

**Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held at Aberdeen City Council, Town House, Broad Street, Aberdeen on Tuesday, 5 August 2025.**

**Panel Members:** Mr Malcolm Bell, Chair of the Hearing Panel  
Mrs Morag Ferguson  
Ms Suzanne Vestri

The Hearing arose in respect of a report referred by Mr Ian Bruce, the Ethical Standards Commissioner (the ESC), further to complaint reference LA/AC/3994, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Mrs Jennifer Stewart (the Respondent).

The ESC was represented at the Hearing by Angela Glen, the ESC's Senior Investigating Officer. The Respondent represented herself.

**REFERRAL**

Following an investigation into complaints received on 18 October and 3 November 2023 about the conduct of the Respondent, the ESC referred a report to the Standards Commission on 26 March 2025, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The Standards Commission determined to take no action in respect of some of the issues of complaint outlined in the referral report, for the reasons outlined in a decision issued on 1 April 2025.

The Standards Commission decided to hold a Hearing in respect of the remaining issues of complaint. The substance of these was that the Respondent had failed to comply with the provisions of the Code and, in particular, had contravened paragraphs 3.1, 3.2, 3.3 and 3.11, which were 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.*

*3.2: I will not discriminate unlawfully on the basis of race, age, sex, sexual orientation, gender reassignment, disability, religion or belief, marital status or pregnancy/maternity; I will advance equality of opportunity and seek to foster good relations between different people.*

*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.*

*3.11: I will respect and comply with rulings from the chair or convener during meetings of: a) the Council, its committees or sub-committees; and b) any outside organisations that I have been appointed or nominated to by the Council or that I represent my council on.*

**Preliminary Matters**

The Hearing Panel noted that the Standards Commission had advised the Respondent and ESC, in advance, that two issues would be considered at the Hearing; namely whether the Respondent:

1. Was disrespectful towards and had discriminated against, bullied, and failed to comply with the rulings of the Complainer at Council meetings on 14 December 2022, 27 March, 26 April, 11 September and 11 October 2023.

2. Was disrespectful towards and had discriminated against and bullied the Complainer in a press article published on 14 October 2023, by stating that he: (a) delayed in intervening at the Council meeting on 11 October 2023 due to his age; (b) delayed in allowing the Respondent to speak at the same meeting; and (c) had been misogynistic and sexist towards the Respondent.

The Panel confirmed that its members had watched, in advance of the Hearing, the relevant parts of the recorded webcasts of all the Council meetings that were the subject of the first issue. When the Respondent asked if the Panel had taken a “minute” of having done so, the Panel confirmed it had not, as Panel members had watched the webcasts individually. The Panel noted that the Respondent had been advised accordingly when she asked the same question in advance of the Hearing.

The Respondent asked that a press article from the Sunday Post published on 3 August 2025, reporting on sexism and harassment being faced by woman in politics, be tabled. The Panel declined the request on the grounds that the article’s content was not directly relevant to the issues concerning her conduct, that were to be considered at the Hearing. The Panel confirmed, nevertheless, that it accepted sexism and misogyny was an issue in politics and, further, that it was aware of press coverage on the topic.

The Respondent noted that, before the Hearing, the Panel had declined to hear from a number of witnesses she had identified and to add various documents she had submitted to the productions. The Panel confirmed that it had done so on the basis that the potential evidence the witnesses could give, and the content of the documents, were not directly relevant to the two issues of complaint about her conduct that were to be considered. The Panel noted the Respondent had been advised of this well in advance of the Hearing and had been provided with the Panel’s reasoning at the time the witnesses were identified and documents submitted.

The Panel noted the Respondent considered “natural justice” to be “at stake” at the Hearing.

## **SUBMISSIONS MADE AT THE HEARING**

### **Submissions made by the ESC’s Representative**

The ESC’s representative advised that the Respondent was first elected as a councillor in 2007, and then re-elected in 2012, 2017 and 2022; and that she was an independent member. The ESC’s representative advised that the Complainer represented the SNP and was appointed as the Council’s Lord Provost in May 2022. The ESC’s representative explained that the Complainer chaired full Council meetings in that capacity.

The ESC’s representative advised that the Respondent attended the council meetings in question in her capacity as a councillor and was also quoted in the press article (that was the subject of issue two) as such. The ESC’s representative contended, therefore, that the Code applied to her conduct at the time of the events in question.

The ESC’s representative noted that the Panel had watched the recorded webcasts of the relevant parts of the Council meetings on 14 December 2022, 27 March, 26 April, 11 September and 11 October 2023; and also had access to the transcripts of the meetings produced by the ESC’s office.

The ESC’s representative noted the interactions between the Respondent and Complainer, that were the subject of issue one, could be seen and heard on the webcast recordings. The ESC’s representative contended it was evident from these that the Respondent had spoken over the Complainer on several occasions and had directed various accusations at him. These included that he was or had been disrespectful, sexist, discriminatory (both on religious and age grounds) towards her and, further, that he had sexually harassed her.

The ESC’s representative noted that a copy of the press article published on 14 October 2023 that was the subject of issue two was included in the productions before the Panel. The ESC’s representative contended

this demonstrated the Respondent had repeated her allegations to the effect that the Complainer was a bully who had targeted her due to her sex.

The ESC's representative argued, therefore, that the facts of both issues of complaint were proven.

The ESC's representative contended, in respect of issue one, that it was evident from the webcasts of all the meetings that there was no factual basis for the Respondent's accusations about the Complainer. The ESC's representative noted that it was clear from the webcasts that the Complainer had not:

- been disrespectful towards the Respondent;
- treated her in a different manner to anyone else; or
- sexually harassed or discriminated against her.

The ESC's representative suggested that even if the Respondent believed the Complainer had engaged in such conduct, she must have been aware that the concerns she was raising were personal to her and did not concern any agenda items to be discussed at the meetings in question. The ESC's representative argued the Respondent should have known, therefore, that such matters should be raised in a private setting or through formal channels. The ESC's representative noted, in support of this, that when the Respondent raised concerns, the Council's Chief Executive had met with both her and the Complainer in December 2022 to try to resolve matters.

The ESC's representative argued that by repeatedly raising, at council meetings, issues about the Complainer's alleged conduct towards her, the Respondent disrupted the meetings and caused delays in terms of the consideration of agenda items. The ESC's representative noted, in particular, that the Respondent's behaviour had resulted in the meetings in April and September 2023 being disrupted to a significant extent.

The ESC's representative argued that if the Respondent remained concerned about the Complainer's conduct towards her after the meeting with the Chief Executive, she should have continued to pursue the matter in private. The ESC's representative noted that the Respondent instead chose to repeat her accusations in public. The ESC's representative contended that, by doing so, the Respondent was both disrespectful and discourteous to the Complainer, in breach of paragraph 3.1 of the Code.

The ESC's representative advised that, at the meeting in October 2023, the Respondent referred to an intervention by the Complainer and stated, "perhaps Lord Provost with the greatest of respect, if it is your age that is making a delay". The ESC's representative advised that the Complainer was in his seventies. The ESC's representative suggested that it was widely understood, as an accepted and polite social norm, that references to an individual's age were not appropriate or respectful when not relevant to a discussion. In this case, the ESC argued that not only was the Respondent's comment irrelevant, but it was also clear that she was suggesting the Complainer was unable to perform his role effectively due to his age. The ESC's representative contended that, in suggesting the Complainer was not able to perform a task or his role because of his age, the Complainer perpetuated stereotypes associated with age and weakness.

The ESC's representative noted the Respondent had prefaced her statement with the words "with the greatest of respect". The ESC's representative suggested however, that the fact the Respondent had mimicked the Complainer immediately beforehand, indicated that no respect was intended and, instead, that she was intending to mock him. The ESC's representative noted the Complainer had stated that the Respondent's remark amounted to "ageism". The ESC's representative suggested it was evident from background noise that could be heard after the Respondent made the comment (being a collective murmur), that other meeting attendees agreed with him.

The ESC's representative noted that age is a protected characteristic under the Equality Act 2010 and, as such, treating someone differently because of their age can amount to discrimination. The ESC's

representative contended that, in this case, the Respondent made a demeaning remark suggesting the Complainer's faculties were declining due to his age and, accordingly, that he was not fit to fulfil the role of Provost. The ESC contended the Respondent's remark amounted to an attempt to undermine the Complainer, arguably with the intention of seeking support to have him removed from his post. The ESC's representative argued that in making an ageist remark, the Respondent had failed to advance equality of opportunity and failed to seek to foster good relations between different people, in breach of paragraph 3.2 of the Code.

The ESC's representative argued that the persistent, targeted and repeated nature of the Respondent's comments and accusations about the Complainer, during all the meetings in question, amounted to bullying. The ESC's representative contended, therefore, that the Respondent had also breached paragraph 3.3 of the Code.

The ESC's representative noted that the Complainer, as Provost, was responsible for chairing Council meetings, in accordance with the Council's Standing Orders. The ESC's representative noted the Standing Orders stated that meeting attendees must comply with rulings of the Chair and that when the Chair spoke, other elected members should resume their seats and refrain from talking. The ESC's representative contended, however, that it was evident from the webcasts of the meetings in December 2022 and April 2023, that the Respondent spoke over and interrupted the Complainer, in a manner that was not deferential, even when he asked her to move on. The ESC's representative argued that the Respondent's conduct in doing so disrupted the meetings and prevented the Complainer from performing his role as Chair effectively.

The ESC's representative noted the Respondent had produced extracts from a different version of the Standing Orders but noted that was not the one in place at the time of the conduct in question. The ESC's representative noted, in any event, that paragraph 3.11 of the Code provided that elected members must respect and comply with rulings from a chair during Council meetings. The ESC's representative contended that the Respondent failed to do so during the meetings as identified and, as such, had also contravened that provision.

Turning to issue two, the ESC representative noted the press article of 14 October 2023 reporting on the Council meeting on 11 October 2023 stated that after the meeting:

*"Mrs Stewart doubled down on much of what she had said. Calling the Lord Provost a bully, she defended her 'democratic right – not to be hung for – to voice my view. I think my only option now, and I didn't want to go down this road, is to refer him to the Standards Commission. There are so many situations where he has targeted me. It is unacceptable'."*

The ESC's representative noted that the ESC had investigated a complaint from the Respondent about the Complainer but had not found any breach of the Code. The Standards Commission decided to take no action when the matter was then referred to it, following the conclusion of the ESC's investigation.

The ESC's representative contended it was evident the article of 14 October 2023 reiterated much of what was said by the Respondent at the Council meeting on 11 October 2023. The ESC's representative contended that, for the same reasons making the allegations in person were disrespectful, the Respondent's conduct in repeating them to the press also represented a breach of paragraph 3.1 of the Code.

The ESC's representative noted the article further referenced the Respondent having 'doubled down' on her allegation that the Complainer delayed in inviting her to speak at the meeting and that this was evidence he was a bully who was targeting her. The ESC's representative acknowledged it was apparent from the webcast of the meeting on 11 October 2023 that the Complainer had paused. The ESC's representative contended, however, that it was evident from the webcasts of all meetings in 2022-23 that it was normal for the Complainer to pause for up to 10 seconds before calling on a colleague to speak. The ESC's representative suggested that as chairs often required a pause to gather their thoughts, particularly if a meeting was difficult,

this was common practice in meetings. The ESC's representative therefore contended that the Respondent's conduct in 'doubling down' (as characterised by the article) on her accusations was deliberate, unfair and intended to support her unevidenced allegations in respect of the Complainer's age, and misogynistic and sexist behaviour. The ESC's representative advised that she and her colleagues had reviewed the meeting webcasts "meticulously" and had found no evidence whatsoever of any conduct on the part of the Complainer that could be perceived reasonably as bullying, sexism or misogyny.

The ESC's representative noted the Respondent had provided further articles (which were included in the productions) reporting on misconduct allegations concerning the Complainer. The ESC's representative noted, however, that the allegations were decades-old and that no findings of misconduct on the Complainer's part had been made. The ESC's representative contended, therefore, that the articles produced did not indicate or amount to evidence that the Complainer was misogynistic or sexist. The ESC's representative argued, however, that the press article of 14 October 2023 was evidence that the course of disrespectful conduct by the Respondent, in seeking to publicly undermine the Complainer, continued from the Council Chamber into the press.

The ESC's representative recognised a finding of a breach of the Code could represent a restriction on the Respondent's right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR), as it would mean, effectively, that she would be sanctioned for speaking in the manner she had to and about the Complainer at Council meetings and in the press. The ESC's representative acknowledged that the Respondent would benefit from enhanced protection in respect of this right as her conduct took place in a political forum and context, when matters of public interest were being discussed.

The ESC's representative contended, nonetheless, that a restriction on the Respondent's enhanced right to freedom of expression was justified, in the circumstances, to:

- protect the reputation and rights of others; and
- ensure conduct at the local government level did not fall below a minimum standard, such that it brings local government and the role of councillors into disrepute (this being a stated legitimate aim of the ethical standards framework).

The ESC's representative noted, in support of this, that the Respondent's conduct took place over a long period of time and consisted of personal attacks on the Complainer's character (including that he was misogynistic, discriminatory and had sexually harassed her). The ESC's representative noted that these accusations had been presented as fact by the Respondent and did not represent a one-off or throwaway comment. The ESC's representative argued that the Respondent's conduct was disruptive and had the potential to both undermine public confidence in the Council and bring the office of councillor into disrepute.

The ESC's representative noted that the Courts have held that serious accusations require a stronger basis in fact. The ESC's representative noted, in this case, that the Respondent had never explained publicly what she meant when she accused the Respondent of sexual harassment 'as she sees it'. The ESC's representative contended that, when considered objectively, the only plausible inference that could be taken from the accusation was that the Respondent was suggesting the Complainer had in fact sexually harassed her. The ESC's representative noted that this was a serious accusation for which the Respondent had provided no details or evidence in support.

The ESC's representative contended that a restriction on the Respondent's right to freedom of expression was also necessary and justifiable in the interests of protecting others from age discrimination and ensuring equality of opportunity was advanced. In support of this argument, the ESC's representative noted that Article 10 did not provide protection for the making of discriminatory statements. This was because it was expected in a democratic society, that there should be fair and equal treatment regardless of the existence any protected characteristics.

The ESC's representative argued that the Respondent's conduct was entirely egregious, bad and shocking and, therefore, a restriction on her enhanced right to freedom of expression, that a finding of a breach of paragraphs 3.1, 3.2 and 3.3 and 3.11 of the Code would entail, could be justified.

The Panel noted that the ESC's report seemed to suggest that a failure to behave respectfully towards a meeting chair in any circumstances would automatically constitute a breach of paragraph 3.11. The Panel therefore asked the ESC's representative whether she agreed this was not the case, and that the provision covered the requirement for councillors to respect the rulings of chairs during a meeting. In response, the ESC's representative advised she accepted that was the case.

The Panel asked the ESC's representative, in respect of issue two, if she knew why the article stated the Respondent had "doubled down" after the meeting on 11 October 2023 (for example, if there was evidence the journalist spoke to the Respondent). In response, the ESC's representative advised she had no direct evidence of the Respondent having talked to the journalist, but noted the article mentioned her making a complaint about the Complainer. The ESC's representative explained that no mention of this had been made at the meeting on 11 October 2023. The ESC's representative suggested, therefore, that it was reasonable to conclude the Respondent disclosed this information to the journalist after the meeting, which suggested they had spoken before the article was published. The ESC's representative further suggested it was reasonable to assume the journalist would have afforded the Respondent the opportunity to either reinforce, or to take back, the comments she had made about the Complainer at the meeting. The ESC's representative contended that it was evident from the content of the article of 14 October 2023 that the Respondent had chosen to reiterate or reinforce these.

The Panel asked the ESC's representative how the need to protect the Complainer's rights and reputation should be balanced against the Respondent's right to freedom of expression. In response, the ESC's representative noted that there was no question of trying to restrict the Respondent's lived experience or beliefs about the Complainer's alleged conduct. The ESC's representative suggested, however, that a public Council meeting was not the appropriate venue for making such serious accusations of misconduct. This was particularly the case as the Complainer would not have been able to address or respond to them without disrupting the meetings further (and leaving even less time for the matters on the agenda to be considered).

The Panel asked the ESC's representative why she considered a restriction on the Respondent's right to freedom of expression was necessary to protect public confidence in the role of a councillor and to ensure minimum standards of public debate. In response, the ESC's representative advised that public confidence would be adversely affected by the raising of such serious accusations (including sexism and sexual harassment) about an elected member, in a public forum, particularly in circumstances where no evidence, or a proper basis for doing so, was being advanced or led. The ESC's representative contended that it was not in the public interest for serious accusations of this nature to be aired in such a manner.

### **Submissions made by the Respondent**

The Respondent took the oath before making submissions.

The Respondent noted that references were made in the ESC's report to the Council's Standing Orders, in respect of whether she had abided by the Complainer's rulings, in his capacity as the meeting chair. The Respondent noted, however, that the ESC had misquoted these Standard Orders in his report. The Respondent suggested it was difficult to avoid the conclusion, in the circumstances, that the referenced sections had either been copied from another document or entirely misread. The Respondent argued, therefore, that the ESC had made a "material misstatement" and judged her against rules that did not exist.

The Respondent noted, in any event, that the Chair had not stood up at the meetings or made any formal rulings or objections in respect of her conduct, despite having the opportunity to do so. The Respondent argued, therefore, that the applicable provisions in the Standing Orders and Code had not been engaged.

The Respondent noted that the nature of political discourse meant that Council meetings were different to other environments. The Respondent noted debates in Council meetings could be vigorous, with numerous interruptions and that the Complainer, as a politician, should be expected to tolerate these to a higher degree should be less sensitive to offence than council officers or members of the public. She described the atmosphere within the Council Chamber as 'toxic' and said that other meeting attendees were "just as bad". The Respondent contended that her conduct must be assessed with this, and the fact it took place in a political setting, in mind.

The Respondent noted that the Panel's role was to assess whether her conduct met the threshold for amounting to a breach of the Code, not simply whether she had been polite or not. The Respondent asked the Panel to note, when making this assessment, that at the meeting on 14 December 2022 she considered the Complainer had referred to her as "childish" and had apologised to both her and another councillor at the meeting on 26 April 2023 for failing to treat them fairly.

The Respondent contended that the ESC's interpretation of the Standing Orders missed a critical point; namely that the authority for regulating meetings lay with those in the Chamber, as a collective, and not the Chair. In this case, the Respondent suggested the Complainer had not made any formal ruling as he knew the majority of elected members present would not have supported him. The Respondent further indicated that no members of public had raised any concerns.

For the reasons outlined above, the Respondent contended that the alleged breach of paragraph 3.11 of the Code had not been proven and should not be upheld.

Turning to the question of whether she had breached paragraphs 3.1, 3.2 and 3.3 of the Code, the Respondent advised that her faith had taught her to always be honest, and to tell the truth and nothing more. The Respondent advised that it was her opinion that the Complainer was a misogynist who had been sexist towards her and had "looked at her venomously which may have been due to his age". The Respondent therefore contended that she had been entitled to make the comments that were the subject of the complaint. The Respondent further argued that she had a right to make statements she considers truthful and supported "by factual evidence". The Respondent suggested, indeed, that the ethical standards framework "demands no less".

The Respondent noted that paragraph 3.2 of the Code states that councillors must refrain from discriminating unlawfully. The Respondent suggested that the key word was 'unlawfully' and argued it was for the ESC to prove she had engaged in unlawful discrimination. The Respondent noted that the Equality Act 2010 applied to the Council (rather than to her as an individual) and suggested that the ESC had not put forward any evidence to demonstrate she had not advanced equality of opportunity or sought to seek to foster good relations between different people. The Respondent noted that the Complainer was elected as Provost by his peers. The Respondent contended, therefore, that she did not have the opportunity, and there was nothing she could have said at the meetings, to change this.

The Respondent referred to her own experience of knowing someone with dementia (whom she proceeded to identify publicly) and seeing certain signs in them, and suggested she had seen the Complainer display similar symptoms that would indicate he was suffering from that condition.

The Respondent argued, in any event, that it was "nonsense" to suggest she had implied the Complainer should not be Provost or was not performing in his role due to his age. The Respondent noted, in support of this, that she had used the word "perhaps" when questioning at the meeting in October 2023 whether the delay was due to his age. The Respondent contended that her comment reflected simply how she had felt at the time and was intended to be a political criticism, not a personal one.

The Respondent accepted that bullying was wrong and would represent a breach of the Code, but stated when she had made her accusations about the Complainer, she had done so with both the Code and her rights under Articles 8, 10 and 17 of the ECHR in mind [being the right to respect for private and family life, the right to freedom of expression and the prohibition of abuse of rights].

The Respondent noted the ESC had suggested in his report that her accusations did not concern Council business. The Respondent noted, however, that the Standards Commission had found the Code had not been breached in respect of a case (reference LA/AC/3495), where an elected member had referred to a colleague as the “resident sex offender”. The Respondent noted, in that case, there was no suggestion that the comment did not concern council business. The Respondent suggested that the Panel must be consistent in its decision-making, to ensure public confidence in the ethical standards framework.

The Respondent noted that after the Complainer could have said “please let’s not get childish” at the December 2022 meeting, she had proceeded to speak about buffer zones and her faith. The Respondent contended that another councillor had “brought religion in”, by highlighting her [the Respondent’s] Catholicism. The Respondent noted the Complainer had then intervened to draw the discussion to a close by suggesting matters were getting close to the slinging of insults. The Respondent suggested this was an admission, on his part, that no insults had in fact been slung. The Respondent accepted she had stated that the Council was being run in a farcical manner. The Respondent suggested, however, that this was a reasonable comment in the context of a good debate on an emotional issue, where she was speaking from the heart about her faith, in respect of an agenda item. The Respondent noted that no voices had been raised during the debate and contended that while her tone had been firm, she had remained respectful.

The Respondent contended that it was evident from the transcripts of the meetings in question that the Complainer intervened when various other councillors were speaking or trying to speak. The Respondent questioned, therefore, why she was the only elected member to have been referred to and investigated by the ESC. The Respondent argued that it was evident from the meeting transcripts that interventions and interruptions were “the norm” and that what happened during the meetings in question was common practice at the Council, as regulated by the Complainer (as Provost).

The Respondent noted that the ESC has not found any breach in respect of her conduct at the meeting in March 2023 and argued, therefore, that any allegations in respect of that meeting must be disregarded.

The Respondent noted that the ESC had stated her accusations about the Complainer had no basis in fact. The Respondent advised that she disagreed “totally” as the Complainer was a misogynist and, in her opinion, had been sexist towards, and had “looked at her venomously” at, her due to his age.

The Respondent advised that she had formed this “full and informed view” based on her experience of knowing and working with the Complainer and of reading about his defence of his past in the press. The Respondent contended that it was sexist for a male politician to advise a female colleague that they were “going on” too long, when they did not say the same thing to male colleagues.

The Respondent noted the Complainer stated that, at the April 2023 meeting, that “to move us forward, I will apologise if your interpretation of what I said was as you have explained just now. And for that reason, I will give you an apology, but we need to move on”. The Respondent suggested the proffering of an apology indicated she had done nothing wrong. The Respondent noted the Chief Executive then asked the Complainer to apologise and for this to be recorded. The Respondent contended it was “irrational” for the ESC to suggest she had breached the Code, in circumstances where officers had asked the Complainer to apologise.

The Respondent accepted she had stated the following at the April 2023 meeting:

*“I would like to seek your assurance as Lord Provost with the Monitoring Officer present and the Chief Executive, that I am not going to experience religious intolerance as I have experienced in the previous Council*

*meetings, I am not going to experience intimidation, sexual harassment as I see it, being heckled, being constantly interrupted and not allowed as you, as Lord Provost with that hat on, and free and fair debate in speech."*

The Respondent indicated that she agreed with the ESC's definition of sexual harassment [which was unwanted behaviour of a sexual nature]. The Respondent argued, however, that her remark about this should be considered in the context of a pattern of sexism and misogyny and, further, that it represented a value judgement (or opinion) rather than a factual position. The Respondent contended, in addition, that her use of the words "I am not going to experience" and "as I see it" had qualified the comment and demonstrated she was talking about experiences that were specific to her. The Respondent noted, in any event, that the Complainer stated, in reply, "I hear what you are saying, and I accept your comments, thank you". The Respondent argued that this demonstrated the Complainer had admitted, without qualification, that what she had said was correct.

The Respondent rejected the ESC's conclusion in his investigation report that the Complainer had not been "anti-Catholic". The Respondent instead argued that the Complainer had accepted he had displayed "religious intolerance" at the April 2023 meeting, by stating that he had accepted her comments in that regard.

The Respondent argued that the question of whether someone had engaged in bullying and harassment was subjective, with individuals having different views on what was acceptable and should be tolerated. In this case, the Respondent argued that her comments were not defamatory, were just her honest opinion and were made in the context of a "political spat" with another politician. The Respondent argued it was "absurd" to suggest her comments were targeted. In support of this, the Respondent noted that as the Complainer was chairing the meetings, all contributions had to be addressed to him. The Respondent noted that the ESC had categorised her conduct as being a 'vendetta' against the Complainer. The Respondent noted that the dictionary definition of a vendetta was a "long and violent argument". The Respondent argued that it was clear she had not been engaged in such conduct and suggested the use of such "emotive language" by the ESC was unhelpful.

The Respondent noted the ESC had stated that public Council meetings were an inappropriate forum for her to raise her concerns about the Complainer, particularly as the matters she raised about him did not concern any agenda items to be considered. The Respondent noted, however, that Council meetings were the forum where elected members engaged in politics and advised that she had chosen to make her accusations, in such a public setting, in order to make an impact. The Respondent questioned whether the ESC's findings in this regard meant that he was content for councillors to be disrespectful and / or to make the accusations she had in private.

The Respondent noted that the ESC had referred, in his report, to case (reference LA/S/3571), where a Standards Commission had found a Stirling councillor had breached the bullying and harassment provision in the Code. The Respondent argued that the circumstances of that case could be distinguished from the complaint about her, however, as the conduct in that case had been directed towards a council officer who did not have the right or opportunity to respond. The Respondent noted that her conduct was directed towards a fellow elected politician "with powers at his fingertips" and had occurred during robust debates on contentious local issues. The Respondent suggested that, as an opposition councillor, it was her duty to make the Complainer's life difficult, given that "politics is politics".

The Respondent advised that she did not consider she had breached the Code but that she would nevertheless make submissions in respect of the application of Article 10, given this afforded her protection in respect of her right to make comments.

The Respondent noted that the Court in the case of *Heesom*<sup>1</sup> confirmed that politicians have an enhanced protection in respect of political expression and that this applies to all levels of politics, including local, and that political expression in itself is a broad concept, extending to all matters of public administration and public concern. The Respondent argued that as her conduct occurred when she was engaged in debating political matters of public concern, she would attract enhanced protection in respect of her Article 10 rights.

The Respondent noted that the Court in *Heesom*<sup>2</sup> had further held that politicians are expected and required to have thicker skins and more tolerance to comment than ordinary citizens.

The Respondent referred to case (reference LA/An/4168), where a Standards Commission had found that a restriction on an Angus councillor's right to freedom of expression was not justified; despite finding he had been disrespectful towards another councillor. The Respondent noted the Standards Commission had accepted, in that case, that politicians are required to have thicker skins.

The Respondent noted that the ESC had suggested, in his report, that a restriction on her right to freedom of expression was required partly because the Complainer, as Provost, was the Council's Leader and, therefore, public confidence in the Council itself could be undermined by her accusations. The Respondent noted, however, that the requirements in the Code that covered how councillors were to behave towards each other did not distinguish between those appointed as Provost and those who were not in leadership positions.

The Respondent further noted that the Courts have held that comments made in a political context, which amount to value judgements, must be tolerated even if untrue, as long as they have some or any factual basis and are made in good faith. The Respondent argued, in this case, that her comments amounted to value judgements of a political nature. The Respondent accepted that some may have been shocking and could even potentially be perceived as aggressive but explained they had been made honestly and in good faith at a time when the Council was "in chaos" and perceived as a "farce". The Respondent added that she had never previously experienced such chaos in her 18 years as a councillor. The Respondent further contended that the public referred to the Council as being "toxic".

The Complainer referred again to the case (reference LA/AC/3495), where the Standards Commission had found that the Respondent's description of a colleague as the "resident sex offender" to be either factual in nature or a value judgment that had a factual basis. The Respondent noted the Standards Commission had further found that this was not sufficiently offensive, polemical and gratuitous as to justify a restriction on the Respondent's right to freedom of expression.

In this case, the Respondent argued that the Complainer's "past" was a matter of public record and, as such, she had felt at liberty to reference it. The Respondent contended that the Panel's role was not to determine whether her opinions were correct. Instead, its role was to determine whether she had been allowed to express these opinions in the manner she had.

Turning to the potential impact of her comments, the Respondent suggested the law did "not allow a claim to succeed" on the basis of mere speculation that a Complainer's reputation might have been harmed. The Respondent noted that there had been no public outcry at the meetings, as a result of her comments, and that she was unaware of any single individual who thought she had brought the Council into disrepute by making them. The Respondent noted that politicians earned their reputations in the public forum and, as such, it followed that these could be disarmed in such a space. The Respondent argued that a politician's reputation was not a private matter and noted that while some of her comments were about the Complainer's character, others concerned how he had exercised his power as Provost.

---

<sup>1</sup> *Heesom v Public Service Ombudsman for Wales* (2014) EWHC 1504 (Admin)

<sup>2</sup> *Heesom* (ibid)

The Respondent noted that she was a democratically elected representative and argued that there would be a huge risk to, and chilling effect on, democracy if the Panel became “the arbiter of what can be said” in a Council Chamber by restricting free speech. The Respondent argued that the Panel was obliged to consider the context in which she had made her remarks. This context included the fact that they had been made in the Council Chambers, being a political environment, when two politicians were engaged and interacting with each other in their roles as elected members.

The Respondent suggested that public confidence demands openness, transparency and vigour, and contended that she was demonstrating these values when making her comments. The Respondent argued that any attempt to curtail a politician’s right to make moderate criticisms of that nature would discourage individuals from entering politics for fear of being the subject of punitive sanctions. The Respondent stated that she had merely “called out”, and indicated she would not tolerate, unacceptable behaviour. The Respondent contended that punishing her for doing so would have a chilling effect on the ability of other women to do the same.

The Respondent suggested the ESC has “reported selectively on everything” and ignored salient points, such as the fact that the Complainer had apologised to her. The Respondent stated that the ESC had made her out to be the “wicked witch of the West”, when nothing could be further from the truth. The Respondent stated that the ESC “should go back to school” and that she found him “appalling”.

The Panel noted that the journalist stated, in the article of 14 October 2023, that was the subject of issue two, that the Respondent had “doubled down” on what she had said at the Council meeting on 11 October 2023. It asked the Respondent what she had said to the journalist that led to this comment. In response, the Respondent advised she could not remember exactly what had been said during her conversation with the journalist but thought she had simply confirmed she stood by the remarks she had made at the meeting.

The Panel noted that the Respondent had made the remarks at the April 2023 meeting (that were the subject of the complaint), as part of a lengthy statement she made at the outset of proceedings. The Panel asked, therefore, whether she had prepared her statement in advance or whether it was made spontaneously. In response the Respondent said she had not written any statement in advance.

The Panel noted the Respondent had suggested, in the context of making submissions as to whether her conduct could amount to bullying and harassment, that various individuals could take the same comment in different ways. The Panel asked whether, given it was the Complainer who was the subject of the Respondent’s remarks, it was reasonable to consider that the relevant question was how he perceived them, rather than any hypothetical third party. In response, the Respondent advised she did not consider her comments could be perceived by anyone as amounting to bullying and harassment. The Respondent noted, in any event, that the Complainer was expected, as a politician, to have a thicker skin and to be more robust when facing criticism.

The Panel noted that the Respondent had taken exception to the ESC’s categorisation of her conduct as a vendetta against the Complainer as she considered this language ‘emotive’. The Panel noted, however, that the Respondent appeared to have stated to the press that the Complainer had engaged in a vendetta towards her and, further, that she appeared to use emotive language to describe his conduct. In response, the Respondent argued that as a politician, she had the right to freedom of speech and to speak to the press. The Respondent advised that when she had described the Complainer as having engaged in a vendetta towards her, she had simply meant that “all situations were prolonged” and his conduct appeared to only be directed towards and not anyone else. The Respondent contended that was her “lived experience” and a value judgement.

The Respondent complained that the Hearing was unfair as she had not been sent the case law to which the ESC had referred in his report. The Panel noted, however, that the report contained hyperlinks to the cases

and that the Respondent had not, at any stage, asked for hard copies to be sent, despite being first sent a copy of the report in January 2025. The Respondent accepted that the hyperlinks appeared in blue and were underlined but stated she had not been aware of what these were and did not consider this sufficient.

#### **Closing remarks made by the ESC's Representative**

The ESC's representative noted that the version of the Council's Standing Orders, in place at the time, stated clearly that a meeting chair must not be interrupted.

The ESC's representative noted the Respondent had suggested the Complainer had apologised to her at one meeting. The ESC's representative noted this was a qualified apology that should be considered in the full context in which it was made.

The ESC's representative confirmed that the ESC's position was not that the Respondent enjoyed fewer rights in public or could not express views in such a forum. The ESC's representative advised that the point being made was that that Council meetings were not the appropriate time and place to raise serious allegations that normally would be expected, or would require, to be investigated (such as discrimination and sexual harassment).

The ESC's representative suggested that the Aberdeen case (reference LA/AC/3495) could be distinguished readily from the one before the Panel that day. This was because the individual to which the Respondent had referred in that case as the "resident sex offender" was indeed a convicted sex offender, at the time the remark was made. As such, the allegation made by the Respondent in the case had a very strong basis in fact.

The ESC's representative noted that the ESC had not suggested the Respondent had unlawfully discriminated against the Complainer. Instead, his conclusion was that her comment inferring the Complainer could not perform his role due to his age was a form of discrimination.

#### **Closing remarks made by the Respondent**

The Respondent reiterated that she did not know what a hyperlink was and noted no mention of these were made in the Hearing Rules.

The Respondent advised the Complainer was told by the Council's Chief Executive and other senior officers to apologise to her at the meeting in June 2023. As such, she had taken his apology to be a proper one.

The Respondent noted she would not have been at the meetings in question had she not been elected as a councillor. The Respondent contended that her issues concerned what she was experiencing in Council meetings as a result of the Complainer's behaviour and, therefore, the Council Chamber was the correct and appropriate forum to raise her complaints and allegations about his conduct.

The Respondent noted that there was no reference to bullying and harassment in the Ethical Standards in Public Life etc. (Scotland) Act 2000. As such, it was not defined. The Respondent noted that definitions had been provided in the Standards Commission's Guidance but argued that this was "not law".

#### **Issues raised by the Respondent during the Hearing**

The Panel noted the following matters were raised by the Respondent during the Hearing:

1. The Respondent expressed concerns that the Panel had not allowed her to lead evidence and make submissions to demonstrate that all her accusations about the Complainer were true. The Panel noted that this was despite the Respondent having acknowledged in her own submissions that the Panel's role was not to determine whether her opinions were correct and, instead, was to decide whether she had been allowed to express them in the way she had. The Panel reiterated that its role was not to consider the alleged conduct of the Complainer (indeed it had no remit to do so). It noted that the Respondent had been advised accordingly on several occasions before the Hearing and had been told, in advance, that the

Panel would reject as irrelevant any evidence led, and submissions made, at the Hearing about the Respondent's alleged conduct.

2. The Respondent advised that she was unaware that the ESC's report contained hyperlinks to case law and suggested, therefore, that she had not known about or been able to access these. The Panel did not accept this assertion as truthful. It noted that, in the report, each hyperlink was attached to a case name, appeared in blue and was underlined. The Panel agreed that the Respondent would therefore have been aware the ESC was referencing the cases in question. The Panel noted the Respondent could have asked the ESC or Standards Commission to provide a link or copy of any case if she had been unable to access them. The Panel noted the Respondent had not done so (or indeed mentioned the issue before the Hearing). The Panel further noted that the Respondent referred to one of the cases in question in her representations on the ESC's draft report. In addition, the Panel considered the fact that the Respondent had produced her own case law demonstrated she was aware of how to access cases.
3. The Respondent noted that there was no reference to bullying and harassment in the Ethical Standards in Public Life etc. (Scotland) Act 2000 and, as such, the terms were not defined. The Respondent noted that definitions had been provided in the Standards Commission's Guidance but argued that this was "not law". The Panel noted that the 2000 Act did not define any aspects of the Code (including what was confidential information and what amounted to a declarable interest). Instead, it obliged the Standards Commission to issue guidance, to assist in the interpretation of the Code. The Panel noted the Standards Commission had produced such guidance. It did not accept, therefore, that any failure to define the terms in the Act was relevant to the question of whether the Respondent had breached the Code as alleged.
4. The Respondent requested that the Panel disregard the representations she submitted to the ESC in response to his draft investigation report, on the basis that she had not been aware they would be shared with the Standards Commission. The Panel declined to do so as the representations had been sent by the ESC to the Standards Commission and included in the productions, which it had considered in preparation for the Hearing. The Panel noted it understood the ESC advised Respondents that their representations would be shared with the Standards Commission when a case was referred. The Panel agreed, therefore, that the Respondent would need to raise any failure to advise her accordingly with the ESC directly. The Panel noted, in any event, that the Standards Commission had sent the Respondent a copy of the productions received to date, which included her representations on the ESC's draft report, on 1 April 2025, meaning that she was aware, well before the Hearing, they had been included in the productions that were to be considered by the Panel.

## **DECISION**

The Hearing Panel considered the submissions made both in writing and orally at the Hearing. It concluded that:

1. The Councillors' Code of Conduct applied to the Respondent, Councillor Mrs Stewart.
2. The Respondent had breached paragraphs 3.1, 3.2, 3.3 and 3.11 of the Code and a restriction on her right to freedom of expression that such a finding would entail could be justified.

## **Reasons for Decision**

1. The Panel noted the first issue concerned the Respondent's conduct at Council meetings that she had attended in her capacity as an elected member. The Panel noted that the second issue of complaint concerned comments provided by the Respondent for a press article, which was published on 14 October 2023, reporting on what had happened at the Council meeting on 11 October 2023. The Panel noted that the Respondent was discussing the Council meeting and was identified in the article as an elected member. The Panel was satisfied, therefore, that she was either acting, or had identified herself, as a councillor at the time of the events in question and, as such, the Code applied to her conduct.

2. 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 protecting the rights and reputations of others).

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

3. **Issue One:** The Panel noted that the first issue concerned the Respondent's conduct towards the Complainer, being the Lord Provost and Chair, at Council meetings on 14 December 2022, and 27 March, 26 April, 11 September and 11 October 2023. As noted at the outset, the Panel members viewed the relevant parts of the recorded webcasts of these meetings in advance of the Hearing and had access to the transcripts of the relevant parts of the meetings, as contained in the productions.
4. The Panel found that, at the meetings in question, the Respondent made various personal remarks about the Complainer. The Panel found that these remarks either directly accused or inferred clearly that the Complainer:
- was sexist;
  - was a misogynist who hated women;
  - had displayed religious intolerance;
  - had engaged in intimidatory behaviour; and
  - had treated the Respondent differently due to her sex.
5. The Panel accepted that the Respondent's remarks, as outlined above, reflected her own views on the Complainer and her perception of his behaviour. The Panel nevertheless considered that, regardless of whether the Respondent considered they had merit, the accusations and inferences were of a particularly serious nature. Given this, and the fact she had made them in public, the Panel considered the Respondent's remarks had the potential to cause irrevocable harm to the Complainer's personal reputation. As he was elected as one of its representatives and, indeed was its Lord Provost, the Panel considered the accusations could have also damaged public confidence in the Council itself.
6. The Panel noted the Respondent had submitted that the law did "not allow a claim to succeed" on the basis of mere speculation that a Complainer's reputation might be harmed. The Panel noted, however, that the requirement to demonstrate actual harm concerned defamation actions before the Courts. It noted that there was no requirement to prove there had been actual harm before a breach of the Code could be established. As an example, the Panel noted councillors could be found in breach of the Code for failing to register an interest as required, without there being any need to demonstrate any individual or group had been affected by such a contravention. In this case, the Panel considered it was reasonable to conclude, given the extent of press coverage about the meetings, that not only would the making of public accusations of such a nature about a fellow elected member have the potential to cause significant damage to their reputation; but that the Respondent would have been well aware of this possibility.
7. The Panel noted the Respondent contended that, at the meeting on 26 April 2023, the Complainer apologised to her and another councillor for failing to treat them fairly. The Panel agreed, however, it was unclear from the webcast whether this apology was indeed directed at the Respondent (rather than towards or in regard to the situation in general). The Panel further noted that the Respondent contended that the Complainer's suggestion at the December 2022 meeting that matters were getting 'close' to the

slinging of insults amounted to an admission, on his part, that no insults had in fact been slung. The Panel agreed, however, that it was evident from the webcast that this intervention related to an exchange between the Respondent and another meeting participant, rather to any exchanges between the Respondent and Complainer.

8. The Panel noted that, in drawing its attention to these supposed ‘apologies’ proffered by the Complainer at some of the meetings in question, the Respondent was suggesting they indicated the Complainer accepted she had done nothing wrong. The Panel rejected this proposition as it considered it was evident from the fact the Complainer had made a complaint to the ESC that this was not the case. In addition, having watched the webcasts, the Panel considered it was entirely possible (and indeed likely) the Complainer offered an apology at some of the meetings, out of politeness, to demonstrate he accepted he may have upset the Respondent (even if he did not consider his conduct warranted such a reaction or that such a reaction was reasonable); or out of a desire to move the discussion onto matters to be discussed as part of the meeting’s agenda. The Panel did not consider, therefore, that any ‘apology’ made by the Complainer in the circumstances could be taken, reasonably, as evidence the Respondent had not been disrespectful or discourteous in breach of the Code.
9. The Panel noted the Respondent’s accusation that the Complainer had been religiously intolerant towards her emanated from two exchanges between them. The first was a discussion at the December 2022 meeting regarding buffer zones preventing protests around abortion clinics. In considering this exchange, the Panel noted that the Respondent had highlighted her Catholic faith, stated that she had never “hid from it”, and argued that people had a right to peaceful protest. The Panel noted that the Respondent appeared to then take offence when another councillor addressed her comments and indicated disagreement with her stance. The Panel noted the Complainer then attempted to draw matters to a close by noting the discussion was getting close a stage where “insults” might be “slung”. The Panel did not consider this demonstrated any religious discrimination on the part of the Complainer. This was because the Panel considered it was apparent he had simply been trying to lower the temperature of the debate and, indeed, to prevent any insults from being levelled.
10. The Panel noted the second exchange related to a discussion at the March 2023 meeting, where the Respondent had questioned why the Council’s administration had cut the budget for the Nativity, contending this was an “attack on the Catholic community”. The Complainer intervened, stating that while he did not want to interrupt, he considered Nativity to be a matter for all Christians. When the Respondent argued that she had not implied Nativity was solely of concern to Catholics, the Complainer stated that if he had been mistaken and the Respondent had mentioned other faiths, he would apologise. Again, the Panel did not consider this exchange to be indicative of any religious discrimination or intolerance. The Panel agreed that, at worst, it simply indicated the Complainer had misunderstood the Respondent. As such, the Panel also did not consider there was any basis for the Respondent’s accusation that the Complainer had engaged in religious intolerance at the meeting in question.
11. The Panel noted the Respondent rejected the ESC’s finding that the Complainer had not been “anti-Catholic” and argued that the Complainer accepted he had displayed “religious intolerance” by stating at the April 2023 meeting that he had accepted her accusation to that effect. The Panel noted, however, the Complainer had stated, “right, to move us forward, I will apologise if your interpretation of what I said was as you have explained just now. And for that reason, I will give you an apology, but we need to move on”. The Panel did not accept that this could be interpreted, reasonably, as an acceptance of any engagement in “religious intolerance” as alleged. Instead, the Panel considered it was evident the Complainer was attempting to bring the discussion to a close, in order to move matters on.
12. The Panel noted the Respondent argued that as the Complainer’s reputation had been built in public, it was appropriate for her to raise concerns about him in the same forum. The Panel did not accept this. It noted that some of the Respondent’s accusations (such as those that he had displayed religious

intolerance and had engaged in sexual harassment and intimidatory behaviour towards her), were clearly of such a serious nature that it would be reasonable to expect they would require investigation. The Panel noted natural justice dictated that the Complainer should have the right to respond to such accusations, but did not consider he could, or should, be expected to do so in the middle of any council meeting. This was particularly the case given his role as Provost meant he was tasked with managing the meetings, ensuring agenda items were given full and proper consideration and that participants were afforded a fair opportunity to contribute. The Panel agreed the Respondent should have raised any serious accusations of misconduct in private. It noted that if, having done so, the Respondent considered they remained unresolved, she would have the option of making a formal complaint to the ESC so they could be investigated thoroughly. The Panel noted the Respondent had made such a complaint to the ESC and considered, therefore, that it was evident she was aware that was the appropriate route under the ethical standards framework. The Panel noted that after a full investigation into the Respondent's concerns, the ESC had found no evidence the Complainer had breached the Code.

13. The Panel noted the Respondent appeared to interpret the ESC's position that she should not make accusations of that nature in public as meaning councillors were entitled to be disrespectful, provided they made any comments of that nature in private. The Panel considered this to be a wholly facetious suggestion. The Panel agreed it was entirely evident that, in considering whether any remark is disrespectful, all relevant factors need to be considered. These could include not just the words used but also the setting, who they were directed towards, the tone adopted and who was present. The Panel agreed that the Respondent would be aware that the same words can be interpreted entirely differently depending on how they were used and in what context. The Panel noted, as an example, that in saying 'shut up' in public to a friend who is teasing you, while laughing, is likely to be perceived very differently to saying 'shut up' in an angry tone to a colleague in a private work environment.
14. The Panel agreed that while some of the Respondent's remarks, which formed the basis of the complaint, were about how the Complainer conducted meetings, the majority concerned his character, were personal in nature and did not relate to any of the agenda items under consideration at the meetings in question.
15. In addition, the Panel found the Respondent stated, at the meeting in April 2023, that she was not prepared to put up with the alleged behaviour she had experienced from the Complainer at previous meetings. The Respondent stated that this included "sexual harassment as I see it". The Panel noted that the Respondent contended she had used the words "as I see it" to indicate she was simply reflecting her own view on what could amount to sexual harassment (being a form of misogyny). The Panel rejected this contention. It noted that the ordinary, everyday meaning of sexual harassment was any unwanted behaviour of a sexual nature that creates a hostile or offensive environment. The Panel was of the view that it would have been reasonable for members of the public observing the webcast of the meeting to give the phrase its everyday meaning. Given the remark was made in the context of the Respondent listing concerns about the Complainer's alleged behaviour towards her, the Panel agreed it would also be reasonable for members of the public to understand the Respondent was accusing the Complainer of having engaged in unwanted sexual behaviour towards her.
16. The Panel noted the Respondent had not provided any evidence whatsoever, either during the meeting or subsequently, to support an accusation of sexual harassment towards her by the Complainer. Indeed, the Panel noted the Respondent had not reiterated or stood by this accusation at the Hearing and had not, at any time, given any indication of dates, times or places where any alleged sexual harassment had occurred. The Panel noted that the Respondent suggested, in her submissions, that the Complainer's response to the effect he accepted her comments (without qualification) demonstrated he admitted the allegation. The Panel considered this suggestion was entirely disingenuous, given the Respondent's own argument that, by 'sexual harassment', she had only meant a form of misogyny (as opposed to unwanted behaviour of a sexual nature). The Panel considered, in any event, that it was again evident that in stating

the comments were accepted, the Complainer was simply trying to move the meeting onto matters on the agenda and, further, was responding to the Respondent's full list of accusations in general, as opposed to that specific allegation.

17. The Panel noted that during the Hearing the Respondent advised she took exception to the use of what she considered to be "emotive language" by the ESC. The Panel agreed this demonstrated that the Respondent was aware of the importance of language and its impact. The Panel further agreed it was very unlikely the Respondent was not aware of the ordinary, everyday meaning of the term 'sexual harassment'. As such, the Panel considered the Respondent should have known her use of the term, in circumstances where it was neither accurate nor warranted, was potentially very damaging to the Complainer. Given her apparent acceptance that the Complainer had not in fact sexually harassed her, the Panel was of the view that the Respondent should have apologised to the Complainer. It noted that despite having had ample opportunities, there was no evidence or suggestion that she had made any effort to do so.
18. The Panel noted that, at the meeting in October 2023, the Complainer paused for a short period before inviting the Respondent to speak. The Panel noted the Respondent then asked whether it was perhaps the Complainer's age that had "caused the delay". The Panel considered it would be reasonable for any members of the public or press in attendance or observing the meeting webcast to conclude the Respondent was mocking the Complainer and was suggesting his performance in his role as Chair was affected adversely by his age. The Panel agreed with the ESC's representative that a reference to the Complainer's age in such circumstances was neither appropriate nor respectful, particularly as it was not relevant to any of the matters being discussed. The Panel agreed that the Respondent would or should have been well aware her comment was entirely disrespectful. It noted, in support of this, that an aspect of her complaints about the Complainer was that he had treated her differently because of *her* protected characteristics (being her sex and religion).
19. The Panel therefore found, for the reasons outlined above, that the Respondent's conduct, in making personal remarks and accusations of such a nature at public meetings, was objectively disrespectful and amounted, on the face of it, to a breach of paragraph 3.1 of the Code.
20. The Panel considered the Respondent would have been aware that there is no upper age limit for being a councillor or Provost and, further, that an individual elected member's age has no bearing whatsoever on matters to be discussed at council meetings. The Panel considered the Respondent's remark about the reason for the delay amounted to a personal attack on the Complainer, based on his age. In reaching this view, the Panel further noted that there can be any number of reasons as to why an individual, and particularly a chair, might pause during a meeting, including to gather their thoughts, check who else might want to contribute to the discussion or allow any background murmurs to end before proceeding.
21. The Panel did not accept the Respondent's suggestion that her comment could not have had any effect on the Complainer, given he had already been elected as Provost. The Panel agreed with the ESC's representative that, in suggesting the Complainer was not able to perform a task or tasks without delay, or should not be Provost because of his age, the Complainer was both singling him out and perpetuating stereotypes associated with age and weakness. The Panel agreed that this, in turn, could have caused his peers to treat him differently on that basis. It could also have altered the public's perception of him.
22. The Panel concluded, therefore, that the Respondent had, on the face of it, failed to foster good relations between different people (being individuals of different ages), in breach of paragraph 3.2 of the Code.
23. The Panel considered it was wholly inappropriate for the Respondent to have disclosed the medical condition of an identifiable individual at the Hearing and, further, to have said she believed the Complainer was suffering from the same condition. The Panel was unclear as to whether the Respondent

had consent to disclose the medical condition of the individual in question or, indeed, whether the individual identified was capable of providing such consent. The Panel noted, in any event, that the Respondent was not in a position to make a clinical diagnosis in respect of any of her colleagues. As such, it disregarded this submission entirely.

24. The Panel noted that harassment is any unwelcome behaviour or conduct that makes someone feel offended or humiliated and that it can occur as an isolated incident or as a course of persistent behaviour. The Panel was of the view that the Respondent's remarks about the Complainer's age, and the accusations that he was a misogynist, hated women and had sexually harassed her, were inappropriate and offensive.
25. The Panel did not accept the Respondent's position that her comments were political in nature and not personal. Indeed, the Panel found them to be both personal and targeted specifically at the Complainer. The Panel rejected the Respondent's suggestion that all the comments were, by necessity, directed towards the Complainer as he was chairing the meeting. The Panel agreed this was absurd, given the Respondent's own position was that her accusations were not only about the Complainer but were also all true. In addition, the Panel agreed it was clear that accusations about sexual harassment and comments about age would not apply to all meeting attendees (as a collective) and must, therefore, concern a specific individual or individuals. It agreed that had the Respondent intended to direct her accusations at any other individual or individuals, through the Complainer as Chair, she would have identified them.
26. The Panel noted that the Respondent argued it was "absurd" to suggest her comments were targeted and had taken exception to the ESC having categorised her conduct as being a 'vendetta' against the Complainer. The Panel noted the Respondent had suggested the dictionary definition of a vendetta was a "long and violent argument". The Panel agreed that while this was one definition of the word, another common definition was "a strong desire to harm a person or group, often because of political reasons or feelings of hate". The Panel found the Respondent had made numerous accusations and remarks about the Complainer (a fellow politician) over a prolonged period that, by her own admission, were designed to harm his reputation. As such, it agreed with the ESC that she had, indeed, engaged in a vendetta against him.
27. The Panel found that the Respondent had made persistent and repeated personal comments and accusations about the Complainer. It agreed that these amounted to personal, public attacks that were both intended to and would have caused the Complainer to feel offended and humiliated both in his workplace and in general. The Panel was satisfied, therefore, that the Respondent had harassed the Complainer, in breach of paragraph 3.3 of the Code.
28. The Panel found that during the meetings in December 2022, March 2023 and October 2023, the Respondent talked over the Complainer and refused to move on or sit down when he directed her to do so.
29. The Panel noted the Respondent had argued that the Complainer, as Chair, had not stood up at the meetings in question and had not made any formal rulings or objections in respect of her conduct, despite having the opportunity to do so. The Panel noted, however, that neither the Code nor the Standards Commission's Guidance made any distinction between formal and informal rulings from a meeting chair. As such, it did not accept the Respondent's suggestion that paragraph 3.11 of the Code only applied to formal rulings.
30. The Panel noted the Respondent considered the ESC had misquoted aspects of the Council's Standing Orders in his report. The Panel considered, however, that even if this was the case, it was neither material nor directly relevant to the question of whether she had respected and complied with rulings from the Complainer as Chair of the meetings, as required by the Code.

31. The Panel noted the Respondent further indicated that no concerns had been raised by members of public present or watching the webcast. The Panel noted this was not the case and that a member of the public had complained to the ESC about the Respondent's conduct at one of the meetings in question. The Panel further noted members of the public observing the webcasts may not have been aware of the Code's requirements and those present at meeting would not be permitted to intervene.
32. The Panel agreed that by talking over the Complainer and refusing to move on or sit down when he directed her (in his capacity as Chair) to do so, the Respondent failed to respect and comply with his rulings. The Panel found therefore, that the Respondent breached paragraph 3.11 of the Code.
33. **Issue Two:** The Panel accepted it was evident both from the article itself and the Respondent's own submissions, that she discussed the Council meeting on 11 October 2023 with the journalist who had authored it and, in doing so, had 'doubled down' on the remarks she made at it, either by repeating or stating that she stood by them.
34. The Panel noted, however, that the wording of the issue of complaint concerned whether the Respondent stated, in a press article of 14 October 2023, that the Complainer delayed in intervening due to his age, and that he was misogynist who had been sexist towards her. The Panel noted that while the article outlined what was said at the Council meeting on 11 October 2023, it only reported that the Respondent had "doubled down on much of what she had said" and called the Complainer a "bully". The Panel therefore did not find that the Respondent made the specific statements, *in the article*, as alleged. As such, the Panel determined that issue two could not be upheld.

**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**

35. The Panel noted that enhanced protection of freedom of expression under Article 10 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 concern<sup>3</sup>.
36. In this case, the Panel noted the Respondent's accusations and remarks were made in a political and public context, with some of them relating to the Complainer's alleged behaviour as Lord Provost and the way in which council meetings were conducted, both being matter of public interests and concern. In the circumstances, therefore, the Panel considered that the Respondent would attract the enhanced protection of 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**

37. 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:
- protecting the rights and reputation of others, including fellow councillors and ensuring equality of opportunity;
  - helping ensure public confidence in elected members and local authorities; and
  - ensuring the conduct of public life at the local government level does not fall below a minimum standard.
38. 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

---

<sup>3</sup> Thorgeirson v Iceland (1992) 14 EHRR 843

Respondent against any restriction imposed by the application of the Code and imposition of any sanction. 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.
- 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 tolerated<sup>4</sup>.
- Notwithstanding the high importance of freedom of expression and its relative incommensurability with the interests that are invoked in justifying a restriction, the more egregious the conduct, the easier it is likely to be for a Panel to undertake the balancing that is required and justifiably to conclude that what was said or done falls within one of the exceptions to freedom of expression<sup>5</sup>.
- While there is no doubt that Article 10(2) enables the protection of the reputation of others, and that this protection extends to politicians, the requirements of such protection have to be weighed in relation to the interests of open discussion of political issues<sup>6</sup>.
- A careful distinction is to be made between factual statements on the one hand, and value judgements on the other. While the existence of facts can be demonstrated, the truth of value judgements is not susceptible to proof<sup>7</sup>.

39. The Panel accepted, on balance, that the Respondent's remarks could be classed as value judgements or opinions (as opposed to statements of fact), in that they were not susceptible to proof. This was because the concept of whether someone is sexist, for example, is open to interpretation.

40. The Panel noted that the Respondent had sought to argue the approach taken by Lord Justice Hickinbottom in *Heesom*<sup>8</sup>, who stated that value judgements will be tolerated if there is "any" evidence for the statement, should be adopted. The Panel further noted, however, that the European Court of Human Rights (ECtHR) authorities referenced in *Heesom*<sup>9</sup> in support of this description do not state that value judgements will be tolerated if there is 'any' or 'some' evidence for them. Instead, the Panel noted that a sufficiency of evidence is required. For example, in *Lombardo*<sup>10</sup>, the ECtHR stated that "*even where a statement amounts to a value judgement, the proportionality of an interference may depend on whether there exists a sufficient factual basis for that statement, since even a value judgement without any factual basis to support it may be excessive*". The Panel noted that similar references to the need for a sufficient factual basis for value judgements are made in the cases of *Jerusalem*<sup>11</sup> and *Dichand*<sup>12</sup>.

41. The Panel agreed it was clear from the decisions of the ECtHR requiring a 'sufficiency' of evidence but also from cases describing what is, and what is not, sufficient that there is a qualitative element to the evidential test. The Panel noted, in the case of *Scharsach*<sup>13</sup> the ECtHR assessed the evidence justifying the description of an individual as a closet-Nazi. As part of this, the Court considered evidence that the individual was the wife of an editor of an extreme right-wing magazine. The Panel noted this would amount to 'any' or 'some' evidence as the test has been described in *Heesom*<sup>14</sup>. The ECtHR held, however, that this evidence did not, in itself, "constitute a sufficient factual basis" for the value judgement.

---

<sup>4</sup> Heesom (ibid)

<sup>5</sup> R (Calver) v Adjudication Panel for Wales (2012) EWHC 1172 (Admin)

<sup>6</sup> Lingens v Austria (1986) Series A 103

<sup>7</sup> Lingens (ibid)

<sup>8</sup> Heesom (ibid)

<sup>9</sup> Heesom (ibid)

<sup>10</sup> Lombardo v Malta 7333/06

<sup>11</sup> Jerusalem v Austria (Application 26958/95 para 45)

<sup>12</sup> Dichand v Austria (Application 29271/95 para 50).

<sup>13</sup> Scharsach v Austria (Application 39394/98)

<sup>14</sup> Heesom (ibid)

42. The Panel agreed that the approach of the ECtHR demonstrates that it is not ‘any’ evidence that is required for a value judgement to be tolerated, but rather that the evidence be sufficient. The Panel therefore applied the sufficiency approach of the ECtHR when considering the case before it; being that where a remark amounts to a value judgement, there must exist a sufficient factual basis to support it, failing which it will be deemed excessive<sup>15</sup>. The Panel further noted that the obligation to have such a sufficient factual basis must be proportionate to the nature and degree of the allegation in question, meaning the more serious an allegation, the more sound the factual basis has to be<sup>16</sup>.
43. The Panel noted that the Respondent referred to the case of *Lombardo*<sup>17</sup>, during her submissions and had quoted the Court’s observation that “*the distinction between statements of fact and value judgments is of less significance in a case such as the present, where the impugned statement is made in the course of a lively political debate at local level and where elected officials and journalists should enjoy a wide freedom to criticise the actions of a local authority, even where the statements made may lack a clear basis in fact*”.
44. The Panel acknowledged the Court’s findings in that case and agreed that elected members should enjoy wide freedom to criticise the actions of their local authority. The Panel noted, however, that the Respondent’s remarks in the case before it could not properly be classified as part of a political debate, or as legitimate criticisms of the actions of her local authority (for example, a valid criticism that the Council’s administration had been lacking in some regard). Instead, the Panel considered the remarks were egregious and gratuitous personal attacks on the Complainer that arose from either her understanding of unproven historical accusations against him, or her view on how he engaged with her during council meetings. The Panel agreed that neither of these matters concerned any political debate or formed part of the discussion on the agenda items at the meetings in question.
45. In arguing that her statements were value judgements that should be tolerated, the Panel noted that the Respondent referred to a previous Standards Commission case (reference LA/AC/3495) and suggested that in order to ensure public confidence in the ethical standards framework, the Panel’s decision-making should be consistent with that decision. The Panel noted the previous decision related to remarks made by a councillor about a colleague being the “resident sex offender”. The Panel in the previous case determined that, in the context of the remark having been either factual in nature or being a value judgement that had a sufficient factual basis, they were not sufficiently offensive or gratuitous as to justify a restriction on the Respondents’ right to freedom of expression. The Panel agreed, however, that the remark in question in that case could be distinguished from the current matter, as it had been made about a councillor who had been convicted of sexual assault.
46. The Panel also noted the Respondent appeared to accept, in her closing remarks, that her accusations were based entirely on her perception of how the Complainer had behaved towards her in council meetings (which was why she was arguing the Council Chamber was the appropriate forum to make the accusations and remarks), and her “lived experience” of this.
47. The Panel noted that the Respondent had, nevertheless, also provided an article (which was included in the productions) reporting concerns over historic misconduct allegations by the Complainer. The Panel further noted that the allegations described were more than a decade old and had not resulted in any finding of misconduct on the part of the Complainer. The Panel understood that the Respondent indicated her accusation that the Complainer was a misogynist who hated women was based on her understanding of the press coverage of these historical (and unproven) allegations. The Panel did not consider that the

---

<sup>15</sup> Pedersen and Baadsgaard v Denmark (GC) 49017/99

<sup>16</sup> Pedersen (ibid)

<sup>17</sup> Lombardo (ibid)

article produced by the Respondent indicated, or amounted to evidence, that the Complainer was sexist or a misogynist “who hated women”.

48. The Panel was unclear as to whether the Respondent considered the article also supported her contention that the Complainer had engaged in sexual harassment. The Panel noted, however, it had found the Respondent’s accusation in this regard related to alleged sexual harassment she herself had experienced from the Complainer. The Panel noted the article did not concern the Respondent and agreed, therefore, that it could not be taken to serve as a factual basis for that particular accusation.
49. Having viewed the webcasts of the meetings in question, the Panel did not consider there was any basis for the accusations and inferences that the:
- Complainer had engaged in misogyny or religious intolerance;
  - age of the Complainer was adversely affecting his performance; and
  - Complainer had sexually harassed the Respondent or otherwise acted in a ‘sexist’ manner towards her.
50. In support of this conclusion, the Panel noted that chairs, quite properly, may feel obliged to interrupt during the course of meetings if they consider the contributions participants are making are too lengthy, or irrelevant. The Panel agreed that the fact that a chair may happen to be a man and the participant in question a woman is not, in itself, evidence of misogyny. The Panel considered it was again clear, from the webcasts, that the Complainer interrupted the Respondent because he considered she was discussing irrelevant matters, being disruptive or speaking over him, and that he did so in the interests of efficiency. Indeed, the Panel noted that the Respondent stated in her submissions that it was evident from the transcripts of the meetings in question that the Complainer had intervened when various other councillors were speaking or trying to speak, and that interruptions were “the norm”.
51. The Panel further did not consider there was a sufficient basis in fact for the Respondent’s comment about the age of the Complainer being responsible for him taking a longer pause and the suggestion this meant he was not fit to chair the meeting. This was because, as noted under stage one above, it did not consider that a pause necessarily had anything to do with age.
52. For the reasons outlined under stage one above, the Panel did not consider that there was any evidence the Complainer had displayed religious intolerance towards the Respondent or anyone else at the meetings. As such it did not consider there was a sufficient basis in fact for the Respondent’s accusation that he had done so.
53. In further support of its conclusions, the Panel noted, in carrying out the investigation into the complaint about the Respondent’s conduct, the ESC’s staff had watched over 24 hours of video footage of the Council meetings and had not found evidence to support or substantiate any of the accusations she had made against the Complainer.
54. The Panel further noted that the Respondent had submitted a complaint to the ESC about the Complainer on 17 October 2023. Following an investigation, the ESC concluded that the Complainer’s behaviour, in respect of the issues of complaint, assessed either individually or cumulatively, did not meet the threshold for amounting to a breach of the respect and courtesy, or bullying and harassment provisions in the Code. The ESC reported that he had not found any evidence to support the contention that the Complainer had discriminated against the Respondent on the grounds she was a woman or because of her religious beliefs.
55. The Panel noted that the ESC concluded his investigation and referred the matter to the Standards Commission on 25 February 2025. The Panel acknowledged, therefore, that the Respondent would not have been aware of the ESC’s conclusions at the time she made her accusations. The Panel nevertheless

considered the ESC's findings were persuasive and assisted in the consideration of whether a sufficient factual basis existed for the Respondent's serious accusations.

56. Following its consideration of the evidential basis of the Respondent's remarks, the Panel was not satisfied that there existed a sufficient factual basis that was proportionate to the seriousness of the accusations and inferences that:

- the Complainer had engaged in misogyny or religious intolerance;
- the age of the Complainer was adversely affecting his performance; and
- the Complainer had sexually harassed the Respondent.

Consequently, the Panel concluded that these were excessive.

57. The Panel then considered the context in which the Respondent's accusations and inferences had been made (which included assessing the status of the individuals involved), in order to determine whether they could be deemed tolerable or whether a restriction on them was necessary in a democratic society.

58. The Panel considered the Respondent's position about whether her remarks had been made in a normal political environment, or a particularly chaotic one, appeared inconsistent. It noted that, on the one hand, the Respondent suggested Aberdeen Council meetings at the time were "chaotic" and that the public referred to the Council as "toxic" but, on the other, suggested that what had happened was "normal practice" for meetings of a local authority. The Panel did not dispute that the tone and tenor of certain of the exchanges between the Respondent and Complainer, and between other elected members at the meetings in question, had been heated. The Panel agreed, however, that the persistent and repetitive manner in which the Respondent made her accusations, and the fact that she had done so over a number of council meetings meant they could not be considered as being spontaneous remarks made in the heat of the moment during a contentious debate. The Panel noted it had found that the Respondent made what it considered to be the most serious accusation, being that the Complainer had sexually harassed her, as part of what appeared to be prepared comments delivered at the outset of the April 2023 meeting (before the start of any discussions on items on the agenda). The Panel also noted that the Respondent had not proffered any apology for any of her remarks. The Panel agreed that it would have expected her to have done so, had any been unintended and only made in the heat of the moment as a result of her engagement in a contentious debate.

59. The Panel acknowledged the Respondent's submission that the Courts have held that politicians are expected to have thicker skins and required to be more tolerant to comment than an individual member of the public<sup>18</sup>. The Panel agreed that politicians, as public servants who voluntarily enter the political arena and have the right and ability to respond to commentators, should be subject to "wider limits of acceptable criticism". The Panel agreed, however, that the serious accusations levelled by the Respondent were of a wholly offensive, gratuitous, egregious and personal nature and went far beyond the "wider limits" that politicians may be expected to tolerate.

60. The Panel further acknowledged that while the Complainer was a fellow elected member, his ability to defend himself adequately from the accusations levelled at him by the Respondent was limited in the circumstances in which the accusations were made. The Panel noted that as chair of the meetings, the Complainer's role was to ensure the meeting proceeded smoothly and in accordance with the Council's Standing Orders. The Panel accepted the Complainer could have chosen to respond to the accusation and defend his reputation during the meetings. The Panel agreed, however, that it would have been difficult for him to do so without asking the Respondent to explain the basis on which she was making them (which would only serve to cause further delays). The Panel agreed that choosing to respond (even without seeking such an explanation) would, again, have extended the meetings unnecessarily. This in turn would

---

<sup>18</sup> Janowski v Poland (1999) 29 EHRR 705

have distracted further from the items on the agenda through which he, as Chair, was tasked with moving in an orderly manner.

61. The Panel noted that the Respondent had argued that restricting her freedom of expression, in the circumstances, could have a “chilling effect” on democracy and on other women who wished to call out unacceptable behaviour. The Panel rejected the Respondent’s contention in this regard, as it noted it had not found any basis for her serious accusations of misogyny and sexual harassment. The Panel noted, in any event, that there were procedures in place in terms of the ethical standards framework for the reporting and subsequent investigation of such conduct.

62. Taking all the foregoing into account, the Panel concluded the Respondent’s accusations and inferences that the:

- Complainer had engaged in misogyny or religious intolerance;
- age of the Complainer was adversely affecting his performance; and
- Complainer had sexually harassed her,

were entirely offensive, gratuitous and egregious, and amounted to personal attacks that were potentially very damaging to the Complainer’s reputation.

63. The Panel considered that the public has a right to expect that Council meetings to discuss matter of public concern will not be interrupted unduly by councillors indulging in the exchange of personal insults. The Panel further considered that it was important for attendees to comply with reasonable rulings from the chairs of meetings to ensure that there are no unnecessary disruptions, and that full and proper consideration can be given to the items on the agenda.

64. The Panel was therefore satisfied that a restriction on the Respondent’s enhanced right to freedom of expression was relevant, sufficient and proportionate in order to meet the aims outlined at the beginning of Stage 3, and in particular to:

- protect the rights and reputation of others;
- ensure public confidence in elected members and local authorities; and
- ensure the conduct of public life at the local government level does not fall below a minimum standard.

65. The Panel concluded, therefore, that the findings of breach, and the subsequent application of a sanction, would not contravene Article 10

### **Impact Statement and Evidence in Mitigation**

The Panel noted that the Complainer had submitted an impact statement. The Panel advised the Respondent that it would take into account the fact that the statement was not given under oath or tested. The Panel noted that the Complainer advised, in his impact statement, that:

- While full Council Meetings were already “fraught due to the toxicity of the politics” involved, the pressure on him as chair was magnified when the Respondent was involved. The Complainer advised that he considered the Respondent created an unpleasant atmosphere and he felt less intimidated when she was not there.
- During his career, he had never previously been described as misogynistic or been accused of being old and not up to the job. The Complainer advised that these accusations were exceedingly hurtful and had detracted from the honour and privilege of being the Lord Provost.
- He considered the Respondent’s behaviour towards him to be “aggressive and unreasonable”. What should be a very enjoyable and fulfilling role was the very opposite during Council meetings, as a direct result of Respondent’s “constant attacks and attempts to undermine” him. The Complainer explained that these also served to distract him from his role in managing what were complex meetings with 43 other elected members.

In mitigation, the Respondent highlighted that she had an unblemished public record and political career. The Respondent advised that she was both well-known and well-respected in her community and had been actively involved in it, in various positions, including as a community councillor for forty years. The Respondent advised that her faith was important to her and highlighted that she had received a letter of support from the Bishop of Aberdeen, describing her as a person of “great integrity”.

The Respondent also highlighted character references she had received from: a local businessperson; community councillors; the police; other elected members and constituents. The Respondent noted these individuals had praised her efforts in the local community, and described her variously as being incredibly helpful, dedicated, honest, trustworthy and an asset.

The Respondent advised that she would continue to do her best to put her constituents first, and asked the Panel to take into account, when determining sanction, her public record and the fact that she had never previously appeared before the Standards Commission. The Respondent advised that she considered the whole country was talking about misogyny, and that it was important, for justice, to “call out” adverse behaviour of that nature.

### **SANCTION**

The decision of the Hearing Panel was to suspend, for a period of four months with effect from 18 August 2025, the Respondent, Councillor Mrs Stewart, from all meetings of the council and of any committee or sub-committee thereof and of any other body on which she is a representative or nominee of the council or body.

The sanction was made under section 19(1)(c) terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

### **Reasons for Sanction**

1. In determining the appropriate sanction, the Panel considered:
  - firstly, whether the interference (being the proposed sanction) was the minimum necessary, or whether less restrictive means could be employed; and then
  - secondly, whether the benefit of that least restrictive measure outweighed its adverse impact on the Respondent’s right to freedom of expression. For example, whether any benefit in applying a sanction in respect of protecting the rights and reputations of others, and to ensure good administration which enables local government to function effectively, would outweigh any impact on the Respondent.
2. In making its decision on sanction, the Panel had regard to the Standards Commission’s Policy on the Application of Sanctions. A copy of the policy can be found on the Standards Commission’s website at: <https://www.standardscommissionscotland.org.uk/cases/hearing-rules>
3. The Panel began by assessing the nature and seriousness of the breach of the Code. The Panel agreed the requirements for councillors to treat everyone, including their fellow elected members, with respect and courtesy; to refrain from any conduct that could amount to harassment; to foster good relations; and to comply with the rulings of a Chair are fundamental requirements of the Councillors’ Code. The Panel noted that a failure on the part of elected members to comply with those requirements can have an adverse impact on the public’s confidence in the role of a councillor and the Council itself. The Panel further highlighted that a failure to comply with the rulings of a chair has the potential to disrupt meetings which, in turn, can result in there being insufficient time for other elected members to consider and participate fully in agenda items.

4. The Panel noted it had found that, at various council meetings, the Respondent made serious accusations about the Complainer that amounted to personal attacks and harassment and that, in doing so, had disrupted Council meetings over an extended period.
5. While the Panel acknowledged that the Respondent had every right to question whether she was being afforded an opportunity to contribute fully to the debates at the meetings, it agreed she could have done so without breaching the Code. The Panel further acknowledged the Respondent had the right to raise concerns about the Complainer's conduct either with him or officers, in private, or by making a complaint to the ESC. The Panel noted that the Respondent had, indeed, made such a complaint, and that the ESC had not found any breach of the Code by the Complainer.
6. The Panel was concerned that the Respondent had persisted in making made serious accusations about the Complainer in an inappropriate forum over an extended period. It found in doing so she had breached four separate provisions in the Code. The Panel further found the accusations made in April 2023, including the most serious allegation (that the Complainer had sexually harassed her), were not made in the heat of the moment and, instead, formed part of what appeared to be a pre-prepared statement delivered at the start of the meeting. The Panel found that the Respondent's conduct had a:
  - disruptive impact on the meetings, both in terms of how they were conducted and in respect of the ability of the Complainer, as chair, to manage them effectively;
  - negative effect on the Complainer (as outlined in his impact statement); and
  - detrimental impact on reputation of Council, as demonstrated by press coverage reporting negatively on the dysfunctionality of its meetings.In the circumstances, and for the reasons outlined, the Panel considered the breaches of the Code were serious in nature.
7. The Panel then considered the aggravating and mitigating factors as set out in the Policy on the Application of Sanctions, beginning with those in mitigation. The Panel noted that mitigating factors are those that may lessen the severity or culpability of the breach.
8. The Panel noted, in mitigation, the evidence of the Respondent's longstanding contribution to public life. It further noted there had not been any previous finding of a contravention of the Code by the Respondent.
9. The Panel then proceeded to consider whether there were any aggravating factors; being ones that may increase the severity or culpability of the breach.
10. The Panel agreed that, as an experienced elected member, the Respondent should have been able to express her unhappiness about how the meetings were being managed or her perceived treatment by the Complainer at them, without making such serious, public and personal accusations about him over the course of several council meetings.
11. The Panel was concerned that the Respondent had not demonstrated any insight, remorse or understanding whatsoever into the:
  - impact or potential of her conduct on the Complainer and others present at the meetings in question;
  - disruption her conduct had caused and the associated impact on how meetings were conducted;
  - impact of conduct on the tone and focus of the discussions at the meetings (and how this could affect public confidence in the Council or even local democracy); and
  - the need for a minimum standard of public debate in general.

12. Indeed, the Panel noted that in her submissions, the Respondent appeared to criticise how the meetings were conducted and how chaotic they were, without showing any insight into how her behaviour contributed to this and might be perceived by the public.
13. The Panel was dismayed to note that, instead of reflecting on her conduct, the Respondent chose to reiterate many of her accusations about the Complainer at the Hearing and even engaged in wholly inappropriate speculation about his health. The Panel noted that, in doing so, she had made an inappropriate public disclosure in respect of the health of an identifiable individual.
14. The Panel was also concerned the Respondent did not appear to understand that there was a difference between on the one hand her right, as an opposition councillor, to challenge the Complainer's policies and decisions as part of normal political discourse and, on the other, the making of serious, personal accusations and attacks on him as an individual in public. The Panel did not consider that such egregious, gratuitous personal attacks should be accepted as normal political discourse. It further considered that harassment has no place in public life.
15. The Panel agreed that a censure, being the minimum sanction available to it, was not appropriate in light of the seriousness of the Respondent's conduct, and the impact it had on both the Complainer and the administration of council meetings.
16. Given the serious nature and extent of the breaches of the Code it had found, the Panel further agreed that a short suspension of one to three months would not achieve the aims, as outlined in the Policy on the Application of Sanctions, of:
- preserving the ethical standards framework;
  - promoting adherence to the Councillors' Code of Conduct and, in particular, to the provisions that require elected members to treat everyone with courtesy and respect and to refrain from harassment;
  - maintaining and improving the public's confidence that councillors will comply with the Code and will be held accountable if they fail to do so; and
  - achieving credible deterrence.
17. Having considered the nature and seriousness of the breach, as well as the aggravating and mitigating factors identified, the Panel concluded that a four-month suspension was the appropriate sanction in the circumstances. In reaching this view, the Panel again noted the Respondent's lack of insight into her own behaviour and the impact it had or could have on others. While the Panel noted it had only identified some limited mitigating factors, it accepted this was the first time the Respondent had been before the Standards Commission, despite her having enjoyed a lengthy career in public life. As such, the Panel did not consider that a disqualification or lengthier suspension was warranted or justified.
18. The Panel was satisfied that the imposition of a four-month suspension was proportionate in the circumstances and the minimum necessary to achieve the aims outlined above, and to reflect the seriousness of the breach. The Panel determined, therefore, to suspend the right of the Respondent to attend all meetings of the Council and of any committee or subcommittee thereof, and of any other body on which she was a representative or nominee of the Council, for a period of four months with effect from 18 August 2025.

**RIGHT OF APPEAL**

The Respondent has a right of appeal in respect of this decision, as outlined in Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

**Date:** 13 August 2025



**Malcolm Bell  
Chair of the Hearing Panel**