

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held online on Thursday 17 July 2025.

Panel Members: Ms Suzanne Vestri, Chair of the Hearing Panel
Ms Helen Donaldson
Dr Lezley Stewart

The Hearing arose in respect of a report referred by Mr Ian Bruce, the Ethical Standards Commissioner (the ESC), further to complaint reference LA/An/4168, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Brian Boyd (the Respondent).

The ESC was represented at the Hearing by Mrs Angela Glen, Senior Investigating Officer. The Respondent represented himself at the Hearing.

REFERRAL

Following an investigation into complaints received on 9 July 2024 and 13 February 2025 about the conduct of the Respondent, the ESC referred a report to the Standards Commission on 14 April 2025, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The complaints alleged that the Respondent had failed to comply with the provisions of the Code and, in particular, that he had contravened paragraphs 3.1 and 3.3, which are as follows:

Respect and Courtesy

3.1: I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am online and when I am using social media.

3.3: I will not engage in any conduct that could amount to bullying or harassment (which includes sexual harassment). I accept that such conduct is completely unacceptable and will be considered to be a breach of this Code.

EVIDENCE PRESENTED AT THE HEARING

Joint Statement of Facts

The Panel noted that the complaint concerned the Respondent's conduct towards another elected member, Councillor Lois Speed, at an in-person meeting of Angus Council on 20 June 2024.

The Panel noted that a joint statement of facts had been agreed between the ESC and the Respondent. This recorded that it was not in dispute that:

- a) At the time of the events giving rise to the complaint, the Respondent was the Provost of Angus Council and was chairing the meeting in that capacity. As such, he was acting in his capacity as an elected member at the time of the alleged conduct.
- b) At approximately two and a half hours into the meeting, during the discussion of agenda item nine, the Respondent stood up and stated: "Councillor Speed, when I stand up, everyone here sits down". The Respondent then said, "I will read you out Standing Orders. Deference shall at all times be paid to the authority of the Convener. When the Convener starts to speak, any member who is standing will resume his or her seat. No other member will stand, and the Convener shall be heard without interruption. Have I made myself clear? Thank you".
- c) Councillor Speed stated, in response, that she was "very confused" and had been "building up" to asking a question about a consultation. When the Respondent replied to say she could ask her question, Councillor Speed instead left the Chamber.

- d) Two other elected members intervened after Councillor Speed did so, with one stating he considered what had happened was a “little bit unfair”. The other elected member said, “that is an absolute disgrace, Provost”. In response, the Respondent stated, “we have rules that have to be standard, and you should know that as a Deputy Provost”.
- e) The meeting was then adjourned for a short period. When it resumed, the Respondent stated, "as you can see it's been a very terse day, and I think this is the opportune moment for me to apologise to Councillor Speed for my overreaction. I'm a very dramatic person at the best of times and I did go over the score - I hope you accept my apology. I'll take some more questions and then if you are up to your question Lois, I would gladly take your question”.
- f) Councillor Speed advised, in response, that her point had now been addressed.
- g) While the meeting was not broadcast live, a webcast recording was made, which was later made publicly available via the Council's website.
- h) The Respondent stood aside from his role as Provost on 9 July 2024.

Preliminary Matters

The Panel confirmed it had watched the relevant parts of the webcast of the meeting held on 20 June 2024. These were also shown at the Hearing. The Panel considered that, in addition to the interaction and apology detailed at points b) and e) above, the following further parts of the meeting were relevant:

- An interaction between the Respondent and Councillor Speed approximately forty minutes into the meeting, during a discussion on agenda item six. The Respondent, having taken advice from the Council's Director of Finance, advised Councillor Speed that a motion she had made was not competent, as it related to an operational matter. Councillor Speed then asked for a point of clarification, which the Respondent refused.
- A further apology proffered by the Respondent in the context of his seconding Councillor Speed's nomination to be on the Arbroath Town Board, approximately three hours and fifty minutes into the meeting.

Submissions made by the ESC's Representative

The ESC's representative advised that the Respondent was an elected member representing the Carnoustie and District Ward of Angus Council and, until 9 July 2024, had been its Provost.

The ESC's representative advised that complaints about the Respondent's conduct at the meeting were received from two members of the public. One of the members of the public considered the Respondent had behaved in a bullying, belittling and threatening manner towards Councillor Speed when she attempted to raise a motion concerning a contentious Council decision. The member of the public suggested the Respondent would not have behaved in such a manner towards a male colleague. The second member of the public alleged that it was evident the Respondent had lost his temper and had berated and bullied Councillor Speed to the extent that she had been forced to leave the meeting.

The ESC's representative acknowledged that, as chair of the meeting, the Respondent had authority, which included the authority to refer to the Council's Standing Orders. The ESC's representative contended however, that such authority must be exercised appropriately and fairly, and in accordance with the principle of respectful engagement.

The ESC's representative noted that, when Councillor Speed tried to speak when agenda item nine was being considered, the Respondent stood up and read aloud from the Standing Orders. The ESC's representative suggested that the manner in which he did so could be perceived as being pointed and confrontational. The ESC's representative noted, in support of this, that the Respondent identified Councillor Speed twice and was visibly annoyed. The ESC's representative contended that his actions were not commensurate with his duty, as its chair, to ensure the proper and fair conduct of the meeting.

The ESC's representative suggested that it was evident that Councillor Speed was left visibly distressed and upset, was unable to proceed to ask her question and left the meeting as a result of the Respondent's conduct. The ESC's representative noted that after concerns were expressed by other elected members in attendance, the meeting was adjourned for some 20 minutes.

The ESC's representative noted that councillors should always be mindful as to how their behaviour could be perceived. The ESC's representative contended, in this case, that the fact other elected members had immediately expressed concerns, indicated the Respondent's conduct was both serious and inappropriate.

The ESC's representative argued that, as the meeting chair, the Respondent was in a position of influence and should have taken particular care to lead by example. The ESC's representative contended that, in failing to do so, the Respondent had been disrespectful towards Councillor Speed, in breach of paragraph 3.1 of the Code.

The ESC's representative accepted that it would have been reasonable for Councillor Speed to have found the Respondent's conduct to be confusing and overwhelming, given she had not been disruptive and had not been given any warning about a potential breach of the Standing Orders. The ESC's representative suggested, instead, that it was evident from the webcast that the Respondent and Councillor Speed had interacted in a friendly and professional manner earlier in the meeting.

The ESC's representative noted, nevertheless, that Councillor Speed had been able to return to, and participate in, the meeting following the adjournment. The ESC's representative noted this included contributing to the discussion on another report and thanking another elected member for nominating her to the Arbroath Town Board.

The ESC's representative further noted that there was no evidence of the Respondent engaging in any pattern of hostile or intimidating behaviour towards Councillor Speed, either before or after the interaction in question. The ESC's representative acknowledged the Respondent had also apologised publicly after the adjournment and again later, when Councillor Speed's nomination to the Arbroath Town Board was being discussed. The ESC's representative advised that she understood the Respondent approached Councillor Speed again, after the meeting, to repeat his apology.

The ESC's representative contended that the Respondent's prompt and repeated apologies were likely to have reduced the impact of his conduct and also demonstrated he understood he had upset Councillor Speed. The ESC's representative argued that while disrespectful, when the isolated nature of the Respondent's conduct was considered, along with the apologies he had proffered, it would not meet the threshold as to amount to a breach of the bullying and harassment provision at paragraph 3.3 of the Code.

The ESC's representative recognised that a formal finding of a breach of paragraph 3.1 of the Code would represent a restriction on the Respondent's right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR).

The ESC's representative argued that the Respondent would attract enhanced protection in respect of this right given that, at the time of the conduct in question, he was engaged, as an elected member, in discussing matters of public concern in a political forum.

The ESC's representative noted, however, that the right to freedom of expression is not absolute, and that a restriction can be imposed to:

- protect the rights and reputations of others; and
- ensure the standards of public debate did not fall below a minimum level as to bring the Council into disrepute.

In this case, the ESC's representative contended that the Respondent, as Provost and Chair of the meeting, had a "duty to exercise neutrality" and ensure the meeting was conducted in a balanced and fair manner. The ESC's representative argued that the manner in which he had stood, read aloud from the Standing Orders and addressed "an independent, female councillor" amounted to a public reprimand. The ESC's representative contended that this was humiliating and that it was reasonable for Councillor Speed to have felt as though she was being scolded in front of those present or watching the meeting on the webcast.

The ESC's representative argued that the Respondent's conduct could not be "characterised as legitimate expression" as, instead, it was an exercise of power by one councillor over another. The ESC's representative suggested a restriction on the Respondent's enhanced right to freedom of expression was justifiable in the circumstances, as he had targeted Councillor Speed and undermined "the principles" of:

- mutual respect;
- equal participation; and
- ensuring a safe environment for under-represented groups (including women) where they were encouraged to take part.

The ESC's representative further suggested the Respondent's conduct not only could have a chilling effect on Councillor Speed's participation in discussions at Council meetings but could also discourage engagement in public life, in general. While the ESC's representative accepted that the Respondent's reaction did not relate to Councillor Speed's sex, she contended nevertheless that it could have the effect of discouraging women from participating in politics. The ESC's representative argued that this, in turn, could undermine public trust and "erode inclusivity in decision-making".

The ESC's representative contended, in the circumstances, a restriction on the Respondent's right to freedom of expression, that a formal finding of a breach of the Code and imposition of a sanction would entail, was necessary, proportionate and justified.

When asked by the Panel whether a chair's role would include treating all attendees in a similar way, the ESC's representative advised she considered it would and that chairs should afford everyone the same amount of time to speak.

In response to a question from the Panel, the ESC's representative confirmed that the Respondent had not behaved in a similar manner towards anyone else at the meeting and had not made any other reference to the Standing Orders. The ESC's representative accepted that Councillor Speed provided some context before she asked the question that led to the Respondent's reaction, but advised she did not consider that it would be particularly unusual for a councillor to do so. The ESC's representative suggested that the Respondent appeared to have singled out Councillor Speed. In support of this contention, the ESC's representative acknowledged that a chair may decide to name an individual in order to get their attention, but noted the Respondent had repeated Councillor Speed's name despite it being evident that she was listening. The ESC's representative noted the Respondent also referenced the part in the Standing Orders that stated other councillors must remain in their seats when a chair was standing, despite the fact that Councillor Speed had remained seated while making her contributions, in respect of both items six and nine.

The Panel asked why, having suggested the Respondent's conduct could be characterised as a public reprimand and having noted it had a considerable impact on Councillor Speed, the ESC's representative did not consider it would meet the threshold for bullying and harassment. In response, the ESC's representative reiterated that it had been an isolated incident that appeared to have occurred in the heat of the moment, that the Respondent had promptly and publicly apologised, and that he had not made any personal comments.

The Panel asked whether it was reasonable to conclude that the incident that occurred when item nine was being discussed followed on from the interaction between the Respondent and Councillor Speed during item

six. In response, the ESC's representative advised she did not consider this was a reasonable conclusion as while the exchange during consideration of item six could be characterised as 'robust', it was evident the Respondent had sought advice from officers and explained to Councillor Speed why the point she was trying to make in respect of that item was not accepted.

The Panel questioned, in respect of whether a restriction on the Respondent's enhanced right to freedom of expression could be justified, why the ESC's representative considered women in particular would be deterred by his conduct. The ESC's representative stated, in response, it was because the Respondent's conduct had been directed towards Councillor Speed, who was a woman and, as such, had given the impression women would be targeted. The ESC's representative suggested research had demonstrated that women were more likely to be discouraged by disrespectful conduct. The ESC's representative argued that by publicly reprimanding Councillor Speed, the Respondent's conduct exceeded that which would be considered acceptable as part of the normal cut and thrust of a council meeting and, instead, had the potential to bring the Council into disrepute. The ESC's representative noted, in support of this, that media coverage of the meeting had characterised the Respondent's behaviour as aggressive and bullying in nature.

The ESC's representative accepted the Respondent did not direct any personal comments towards Councillor Speed. The ESC's representative argued, nevertheless, that a restriction on his right to freedom of expression was justified in order to protect her right not to be subjected to "offensive and abusive treatment" and to maintain minimum standards in public life. The ESC's representative further argued that a failure to apply a restriction would lead others to consider such conduct was acceptable. This in turn could have a chilling effect on democracy and could discourage individuals from unrepresented groups from engaging in politics or entering public life.

Submissions made by the Respondent

The Respondent advised that he accepted Councillor Speed was not standing when he read to her the verbatim excerpts of the Standing Orders. The Respondent explained that Councillor Speed usually sat directly in front of him, but that she had been on his right-hand side at the meeting on 20 June 2024 and, as such, he could not necessarily see or make eye contact with her straightaway. The Respondent suggested he may have behaved differently, had Councillor Speed been in her normal seat, as he would have been able to catch her eye immediately.

The Respondent accepted he had overreacted but explained he made a snap judgement under pressure in the context of what, at that stage, had already been a two and a half hour meeting. The Respondent advised that, as the then Provost and Chair of full Council meetings, he had to balance the need to allow questions with ensuring there was time for decisions to be made. The Respondent stated that he always tried to do so in a way that did not stifle debate. The Respondent contended he was usually very lenient with Councillor Speed when she made contributions and had never previously been disrespectful towards her.

The Respondent advised that all elected members present were fully aware, and he had made it perfectly clear that, in terms of the Standing Orders, they were to ask a question first, before making any comments. The Respondent advised that despite him having raised this requirement with Councillor Speed on several previous occasions (and having even joked with her about it), she had a tendency to start any question with a comment. The Respondent explained it was the fact that she had done so at the meeting in question that caused him to become so frustrated.

The Respondent further advised that his frustration was fuelled, precipitating his intervention, when Councillor Speed mentioned democracy in her comment on item nine. The Respondent advised he had considered this to be disrespectful as he understood it to be an accusation that he had not acted democratically earlier in the meeting. The respondent noted this was despite him having already provided a very comprehensive explanation as to why the motion Councillor Speed had tried to raise under item six was incompetent. The Respondent noted that, as Provost, and having sought advice from council officers, he had

been entitled to explain why the earlier motion had been dismissed. The Respondent explained that he had taken the requirement to behave impartially, as Provost, very seriously and as such he had felt offended by the suggestion that he had failed to behave in a democratic manner. The Respondent advised that he had taken this personally.

The Respondent advised that his intervention, which he accepted was an overreaction, was the result of him being both frustrated and stressed, rather than angry. The Respondent accepted that two other elected members present at the meeting intervened and raised concerns about his intervention. The Respondent noted, however, that they had previously formed part of the Administration along with Councillor Speed and that no other attendee appeared to consider his conduct to be so bad as to require them to say anything. The Respondent reiterated that he was only trying to undertake his role, as its Chair, in trying to ensure the meeting was conducted effectively.

The Respondent advised he agreed with the ESC's representative's position that he had not bullied, attacked or harassed Councillor Speed and had not made or directed any personal or offensive comments towards her.

The Panel asked whether, with hindsight, the Respondent would have handled the situation differently. In response, the Respondent advised the last thing he would have wanted was for his behaviour to cause anyone, regardless of their gender any upset. The Respondent advised that, as the first openly gay Provost of Angus Council, he was very much in favour of equality, and very much against bullying in any form.

The Panel noted that the fact the Respondent had the Standing Orders to hand, and had reacted so quickly, tended to suggest he had prepared his intervention. The Panel asked, in light of this, whether it was reasonable to conclude he had singled out Councillor Speed and may have had a particular difficulty with her as an individual. In response, the Respondent noted that Councillor Speed was an experienced elected member and, as such, was aware of the Standing Orders and the requirement to ask a question before making any comment. As such, the Respondent contended that Councillor Speed would not have been surprised by the fact he had felt compelled to intervene when she failed to do so.

When asked whether he could have intervened and reminded Councillor Speed of the Standing Orders, without making her feel like she was being scolded, the Respondent suggested that as a politician, Councillor Speed was expected to have a 'thick skin', and he did not consider his intervention was so excessive as to warrant a restriction on his right to freedom of expression. The Respondent explained that he tended to be dramatic and, while he accepted he had overreacted, did not accept he had been disrespectful. The Respondent further advised he did not accept it was reasonable for Councillor Speed to have felt confused by his intervention, given she was aware, as an experienced councillor, of the requirement to ask a question before making any comments.

When asked by the Panel whether he considered he had given Councillor Speed a fair opportunity to ask her question, before he intervened, the Respondent stated he felt he had. The Respondent noted, in any event, that he had offered Councillor Speed a further chance to do so when the meeting resumed after the adjournment. The Respondent contended that as he had apologised to Councillor Speed, allowed her time to compose herself and afforded her a further opportunity to ask a question on the item, it was not reasonable to suggest his conduct would have led her to feeling unable to participate fully in the remainder of the meeting.

Closing remarks from the ESC's representative

The ESC's representative noted the Respondent contended he was affected by Councillor Speed sitting in a different place at the meeting. The ESC's representative suggested, however, that the Respondent was an experienced councillor and, as such, she would not normally expect such a change to cause any stress or have any significant effect on him. The ESC's representative further suggested that the Respondent would have

had time to become accustomed to the change, by the time item nine was considered two and a half hours into the meeting.

The ESC's representative accepted that the two elected members who intervened may have been in the Administration with Councillor Speed but contended that this did not change the fact that they were both experienced councillors who had felt compelled to raise concerns about the Respondent's conduct. The ESC's representative suggested that given they had done so, others present may not have felt the need to voice similar concerns and, therefore, that fact that no one else had done so was not a factor the Panel should consider.

The ESC's representative contended that the fact the Respondent admitted he had already sought advice from Council officers about how to maintain order and that he had the Standing Orders ready, tended to suggest he was waiting for an opportunity to intervene. The ESC's representative contended that Councillor Speed had not been afforded the opportunity to ask her question before he did so and, as such, it was not credible to suggest she had been disruptive.

Closing remarks from the Respondent

The Respondent advised he disagreed with the ESC's representative's closing submissions. The Respondent advised that it was with great sadness that he had decided to stand aside as Provost after the meeting, given all he had done had been to read out the Standing Orders, as statements of fact.

DECISION

The Hearing Panel considered carefully the evidence led (being the recording of the meeting), and submissions made orally at the Hearing and in writing. It concluded that:

1. The Councillors' Code of Conduct applied to the Respondent, Councillor Boyd.
2. The Respondent had, on the face of it, breached paragraph 3.1 of the Code. Having taken into account the Respondent's right to freedom of expression under Article 10 of the European Convention on Human Rights, however, a formal finding of breach could not be made.

Reasons for Decision

1. In reaching its decision as to whether there had been a breach of the Code, the Panel took the following three-stage approach, as outlined in the Standards Commission's Advice Note on the Application of Article 10 of the ECHR:
 - Firstly, it would consider whether the facts found led it to conclude, on the balance of probabilities, that the Respondent had failed to comply with the Code.
 - Secondly, if so, it would then consider whether such a finding in itself was, on the face of it, a breach of the Respondent's right to freedom of expression under Article 10.
 - Thirdly, if so, the Panel would proceed to consider whether the restriction involved by the finding was justified by Article 10(2), which allows restrictions that are necessary in a democratic society (and, in particular, in this case, for the protection of the rights and reputation of others).

Stage 1: Whether the Respondent's conduct amounted, on the face of it, to a breach of the Code

2. The Panel noted the complaint concerned the Respondent's behaviour towards a fellow elected member, Councillor Speed, during a Council meeting on 20 June 2024 that he was chairing in his then role as Provost. The Panel was satisfied, therefore, the Respondent was acting in his capacity as a councillor at the time of the events in question and, as such, that the Code applied to his conduct.
3. The Panel acknowledged the Respondent had a crucial role, as chair of the meeting, in ensuring it was conducted in compliance with the Council's Standing Orders and that questions and discussions remained focussed and relevant.

4. The Panel found, when agenda item six of the meeting was being considered, that Councillor Speed interjected and tried to ask for a point of clarification. The Panel noted that, having sought advice from Council officers, the Respondent advised she could not do so and explained this was because the matter was operational in nature. The Panel found that when Councillor Speed attempted to ask a question when item nine was being considered, she began by saying that there had been “key themes throughout today in terms of local democracy”.
5. The Panel accepted the Respondent may have understood this to be a criticism of his earlier decision to not allow her to raise a point of clarification when item six was being considered. The Panel further accepted that councillors were required, in terms of the Standing Orders, to ask a question first, before making any comments or points. The Panel found, however, that the Respondent stood up, interrupted Councillor Speed, stated that when he stood everyone else should sit down, and proceeded to read from the Standing Orders before Councillor Speed had the opportunity to finish her sentence. The Panel agreed, therefore, that it was not clear now (and would not have been clear to the Respondent at the time), exactly what Councillor Speed was trying to say and whether she was, in fact, posing a question rather than making a point.
6. The Panel found that Councillor Speed was sitting down when speaking in respect of both items six and nine, and that she remained seated during the Respondent’s intervention. The Panel did not accept the Respondent’s point that he had not immediately realised this because Councillor Speed was not in her usual seat. The Panel agreed that the Respondent would have seen where Councillor Speed was sitting when they interacted earlier in the meeting in respect of item six and, further, that his attention would have been drawn to her when she started to speak under item nine.
7. The Panel agreed that, as the Respondent:
 - interrupted Councillor Speed before she had finished her sentence;
 - began his interruption by, essentially, telling Councillor Speed to sit, even though she had not stood up; and
 - had the Standing Orders next to him and was able to locate and read out the relevant parts without any delay,it was evident he was ready and prepared to intervene when the item was being considered. The Panel noted, indeed, that the Respondent had confirmed that was the case.
8. The Panel accepted that the meeting was lengthy, and that the Respondent would have been keen (and indeed may have felt under pressure) to ensure the Standing Orders were followed so that matters were considered, and dealt with, as expeditiously as possible. The Panel was of the view, however, that his position that he was not targeting Councillor Speed in particular, was undermined somewhat by his contention that she was someone who tended to make points first (rather than asking questions).
9. The Panel noted the Code did not impose any duty on a councillor, when chairing, to ensure the proper and fair conduct of the meeting, or to afford everyone the same amount of time to speak. While the Panel agreed with the ESC’s representative’s contention that chairs should lead by example, it noted that the Code did not differentiate between chairs and other elected members, when outlining the standards of conduct to which councillors should adhere.
10. The Panel did not accept, however, that either Councillor Speed’s intervention under item six, or her later attempt to ask a question when item nine was being considered, were disrespectful. It did not consider there was any evidence that, during the meeting, Councillor Speed:
 - failed to pay authority to the Respondent, as the meeting Chair;
 - failed to resume her seat timeously when the Respondent started to speak (indeed, the Panel found she was sitting throughout);

- interrupted the Respondent; or
- otherwise failed to act in accordance with the Standing Orders.

11. The Panel agreed, therefore, that in deciding to read to Councillor Speed the provisions in the Standing Orders that precluded such behaviour, the Respondent clearly implied she had failed to conduct herself in a manner that accorded with them. This was because the Panel noted a chair would normally only be expected take such action had there been a single serious contravention, or repeated contraventions, of the Standing Orders by a meeting participant.
12. The Panel further agreed that the manner in which the Respondent had intervened, namely by: repeating Councillor Speed's name; standing up; and talking loudly (in such a pointed and critical manner), would lead anyone present or observing the meeting to reasonably conclude he was reprimanding her for having been disruptive or having failed to adhere to the Standing Orders. The Panel agreed the perception that the Respondent was reprimanding Councillor Speed would have been reinforced by the fact it was evident, for the reasons outlined above, that he was ready and prepared for to interrupt her and, further, that he proceeded to do so, despite her conduct during the meeting in question not then meriting such an intervention.
13. The Panel acknowledged the Respondent's point that all councillors present were aware of the Standing Orders and that, as an experienced elected member, Councillor Speed could have anticipated that she would be interrupted if she tried to make a point, instead of posing a question. The Panel noted it had concluded, however, that there was no reason for such an immediate admonishment of that nature during the meeting in question. Given this conclusion, and given the public nature of the admonishment, the Panel agreed that the manner in which the Respondent had intervened was inappropriate and disproportionate and would have been confusing and upsetting for Councillor Speed and others present.
14. The Panel noted that not only did the Respondent's intervention cause Councillor Speed to leave the room; it also led to two other councillors interjecting to suggest that his conduct was "unfair" and a "disgrace", and to the meeting being adjourned for some 20 minutes. In light of its findings above, the Panel considered these reactions were reasonable in the circumstances. As such, it did not consider the fact that the two other councillors may have been politically aligned with Councillor Speed, or that they were the only ones to say anything, to be relevant. Indeed, the Panel noted that it may have been the case that others present decided, given the interjections already made, that it would not be helpful to say anything further or to note their own concerns.
15. The Panel considered that in, essentially, reprimanding her so publicly in circumstances where such action was not warranted, the Respondent was disrespectful and discourteous towards Councillor Speed. The Panel determined on balance, therefore, that he had, on the face of it, breached paragraph 3.1 of the Code.
16. The Panel nevertheless wished to make it clear that it accepted the Respondent's position that his conduct towards Councillor Speed had nothing whatsoever to do with her sex. The Panel noted that it had not seen any evidence or heard any submissions to lead it to conclude otherwise. It further noted that this had also been accepted by the ESC's representative.
17. The Panel acknowledged Councillor Speed's position was that the Respondent's conduct left her upset, uncomfortable and embarrassed, and resulted in her feeling she had to leave the meeting immediately to compose herself. The Panel considered this was an understandable reaction, in the circumstances, given it would have been reasonable for her to have considered she had been subjected to an unjustified public dressing-down.

18. The Panel noted that the Respondent, as Provost and chair of the meeting, was in a position of relative power over Councillor Speed. While the Panel was concerned that the Respondent's conduct caused Councillor Speed to feel uncomfortable and embarrassed in her workplace, it noted he:

- agreed to an adjournment to the meeting;
- publicly apologised and acknowledged he had overreacted, shortly after the meeting reconvened; and
- apologised again when Councillor Speed's nomination to the Arbroath Town Board was being discussed.

19. The Panel acknowledged that Councillor Speed was able to participate in the meeting following the adjournment. The Panel agreed with the ESC's representative's contention that the Respondent's prompt and repeated apologies were likely to have reduced the impact of his conduct and, further, that they demonstrated he understood that he had upset Councillor Speed.

20. The Panel further noted that the Respondent had not made any personal comments and there was no evidence or suggestion of a course of persistent behaviour by the Respondent towards Councillor Speed over an extended period of time. In the circumstances, the Panel concluded that the Respondent's conduct would not meet the threshold for amounting to a breach of the bullying and harassment provisions at paragraph 3.3 of the Code.

Stage 2: Whether a finding of a contravention of the Code would be a breach of the Respondent's right to freedom of expression under Article 10 of the ECHR

21. The Panel noted that enhanced protection of freedom of expression under Article 10 of the ECHR applies to all levels of politics, including local politics. The Panel further noted that the Courts have held that political expression is a broad concept and that there is little distinction between political discussion and discussion of matters of public concern¹.

22. In this case, the Panel noted the Respondent's conduct took place during an interaction with another councillor during a council meeting (being a political context). The Panel further noted the conduct involved Respondent exercising his authority, as Chair, during a discussion regarding a local leisure facility (being a matter of public concern). The Panel was therefore satisfied that, in the circumstances, the Panel the Respondent would attract the enhanced protection in respect of his right to freedom of expression afforded to politicians, including local politicians, under Article 10.

Stage 3: Whether any restriction on the Respondent's right to freedom of expression involved by a finding of a contravention of the Code would be justified by Article 10(2) of the ECHR

23. The Panel nevertheless noted that the right to freedom of expression is not absolute. Article 10(2) states that restrictions can be imposed, provided they are necessary in order to achieve a legitimate aim. The Panel noted that legitimate aims can include:

- to protect the rights of others, including elected members, council staff and the electorate, to effective political democracy at the local level;
- ensuring public confidence in local government was not undermined and that a council was not brought into disrepute.

24. The Panel accepted, however, that the Courts have found any restriction on freedom of expression must also be proportionate to the legitimate aim being pursued. As such, the Panel was required to undertake a balancing exercise, weighing the enhanced protection to freedom of expression enjoyed by the Respondent against the impact of any restriction imposed by the application of the Code and the imposition of any sanction.

¹ Thorgeirson v Iceland (1992) 14 EHRR 843

25. In doing so, the Panel had regard to the following findings that have been made by the Courts:
- The necessity of any restriction on the exercise of freedom of expression must be established convincingly and be in response to a pressing social need.
 - There is little scope under Article 10(2) for restrictions on political speech or on the debate of questions of public interest. Further, given the importance of freedom of expression in the political arena, any interference with that right requires the closest scrutiny².
 - The Panel noted that the Courts have found that, in a political context, a degree of the offensive, shocking, exaggerated, emotive, non-rational and aggressive, that would not be acceptable outside that context, should be tolerated³.
 - The less egregious the conduct in question, the harder it is for a Panel, when undertaking its balancing exercise, to conclude justifiably that a restriction on an individual's right to freedom of expression is required⁴.
 - The Panel further noted that the Court have held that politicians (as individuals who have entered the political arena voluntarily) are subject to wider levels of acceptable criticism⁵ and are, therefore, expected and required to have thicker skins and more tolerance to comment than ordinary citizens⁶.
26. The Panel noted that the ESC's representative had argued that a failure to restrict the Respondent's enhanced right to freedom of expression would lead others to consider such conduct was acceptable and, effectively, permit such conduct. The Panel strongly refuted this contention. The Panel noted that it had found, at Stage 1 above, that the Respondent's conduct amounted on the face of it a breach of the disrespect provision of the Code. As such, it was now obliged, at Stage 3, to determine whether a restriction on his enhanced right to freedom of expression could be justified in the specific circumstances of the case. The Panel noted this was a balancing exercise it was legally required to make and, as such, it cannot and should not be viewed as being permissive of, or condoning, certain conduct. This was true even in situations where undertaking the exercise (and considering the individual and particular circumstances of the case against the principles arising from previous Court decisions) could or does result in a determination that a restriction could not be justified.
27. The Panel further noted that the ESC's representative had argued that the conduct in question could have a "chilling effect" on Councillor Speed's participation in meetings of the Council. In this regard, the Panel noted that while the Respondent's interruption prevented Councillor Speed from asking her question at that particular time, it had found he gave her the opportunity to ask her question on her return to the meeting after the adjournment and, further, that she contributed to subsequent discussions.
28. The Panel noted, in any event, that the Courts have held that consideration also needs to be given to whether a restriction on an individual's right to freedom of expression can have a chilling effect on that individual or others in a similar position or analogous situation. In this case, the Panel considered whether a restriction on the Respondent's enhanced right to freedom of expression might have a chilling effect on his ability, and that of other chairs, to manage meetings effectively. Given the consistent findings by the Courts (as noted above) regarding the narrow margin of appreciation granted to any authority (such as a Panel of the Standards Commission) seeking to restrict political expression, the Panel considered that the imposition of a restriction on the Respondent could potentially have such an effect. This was because meeting chairs (including, in this case, the Respondent) were responsible for ensuring meetings proceeded in accordance with any Standing Orders and would be expected to intervene if they

² Castells v Spain (1992) 14 EHRR 445

³ Heesom v Public Services Ombudsman for Wales (2014) EWHC 1504 (Admin)

⁴ R (Calver) v Adjudication Panel for Wales (2012) EWHC 1172 (Admin)

⁵ Janowski v Poland (1999) 29 EHRR 705

⁶ Heesom (ibid)

considered it necessary to ensure these were followed or to otherwise impose order. The Panel noted, nevertheless, that it would only have such an effect if a restriction was imposed *solely* because a chair had intervened. The Panel noted, however, that in this case it was considering the *manner* in which the Respondent had intervened and whether this was so excessive as to justify a restriction.

29. In considering whether the Respondent's conduct was excessive, the Panel agreed that while the manner in which he had interrupted Councillor Speed was somewhat shocking and non-rational, it noted it would not be entirely unusual for a chair to intervene if they considered a meeting participant was unduly or repeatedly labouring a point, rather than asking a question. The Panel was of the view, therefore, that an intervention by the Respondent in a meeting may not have been entirely unusual and therefore unexpected (albeit it would be reasonable for any attendees to have anticipated he would only do so in a manner that was appropriate in the circumstances).

30. The Panel considered the additional 'tolerance to comment' that politicians are expected to have could include adhering to the rulings of a Chair, made in the heat of the moment, even when those rulings might, on their face, appear to be unfair (as in this case). The Panel also noted, in considering the nature of the Respondent's interruption and how excessive this could be said to be, that while he stood and spoke loudly and pointedly, he did not shout, use profanities, make offensive remarks or indulge in any personal abuse.

31. The Panel further considered that the impact of the Respondent's conduct was somewhat reduced by:

- his public apology and acknowledgement, at the meeting, that he had overreacted; and
- the fact he gave Councillor Speed the opportunity to ask her question after the adjournment.

32. Having taken the context and factors outlined above into account, the Panel determined, on balance, that the Respondent's conduct was not so excessive that it could justify, as proportionate, a restriction on his enhanced right to freedom of expression. The Panel concluded, therefore, that a formal finding of a breach of the Code could not be made.

33. Despite its overall conclusion, the Panel wished to emphasise that the Standards Commission, and indeed the public, expect councillors (and particularly Chairs and Conveners), to lead by example and be courteous and respectful at all times. The Panel noted a failure to do so can have a detrimental impact on the standards of public debate, the efficacy of meetings, and public confidence in elected members and in local authorities.

Date: 21 July 2025



**Suzanne Vestri
Chair of the Hearing Panel**