconer had a connection to the applications being discussed, as she lived near the estate in question and, further, was employed as a manager of a hospitality business on a nearby estate.

The Panel accepted that Ms Falconer's employer may not necessarily have been a direct competitor of the applicant business, in terms of price and the standard of accommodation to be offered. The Panel nevertheless considered that, having applied the objective test under the Code, Ms Falconer should have reached the view that her employment at a nearby hospitality business, which also offered self-catering options within the National Park area, would be reasonably regarded by members of the public with knowledge of the relevant facts as being so significant to the applications being considered at the meeting, that it would be regarded as being likely to prejudice her potential discussion and decision-making. The Panel agreed, therefore, that Ms Falconer should have declared an interest and withdrawn from the meeting while the applications were being discussed.

Ms Falconer was also found, on the face of it, to have breached the respect provisions in the Code in respect of a remark she made about a senior employee of the Park Authority at a board meeting on 25 November 2022.

The Panel found that Ms Falconer's remark impliedly, and publicly, accused the employee of bullying and intimidating Members of the Park Authority in providing them with advice about when they may need to declare interests. The Panel agreed that the making of such an accusation about the conduct of the employee was serious and could have been damaging, not only to his reputation as an individual, but also to the Park Authority itself. The Panel noted that, in terms of the ethical standards framework, the employee in question was

expected to provide members with advice about compliance with the Code. The Panel acknowledged he did so both to ensure that Members complied with its provisions, but also to ensure the propriety of decisions made by the public body and to mitigate the risk of these being challenged.

The Panel was of the view, nevertheless, that while the Respondent's remark was emotive and unjustified, it did not consider that it was sufficiently offensive, personally abusive or shocking as to justify a restriction on her right to freedom of expression under Article 10 of the European Convention on Human Rights. In reaching this view, the Panel took account of the fact that the Respondent had withdrawn the remark at the meeting and had qualified it with the use of words "feels like" and "almost". As such, the Panel did not consider the Respondent's remark, in the particular circumstances of the case, was so excessive as to justify a restriction on her right to freedom of expression. The Panel concluded, therefore, that a formal finding of a breach of the Code could not be made.

Ms Vestri, stated: "The Codes of Conduct do not prevent Members of public bodies from being able to express their views or to ask questions and scrutinise the performance of their public body and its employees. The Standards Commission considers, however, that they should do so without making serious, unfounded allegations about employees, particularly if any such allegations have the potential to have a significantly detrimental impact on the reputation of the employees in question."

The Panel considered that a short suspension would normally be warranted to reflect the seriousness of the breach, to promote adherence to the Code and to maintain and improve the public's confidence that Members will comply with their Codes and will be held accountable if they fail to do so. The Panel noted, however, that as Ms Falconer was no longer a Member of the Park Authority, the option to suspend her was not available. In the circumstances, the Panel determined that a censure was the appropriate sanction.

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. Each designated devolved public body is obliged to have a Code of Conduct for their appointed Members, to reflect the functions and characteristics of the individual body. These individual Codes are approved by Scottish Ministers and adapted from a Model Code of Conduct approved by the Scottish Parliament.