

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held at the Council Chambers, Old Viewforth, Stirling, on Wednesday 27 May 2026.

Panel Members: Ms Helen Donaldson, Chair of the Hearing Panel
Dr Lezley Stewart
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/S/4312, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Gerry McLaughlan (the Respondent). The ESC represented himself at the Hearing. The Respondent was represented at the Hearing by Mr Scott Martin.

REFERRAL

Following an investigation into a complaint received on 1 May 2025 about the conduct of the Respondent, the ESC referred a report to the Standards Commission on 16 March 2026, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The substance of the referral was that the Respondent had failed to comply with the provisions of the Code and, in particular, that he had contravened paragraphs 3.1, 3.3, 3.8, 3.10 (with reference to paragraphs 24 and 25 of Annex A), 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.

3.3: 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.

3.8: I will not undermine any individual employee or group of employees, or raise concerns about their performance, conduct or capability in public.

3.10: I will follow the Protocol for Relations between Councillors and Employees at Annex A and note that a breach of the Protocol will be considered a breach of this Code. I will also comply with any internal protocol the Council has on councillor / employee relations.

Annex A paragraph 24: Councillors and employees both have a responsibility to project a positive image of the Council and should avoid making any public comments that could bring it into disrepute.

Annex A paragraph 25: Councillors should not raise any adverse matters relating to the performance, conduct or capability of employees in public. Employees must ensure they treat councillors with similar respect and courtesy.

Preliminary Matters

The Panel noted it had been provided with and had watched a recording of the webcast of the Council meeting on 1 May 2025 that was the subject of the complaint.

EVIDENCE PRESENTED AT THE HEARING

Joint Statement of Facts

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

- The issues to be considered at the Hearing were whether, at a council meeting on 1 May 2025, the Respondent was disrespectful towards council officers, a consultancy firm, the Complainer (the then Chair) and other trustees of the Stirling Smith Museum (the museum), and whether his conduct also amounted to bullying towards the Complainer and the trustees.

- The museum is a charity partly funded by Stirling Council. In the years before the meeting, the Council had engaged with the museum about financial challenges it was facing, with a consultancy firm being appointed in April 2024 to review its operating model and whether it could increase revenue and improve its building and gallery. After the review was completed in January 2025 a report produced by the consultancy firm was shared with council officers.
- The Respondent exchanged emails in April 2025 with the Council's Head of Economic Development, Planning and Climate Change about the report. He was advised a 'holding report' would be provided to elected members at the meeting on 1 May 2025, with a further report and action plan following in June 2025.
- The Respondent attended the 1 May 2025 meeting in his capacity as a councillor and, as such, the Code applied to his conduct.
- At the meeting on 1 May 2025, the Council's Head of Economic Development, Planning and Climate Change (Officer A) presented a report prepared by the Council's Service Manager for Culture, Events and Tourism. This provided a high-level summary of the consultancy firm's report and noted that an action plan would be presented to elected members in June 2025.

The Panel noted that it was further agreed between the parties that, at the meeting, the Respondent made the following comments (among others):

- "We're trusting ... a board of trustees ... that have governed over a run-down, of an organisation we all love, that when faced with any crisis in the past...they've laid off staff."
- "We as councillors are getting manipulated here... We're gonna be trapped, that's what's gonna happen. We're gonna be entrapped into a solution where we have no other option than to accept this."
- "I owe no apologies to an organisation that's allowed this to happen. So no, I'm not going to apologise for a shower that've run this organisation into the ground. They deserve every criticism they get."

The joint statement of facts also recorded that, after the meeting the Respondent sent an email to the Executive Director – Place, on 2 May 2025, reiterating concerns about the consultancy firm's report and the Complainer. It recorded that, after he became aware that a complaint had been made about his conduct, the Respondent stated in an email to Council's Monitoring Officer that "with the benefit of hindsight I should have been more selective in my comments that I made in the debate". The Respondent advised he accepted it had been unreasonable for him to have made generic comments about the museum's trustees. The Respondent stated that he was offering, without any caveat, each trustee "an unequivocal apology" for the comments he had made "questioning the ability of the board".

The Panel noted that it was recorded in the joint statement of facts that the Respondent's position was that:

- He understood that, at an event the evening before the meeting, there had been an announcement by the Complainer to the effect that the museum had already secured several million pounds of Council funding and would remain at its current location. This, along with the decision not to release the consultancy firm's report to elected members before the meeting on 1 May 2025, led him to suspect a deal had already been effectively agreed.
- The Respondent considered the language he had used reflected his frustration about this. The Respondent further considered they reflected the fact that his comments were being made in "the context of a political debate and comments were aimed only at his fellow councillors".
- After becoming aware that Officer A had felt uncomfortable at the council meeting, he advised her, at a meeting on 5 June 2025, that he was genuinely upset she felt that way. The Respondent's position was that he had apologised to Officer A for the fact that she had felt uncomfortable.
- He was "genuinely surprised and then distraught" that the Complainer had felt attacked at the council meeting and regretted causing him to feel distressed (albeit this was unintentional).

Introductory remarks made by the ESC

The ESC explained that as the museum was experiencing financial difficulties, the Council provided additional funding in October 2023 and agreed council officers were to work with it to ensure it was financially sustainable. The ESC advised that the consultancy firm was then commissioned to review the situation, with its report being completed and shared with council officers in January 2025.

Witness Evidence on behalf of the ESC

The ESC led evidence from the Complainer and the Council's Head of Economic Development, Planning and Climate Change (Officer A).

Officer A: Officer A advised that, when she was presenting a report on the museum at the Council meeting on 1 May 2025, the Respondent asked her a number of questions and made several comments. Officer A advised that his conduct in doing so added to the stress she was already feeling as a result of the duration of the meeting. Officer A noted that the Respondent had suggested elected members were being 'manipulated and entrapped' but confirmed that council officers had not colluded with any individuals or group to avoid scrutiny.

Officer A advised that, after expressing how she felt following the meeting to her manager (the then Executive Director – Place), she had met with him and the Respondent on 5 June 2025. Officer A advised that, at this meeting, she explained she had felt stressed as she considered the Respondent had been a bit too aggressive in respect of the way he had put questions to her and made comments at the Council meeting on 1 May 2025. Officer A advised she had explained that while she accepted the Respondent had a right to scrutinise how the Council was handling the matter, she felt he had gone beyond what would be considered respectful. Officer A advised the Respondent had apologised and stated he would avoid engaging in such behaviour in the future. Officer A explained she had accepted this apology as she wanted to ensure they had a positive relationship moving forward.

When cross-examined by the Respondent's representative, Officer A confirmed that she was anticipating that elected members would be scrutinising the matter carefully as there had been a great deal of controversy at the time both about how the museum was operating and how information about this was being shared with elected members. Officer A confirmed her expectation before the meeting was that she would be questioned by councillors on the matter.

Officer A advised she considered the Respondent inferred at the meeting that elected members were being manipulated but advised she had not understood this accusation was being levelled at her or other officers. Officer A further advised that while she felt the Respondent was being aggressive, she considered his comments were aimed at the museum's trustees. Officer A explained her impression was that the Respondent was seeking to resolve the funding issues that has arisen in respect of the museum.

Officer A advised she could tell the Respondent was frustrated and angry. Officer A explained that while the Respondent had put his questions to her, which made her feel stressed and uncomfortable, she felt they were mainly aimed at the museum's trustees and, as such, she had not felt intimidated as a result of his conduct.

In response to questions from the Panel, Officer A advised the tone and nature of the Respondent's questions and comments went beyond her normal experience and what she would expect of elected members during council meetings.

When re-examined by the ESC, the Respondent explained that it was the nature of the Respondent's conduct that had "crossed the line" and been "a bit too aggressive".

The Complainer: The Complainer advised that while he could not recall the exact words used during the meeting on 1 May 2025, he had made the complaint due to the aggressive manner in which the Respondent made his comments. The Complainer advised that he was also concerned that the Respondent had inferred publicly that he and the other trustees had colluded with senior council officials, and he considered this to be a serious allegation.

When reminded by the ESC that the Respondent had referred to the Trustees as a “shower” and had accused them of running the museum “into the ground”, the Complainer advised that he had no issue with elected members scrutinising how it was being governed. The Complainer explained, however, that he considered the Respondent’s comments had gone beyond what was unacceptable. The Complainer noted he had no right of reply at the meeting and had become concerned that the Respondent’s comments and accusations would immediately enter the public domain unchallenged.

The Complainer advised he was alarmed as the Respondent’s contributions felt like a personal attack both against him as an individual and as one of the trustees. The Complainer explained he was worried about the impact on the museum’s staff and its reputation. The Complainer advised that he considered the Respondent’s comments ‘felt like bullying and intimidation’ and he had felt ‘quite shaken’ as a result. The Complainer further stated that he had been ‘somewhat annoyed’ that no one had intervened.

The Complainer stated that any suggestion or inference that the trustees were colluding with anyone to manipulate and entrap elected members was preposterous. The Complainer noted the museum’s financial situation and difficulties were widely known and that it had commissioned the independent consultancy firm to explore these and share its findings with the Council.

In response to cross-examination, the Complainer confirmed that elected members had not been provided with the consultancy firm’s report, as commissioned, before the Council meeting on 1 May 2025. The Complainer advised he was unsure why that had been the case and accepted this must have been frustrating for the Respondent (as an elected member). The Complainer confirmed, however, that the museum’s trustees had nothing to hide and had not been involved in any decisions about when the report would be shared with elected members.

The Complainer noted that as he had been engaging actively with council officers on the museum’s financial position, he had attended the meeting on 1 May 2025 in the expectation that he would be challenged robustly and asked questions by elected members. He had not, however, expected anyone to be aggressive or hostile.

The Complainer advised that a number of elected members spoke to him and apologised, both during a recess and at the end of the meeting, for the way he had been treated. The Complainer advised that Council officers had also apologised to him for the experience.

The Complainer advised he had been on the board of other public bodies and audit and risk committees, and had appeared before Parliamentary committees. As such, he was accustomed to robust scrutiny and understood this involved being questioned and challenged. The Complainer explained, however, that he considered the Respondent had gone beyond this, by behaving in an aggressive manner.

When asked, under cross-examination, about his position that he had expected to be challenged at the meeting, the Complainer explained that he had not been aware of the Council’s procedures and as such, had expected to be given the opportunity to answer any questions elected members may have had. The Complainer explained, however, that he had not been allowed to do so.

The Complainer confirmed that, after the meeting, a mutual acquaintance had offered to arrange a meeting between him and the Respondent. The Complainer advised he had declined this offer as, by then, he had

made a formal complaint and did not consider it would be appropriate to engage with the Respondent outwith that process.

Witness Evidence from the Respondent

The Respondent advised he was a frequent visitor to the museum and that both he and other elected members were keen for it to survive and prosper. The Respondent explained, nevertheless, that he was conscious of the pressure on local government finances and had that in mind when making his contributions at the Council meeting on 1 May 2025.

The Respondent advised he had been provided with a copy of the consultancy firm's report, two days before the meeting, in strict confidence. The Respondent explained that, as a result, he was 'well briefed' on the museum's 'dire' financial situation and the fact that it had received emergency funding.

The Respondent explained that while there was never any question the museum should continue to operate, there had been ongoing debate about where it should be located. The Respondent advised he was frustrated by the consultancy firm's report as it appeared adequate thought had not been given to the question of where the museum should be located, despite this being explicitly included as a matter for consideration in the review's terms of reference.

The Respondent further advised that he considered the trustees' ability to manage any injection of funding for a large capital project was questioned in the report. The Respondent advised this had reinforced his view that this was a key area of risk that needed to be considered by the Council.

The Respondent advised that, having reflected on his contribution at the meeting, he considered he should have afforded Officer A more time to answer, particularly as she had been facing an abnormally high number of questions. The Respondent advised he had become aware, the following day, that Officer A had been unhappy. The Respondent stated that, as a result, he had sought a meeting with her and her manager.

The Respondent stated that he had thought the Complainer would be answering questions at the Council meeting. The Respondent explained he was frustrated as it appeared the proposals were a *fait accompli*. The Respondent explained that, in particular, he was unhappy with the proposal that any financial support from the Council for the museum should be index linked (i.e. tied to inflation). The Respondent advised his motivation was to make it clear that, in his view, elected members should not accept this. The Respondent explained his concerns about the museum's governance arose both from the contents of the consultancy firm's report and from his knowledge that it had previously sought emergency funding at short notice. The Respondent advised he had not been aware that the Complainer had been upset or unhappy until advised accordingly by others after the Council meeting.

When asked why he had suggested elected members were being manipulated, the Respondent explained he considered the consultancy firm's report indicated there were serious challenges in respect of the competency of the museum's trustees and their ability to manage the injection of additional funding that was under consideration at the time. The Respondent noted he had then learned that the intention was not to release the consultancy firm's report to all elected members until June 2025. The Respondent explained this was despite the Complainer having announced the evening before the Council meeting that the museum had secured several million pounds of funding and would remain at the same location. The Respondent explained this had led him to conclude that the Administration had been undertaking some "manoeuvres" behind the scenes. The Respondent advised he wished to be absolutely clear his comment about the manipulation of elected members was not directed towards or about council officers.

The Respondent explained this conclusion had led him to treat the discussion at the Council meeting as a political debate and to behave accordingly. The Respondent noted that, during the discussion, three councillors from another party thanked him for his contribution. The Respondent stated that, as such, he had

not been aware he was causing anyone to feel stressed and reiterated that had not been his intention. The Respondent further stated he had not been aware of any conversations taking place between the Complainer and council officers during the recess in the meeting.

The Respondent advised he was in 'debate mode' when making his comments that he was "not going to apologise for a shower that've run this organisation [the museum] into the ground", that the trustees "deserve every criticism they get". The Respondent advised he later realised he should not have said this and apologised for doing so.

When asked whether there was any other part of his contribution that he now regretted, the Respondent advised he had not intended to upset anyone. The Respondent advised he understood that the Complainer had taken his comments personally, and empathised with this, but explained that had not been his intention. Instead, he had felt he was making his remarks for the benefit of the other elected members present. The Respondent noted he had not, at any point, referred to the Complainer or any other trustee by name. The Respondent contended that he had not intended to be disrespectful towards, or bully, the Complainer, the other trustees or, indeed, anyone else.

The ESC asked in cross-examination, whether the Respondent accepted the characterisation of his conduct as aggressive. In response, the Respondent advised he did not and explained that, instead, he felt he had simply been passionate. When asked whether he considered it was fair or legitimate to publicly criticise volunteers to make political points, the Respondent contended he had not been doing so. The Respondent stated that, instead, he had been raising legitimate concerns about how significant amounts of public money were being used.

Th ESC asked why the Respondent had stated that he was "willing to bet" the report prepared by the consultancy firm bore "a remarkable resemblance" to one prepared by the museum, and that he would be "putting it through plagiarism software" as it "stinks of the same thing". In response, the Respondent accepted his use of the word plagiarism was 'clumsy' and explained he had been trying to make the point that both reports had outlined the same conclusions.

The ESC asked whether, when suggesting there had been collusion in order to mislead or manipulate elected members, it would be reasonable for those present to understand the Respondent was referring to, or including, council officers (given they were responsible for deciding when and how matters were being presented to councillors). The Respondent refuted this suggestion and contended that he had not been trying to suggest council officers were involved in any collusion.

When asked about why he had asked for a meeting with, and then apologised to, Officer A, the Respondent explained it was because he was conscious that she had been given an unusually hard time by elected members, including himself, during the debate and had noticed her unhappy demeanour the following day. The Respondent confirmed he had apologised for putting Officer A in a situation where she was made to feel unhappy and had assured her that he would not do so again.

When asked whether he stood by the comments he had made about the museum's trustees, the Respondent advised he accepted he should not have referred to them, in his comment at the end of the session, as a "shower" and stated he also regretted saying they had run the museum into the ground and deserved "every criticism" they would get.

The Panel noted that the Complainer and trustees had no right of reply at the meeting and asked the Respondent whether, in such circumstances, it was acceptable for him to have made such accusations about their performance or competence. In response, the Respondent reiterated that he had made the comments spontaneously in a political forum during a political debate. The Respondent accepted, nonetheless, that he

was personally responsible for ensuring he complied with the Code and that he should not wait for, or expect, others to intervene at meetings to remind him of its provisions.

Submissions made by the ESC

The ESC noted that while the Respondent appeared to suggest his remarks could be characterised as rhetorical questions, it was evident from the recording that they were statements. In particular, the ESC drew the Panel's attention to the following comments made by the Respondent at the meeting:

- "We're trusting ... a board of trustees ... that have governed over a run-down, of an organisation we all love, that when faced with any crisis in the past...they've laid off staff".
- "We as councillors are getting manipulated here... We're gonna be trapped, that's what's gonna happen. We're gonna be entrapped into a solution where we have no other option than to accept this".
- "I owe no apologies to an organisation that's allowed this to happen. So no, I'm not going to apologise for a shower that've run this organisation into the ground. They deserve every criticism they get".

The ESC noted there was no dispute the Respondent made the comments, as recorded above, and they were critical of the Complainer and museum's trustees. The ESC contended they were also critical of council officers and the consultancy firm responsible for preparing the report.

Turning to whether the Respondent's conduct amounted to a breach of the Code, the ESC noted that while some of the museum's trustees were councillors who would have been able to defend themselves at the meeting, as members of the public, the Complainer and other trustees had no right of response. The ESC noted that while the Respondent had contended he had been unaware the Complainer was not allowed to respond, the recording showed the Lord Provost had pointed this out to him during the meeting. The ESC further noted that another councillor present had stated he considered the Respondent's comments were "a little bit unreasonable" and had raised a point of order about the Respondent's criticisms of the trustees. The ESC argued that despite these interventions putting him on notice that his comments could be or were causing offence, the Respondent had essentially doubled down on his criticisms by saying that he was not going to apologise "for a shower" that had run the museum "into the ground".

The ESC contended that the Respondent's conduct in referring to the trustees as a 'shower' was objectively egregious and disrespectful. The ESC suggested that, rather than focusing on the issues, the Respondent had been publicly critical of the performance and conduct of the trustees. The ESC further argued the Respondent's accusation that the trustees had colluded with others to manipulate elected members was also disrespectful both to the trustees and to council officers. This was because everyone present was aware that the timing of the release of the consultancy firm's report was a matter for officers. The ESC argued, therefore, the only reasonable understanding of the Respondent's remark was he was accusing officers of being involved in the alleged collusion.

The ESC noted the Complainer described feeling 'belittled, bullied and intimidated' by the Respondent's conduct. The Complainer explained he had considered it to be intimidating, hostile, aggressive and accusatory in nature. The ESC noted other trustees advised, during his investigation, that they had found the Respondent's conduct to be, variously, "intimidating", "inflammatory", "shocking", "upsetting", and "appalling". The ESC further noted that Officer A described the Respondent's conduct as "aggressive".

The ESC accepted that the Respondent had a right and a duty to scrutinise the use of Council money. The ESC accepted both that the trustees were in senior position, and that the Respondent had not named them, but highlighted they were, nevertheless, members of public (as opposed to fellow politicians who might be more accustomed to hostility). The ESC contended that everyone at the meeting knew the Complainer was there and that the Respondent's comments applied to him. The ESC argued that given this and the fact that the Complainer had no right of reply, there was a power imbalance between them. The ESC argued that by accusing publicly the Complainer and other trustees of incompetence, manipulating elected members and

failing to be transparent, the Respondent was disrespectful towards them, in breach of paragraph 3.1 of the Code.

The ESC accepted the Respondent may not have intended to offend but argued that the nature of his comments (including referring to the trustees as a 'shower') and the fact that they were made in such a public setting, meant it would be reasonable to have expected him to be aware the Complainer and other trustees would feel degraded and humiliated. The ESC contended, therefore, that the Respondent's conduct also met the threshold for bullying and, therefore, a breach of paragraph 3.3 of the Code.

The ESC noted Officer A advised that while she did not feel disrespected personally by the Respondent's conduct, his questions and manner had made her feel stressed and uncomfortable, and she felt he had crossed a line. The ESC accepted that, as a senior member of staff, Officer A may be expected to deal with difficult questions. He further accepted that the Respondent may not have intended his comments to be taken as criticisms of officers. The ESC argued, however, that the Respondent's suggestions that there had been collusion or some sort of secret deal to prevent effective scrutiny by elected members necessarily implicated officers, given they were responsible for the decision about when to share the consultancy firm's report. The ESC argued the suggestion that officers had not been politically neutral, by colluding to withhold information, amounted to a very serious accusation about their conduct. The ESC contended, therefore, that the Respondent had been disrespectful towards officers by making public comments that could be taken only as criticisms of, or accusations about, their conduct. As such, the ESC argued the Respondent had contravened paragraphs 3.1, 3.8 and 3.10, in respect of his conduct towards officers.

The ESC noted that the Respondent's position was that he had intended to engage with his political rivals about the museum and had not meant to undermine its trustees. The ESC contended, however, that this assertion was implausible, given some of his remarks clearly concerned their performance and capability.

The ESC further contended that, in making public criticisms of the consultancy firm's report, including that its content was plagiarised from a report produced by the museum, the Respondent was effectively attacking its author's integrity. The ESC argued, therefore that the Respondent had been disrespectful towards the consultancy firm and its sole director, which represented a further breach of paragraph 3.1 of the Code.

The ESC noted the Respondent's representative disputed the contention that a company and, in this case, the consultancy firm, could be disrespected. The ESC argued, however, that the key question was who would those present at the meeting consider to be the subject of the Respondent's comments. In this case, the ESC argued that as the consultancy firm consisted of a sole employee (the director), it would be reasonable for those present to conclude the Respondent's comments concerned that individual and for that individual to feel disrespected as a result.

When asked by the Panel whether anyone present would be aware that the consultancy firm comprised of only one director, the ESC stated he was unsure but argued it was a possibility, given this would be a matter of public record. The ESC suggested that any attack on the consultancy could affect adversely the ability of its director to obtain future contracts.

The ESC then turned to the question of whether a restriction on the Respondent's enhanced right to freedom of expression under Article 10 of the European Convention on Human Rights (that a formal finding of a breach of the Code and imposition of a sanction would entail) could be justified. The ESC submitted that a restriction on the Respondent's enhanced right to freedom of expression was justified in order to:

- Maintain standards and ensure the conduct of public life did not fall below a minimum level.
- Protect the reputation and rights of others, including from offensive, abusive and defamatory remarks.
- Ensure the role of a councillor is not brought into disrepute and public confidence in the council or democracy itself is not undermined.

The ESC advised he accepted fully that the Respondent was entitled to ask questions and express concerns. The ESC argued, however, that the Respondent could have done so without:

- accusing publicly the trustees (being members of the public) of mismanagement and incompetence;
- questioning the integrity and competence of the sole director of the consultancy firm (who was also a member of the public); and
- being disrespectful towards council officers by implicitly questioning their integrity and political impartiality.

The ESC noted that the Respondent could have made political points and questioned robustly whether it was appropriate to continue funding the museum without being disrespectful or bullying anyone.

The ESC accepted that the Respondent was expressing genuinely held opinions (or value judgements), and that these had some basis in fact, even if incorrect. The ESC argued, nevertheless that the Respondent's accusations were sufficiently serious as to be considered excessive. In support of this argument, the ESC contended that if a Respondent's right to freedom of expression was not restricted in such circumstances, councillors would be permitted, effectively, to disrespect, humiliate and bully members of the public during public meetings of the Council. The ESC argued that this would discourage members of the public from attending meetings and participating in public life.

The ESC concluded, therefore, that there were relevant and sufficient reasons to justify an interference with the Respondent's enhanced right to freedom of expression and argued, as such, that a formal finding of a breach of the Code could be made.

Submissions made by the Respondent's representative

The Respondent's representative argued it was evident there had been financial issues in respect of the museum for a long period of time and, indeed, noted this was highlighted in the consultancy firm's report. The Respondent's representative contended that the Respondent's contributions at the meeting on 1 May 2025 were based largely on the content of that report. The Respondent's representative argued that, as an elected member, the Respondent was obliged to raise any concerns he had about the use of public funds and queried how he could have done so, in the circumstances, without being critical.

The Respondent's representative noted that while the ESC contended the trustees had felt disrespected, only the Complainer had given evidence at the Hearing, meaning any assertions to this effect could not be tested.

Turning to the allegation that the Respondent had bullied the Complainer and other trustees, the Respondent's representative noted that the Standards Commission's Advice Note on Bullying and Harassment stated the key to establishing whether conduct amounted to bullying was the effect it had on others, not the intent of the individual who was alleged to have engaged in the behaviour in question. The Respondent's representative contended, however, that the common law suggested that intent was required. The Respondent's representative argued that it was too much of a stretch to conclude the Respondent was bullying individuals who had not been named and, indeed, whose identities were not known to him. The Respondent's representative further noted that while bullying could be a one-off incident, if particularly serious, it usually took place over a long period. The Respondent's representative contended, therefore, that the Respondent's remarks, made over a short period at one meeting and without any intent to cause upset or harm, would not reach the threshold for amounting to bullying in terms of paragraph 3.3 of the Code.

When asked by the Panel whether there was any intention to intimidate or undermine the trustees, the Respondent's representative advised the Respondent's sole objective was to persuade other elected members to agree that another plan for the museum should be developed.

The Respondent's representative noted that the Respondent's comments about the consultancy firm's report concerned its content, not its author, and that, in making them, the Respondent was merely undertaking his scrutiny role as an elected member. The Respondent's representative noted that the Respondent did not reference or name the firm's director at any point. The Respondent's representative further contended that as the consultancy firm was an entity, it did not have feelings or emotion and, therefore, was incapable of being disrespected under the Code.

The Respondent's representative noted the ESC had suggested a failure to restrict the Respondent's right to freedom of expression could discourage involvement by members of the public from volunteering and taking part in public life. The Respondent's representative argued, however, that such a restriction could also have a 'chilling effect' on a councillor's ability to undertake their role properly and scrutinise effectively the use of public money.

The Respondent's representative contested the suggestion that the Complainer and other trustees were simply members of the public acting in a voluntary capacity. This was because the acceptance of a role as a trustee meant, by definition, that they were subject to specific obligations under charity law. The Respondent's representative further noted the trustees had both financial and legal obligations, including to the Council under a service level agreement that governed how the museum was financed.

The Respondent's representative referred to the Court's decision in the case of *Heesom*¹, which made it clear that, in a political context a, "a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside the political context, is tolerated". The Respondent's representative noted this was supported by the case of *Calver*², in which the Court had stated "it is clear, as a general proposition, that freedom of expression includes the right to say things which right thinking people consider dangerous or irresponsible or which shock or disturb". The Respondent's representative further noted that the Judge in *Calver* had quoted, with approval, an academic work that highlighted the difficulty in disentangling emotive expression from rational discourse and concluded that "some margin should be allowed for invective and exaggeration, even if that means some apparently worthless comments are as fully protected as a carefully balanced argument".

The Respondent's representative argued that while it was accepted the Respondent could have put some of his points across in a different manner, none of his remarks fell outwith the categories of the types of behaviour that should be tolerated, as outlined in these cases.

The Respondent's representative further noted that the Panel was obliged to take into account the full context in which the comments had been made, including their impact. In this case, the Respondent's representative argued the context included the fact that the Respondent was exercising his democratic scrutiny role and, further, that his contributions to the meeting were taken on board (in that the Council decided the matters in the officer's report should not simply be noted and, instead, should be further considered at a later meeting).

The Respondent's representative contended that the Code required to be interpreted in a manner that protected a Respondent's right to freedom of expression. The Respondent's representative accepted that while it was not always necessary to demonstrate intent to find someone had engaged in bullying, this would need to be shown if a Respondent's right to freedom of expression was to be restricted. The Respondent's representative argued that, in this case, the Respondent had not intended to bully the Complainer, trustees or anyone else.

¹ *Heesom v Public Service Ombudsman for Wales* (2014) EWHC 1504 (Admin)

² *R (Calver) v Adjudication Panel for Wales* (2012) EWHC 1172 (Admin)

The Respondent's representative contended that the Respondent was expressing opinions or value judgments that had a basis in fact. The Respondent's representative noted the ESC had identified, in his referral report, the following comments made by the Respondent at the meeting, as being particularly egregious:

- "We're trusting ... a board of trustees ... that have governed over a run-down, of an organisation we all love, that when faced with any crisis in the past... they've laid off staff."
- "We as councillors are getting manipulated here... We're gonna be trapped, that's what's gonna happen. We're gonna be entrapped into a solution where we have no other option than to accept this."
- "I owe no apologies to an organisation that's allowed this to happen. So no, I'm not going to apologise for a shower that've run this organisation into the ground. They deserve every criticism they get."

The Respondent's representative advised the Respondent had made these comments in good faith and, further, that there was a sufficient basis for them. In support of this, the Respondent's representative noted, in respect of the comment under the first bullet point, that the Respondent was aware the museum had been forced to make crisis funding application. The Respondent's representative argued it was evident from the consultancy firm's report that, as an organisation, the museum was 'run down' and noted that, as the trustees were legally responsible for its governance, it followed that they were accountable for this.

Turning to the comment as outlined in the second bullet point, the Respondent's representative accepted the Respondent's comment was speculative in nature. He nevertheless noted it stemmed from the Respondent having been told that the consultancy firm's report would not be made available to councillors until the following month, despite the Complainer having made an announcement the evening before the meeting on 1 May 2025 about Council funding being secured and the museum remaining at its current location. The Respondent's representative explained that, as the possibility of exploring other options for the location of the museum was to be included within the scope of the work the consultancy firm was to undertake (and therefore should have been in its report), the proposed timing led the Respondent to conclude that elected members were being manipulated and that any decisions about the future of the museum had, effectively been made already.

The Respondent's representative advised the Respondent regretted the remark noted in the third bullet point, but argued it represented an exaggeration and, when taken individually and in context with the other comments, was not so shocking or egregious as to justify a restriction on the Respondent's right to freedom of expression.

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 McLaughlan.
2. The Respondent had, on the face of it, breached paragraph 3.1 of the Code. However, having taken into account the Respondent's right to freedom of expression under Article 10 of the European Convention on Human Rights, a formal finding of breach could not be made.
3. The Respondent had not breached paragraphs 3.3, 3.8 and 3.10 of the Code

Reasons for Decision

1. The Panel noted the complaint concerned the Respondent's conduct at a Council meeting held in public on 1 May 2025, during an agenda item that concerned a report prepared by a consultancy firm on the Stirling Smith Art Gallery & Museum's operating model and finances. The Panel noted there was no dispute the Respondent attended the Council meeting on 1 May 2025 in his capacity as a councillor. The Panel was satisfied, therefore, that the Code applied to his conduct at the time of the events in question.

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, to protect 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. The Hearing Panel considered carefully the evidence provided and led, which included a recording of a webcast of the meeting, along with submissions made orally at the Hearing.
4. The Panel noted that, during consideration of the item, the Respondent had made several comments about the then Chair and trustees of the museum. In particular, the Panel noted the Respondent stated that:
 - There was evidence that the trustees, had "basically sat back and watched" the museum being run into the ground; and that
 - They were a "a shower" who deserved "every criticism" they got.
5. The Panel agreed that while the Respondent was fully entitled to raise questions and concerns about the museum's finances and how it was being governed, his comments had gone beyond what would constitute appropriate and effective scrutiny. This was because the Panel considered that, in making the comments as outlined above, the Respondent was not only publicly criticising the competence of the museum's then Chair (the Complainer) and other trustees; he was also questioning their integrity. The Panel further considered that the use of the word 'shower' was intended to be derogatory. The Panel was satisfied therefore, that the Respondent was engaging in an unnecessarily offensive and disrespectful attack on the then Chair and other trustees.
6. The Panel noted the Respondent stated, at the Council meeting, that a decision to use city regional deal money to fund the museum had already been made and, as such, councillors were getting manipulated and were going to be "entrapped into a solution" where they had no option but to accept this, regardless of the contents of the consultancy firm's report. The Panel agreed that, in making this comment, the Respondent was implying clearly that the museum (and therefore its trustees as those responsible for its governance) were seeking to hide information from elected members, to force them into a decision they might not otherwise make. The Panel accepted the Complainer's evidence that this was not the case and that the trustees had not had any involvement in deciding when the report was to be shared with elected members. While the Panel accepted the Respondent may not have known this, it considered that he had also been disrespectful to the trustees by making this accusation publicly and without any proof. This was because the Panel considered he was, effectively, accusing them of colluding to hide important information so elected members could not make an informed decision. The Panel again considered this was an attack on the integrity of the trustees. While the Panel noted the Respondent's position was that he had been unaware that his comments had led to anyone feel stressed or uncomfortable at the meeting, it noted the making of them prompted another councillor to intervene to remind the Respondent that the trustees were volunteers who were giving up their time to act in that capacity.
7. The Panel was further satisfied from the evidence before it, including the recording of the webcast and witness testimony, that the Respondent had behaved in a needlessly aggressive manner when making

his remarks. The Panel accepted the Respondent's position that these had been directed towards Officer A because she was presenting the report. It further accepted that Officer A understood the Respondent's criticism mainly concerned the trustees and that it may not have been his intent to cause her any stress or upset. The Panel was of the view, nevertheless, that by subjecting Officer A to aggressive behaviour, the Respondent had also been disrespectful and discourteous towards her.

8. The Panel concluded, for the reasons outlined above, that the Respondent had been disrespectful towards the then Chair and trustees, and Officer A, and had, on the face of it, breached paragraph 3.1 of the Code. It considered there was no reason why the Respondent could not have raised his concerns and asked questions without resorting to aggressive behaviour and being disrespectful.
9. In considering whether the Respondent had bullied anyone, the Panel noted his conduct was limited to one meeting. The Panel further noted that the Respondent did not name any individual trustee and, instead, had referred to them as a collective. While the Panel accepted the trustees would have been identifiable and that others present at the meeting would have known the then Chair was in attendance, it considered it was evident the Respondent was trying to raise issues and genuinely held concerns, during a political debate, about the museum's financing and how it was being run overall (albeit he did so in an unnecessarily disrespectful manner). The Panel was satisfied the Respondent had not singled out or directed his criticism at any specific individual. In the circumstances, while the Panel considered the Respondent's remarks and demeanour were inappropriate and could understand fully why the Complainer felt upset and intimidated, it concluded that the Respondent's conduct did not reach the threshold for amounting to a breach of the bullying provision in the Code.
10. The Panel noted that the Respondent's position was that his remarks about a deal having already been done (with a view to manipulating and entrapping elected members in their decision-making), concerned the trustees and the Council's Administration. The Panel noted the ESC was of the view that these comments necessarily implied the involvement of council officers, as they would be the ones who were responsible for deciding when agenda items concerning the museum were put before elected members. As such, the ESC considered the Respondent had also publicly questioned and criticised the integrity and conduct of officers. The Panel did not agree this was necessarily the case, as it considered most attendees would understand the comment about a deal having already been made to concern other decision-makers (and, specifically, members of the Administration). It noted, in any event, that the Respondent had not referred specifically to officers, or identified any individual or identifiable group that were involved in the alleged secret deal or collusion. In the circumstances, the Panel was not satisfied that the Respondent had breached the requirements in the Code, at paragraphs 3.8 and 3.10, that require councillors to refrain from criticising publicly the conduct of any specific officer or identifiable group of officers.
11. The Panel noted the Respondent had been critical of the consultancy firm's report, including suggesting it had been plagiarised from a report previously produced by the museum. The Panel noted the ESC's position was that, in making such critical comments, the Respondent had been disrespectful towards both the consultancy firm and, by implication, its sole director. The Panel noted, however that the issue of complaint before it, as worded, was that the Respondent had been disrespectful to the consultancy firm as an entity (as opposed to any individual employee). The Panel agreed, in any event, that the comments made by the Respondent were not personal in nature and, instead, concerned the quality of the work undertaken by the consultancy firm and its report. While the Panel accepted the firm only had one director, it did not consider this would have been obvious, either from its name or any contributions to the discussion (including any remarks made by the Respondent), to those present at the meeting.
12. The Panel further agreed that the Respondent had qualified his comment about plagiarism by saying he was "willing to bet" that was the case. The Panel agreed this qualification made it clear the Respondent was engaging in hyperbole and speculation, rather than making a serious accusation about the integrity

of its author. The Panel concluded, therefore, that the Respondent had not breached paragraph 3.1 of the Code in respect of any remarks made about the consultancy firm's work or report. The Panel was not convinced that criticisms of an entity were automatically disrespectful if they could affect adversely the ability of the company to obtain future contracts or work. It considered that such a conclusion could have a chilling effect on the ability of elected members to express concerns about companies, regardless of their size.

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

13. 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 concern³.
14. In this case, the Panel noted the Respondent's comments were made at a Council meeting in the context of a discussion about the Council's financing of a museum, being a matter of public interest and concern. In the circumstances, 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

15. 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 reputations of others;
 - protecting the mutual bond of trust and confidence between councillors and officers;
 - ensuring council officers enjoy public confidence in conditions free of undue perturbation to allow them to be successful in performing their tasks and to enable local government to function effectively; and
 - ensuring public confidence in local government is not undermined and that a council is not brought into disrepute.
16. The Panel accepted, however, that the Courts have found any restriction on freedom of expression must also be proportionate to the legitimate aim being pursued. As such, the Panel was required to undertake a balancing exercise, weighing the enhanced protection to freedom of expression enjoyed by the Respondent against any restriction imposed by the application of the Code and the imposition of any sanction.
17. 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 tolerated⁴.
 - Politicians (as individuals who have entered the political arena voluntarily) are subject to wider levels of acceptable criticism⁵ and are, therefore, expected and required to have thicker skins and more tolerance to comment than ordinary citizens⁶.

³ Thorgeirson v Iceland (1992) 14 EHRR 843

⁴ Heesom (ibid)

⁵ Janowski v Poland (1999) 29 EHRR 705

⁶ Heesom (ibid)

- 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 issues⁷.
 - 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 proof⁸.
 - Even 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. The obligation to have such a sufficient factual basis can be considered proportionate to the nature and degree of the allegation in question, meaning the more serious an allegation, the more solid the factual basis has to be.⁹
18. The Panel noted, in this case, the Respondent was expressing his opinions on the performance of the trustees in governing the museum and whether elected members and the Council were, effectively, being forced into agreeing an undesirable funding arrangement. The Panel agreed, therefore, that his remarks could be classed as value judgements, as opposed to statements of fact (in that they were not susceptible to proof).
19. The Panel noted the Respondent had provided reasons for the concerns he was raising in respect of the governance of the museum and the possibility of the Council being forced into funding it on a long-term basis without proper scrutiny of the proposed arrangements, by referring to its previous financial challenges and interactions with the Council, and his interpretation of the consultancy firm's report.
20. The Panel accepted, from the Respondent's testimony, that these views were genuinely held. It was satisfied, therefore, that he had made his comments in good faith. The Panel noted that the fact that the museum was facing financial challenges was a matter of public knowledge and debate, and that the consultancy firm had been appointed to review its operating model and explore options for improving financial sustainability. The Panel further noted there was no dispute that the consultancy firm's report had not been provided to elected members for consideration at the meeting on 1 May 2025, despite being available. The Panel agreed, therefore, that there was a sufficient evidential basis for the Respondent's concerns both about how the museum was being governed and in respect of elected members not being provided with all the information they might need to make informed decisions about its future. This was regardless of whether his accusations had any merit or not.
21. In considering whether the Respondent's comments were, nonetheless, so excessive as to justify a restriction on his right to freedom of expression, the Panel noted that elected members have a key scrutiny role and are both entitled, and expected, to discharge this thoroughly, especially in the context of making decisions about the distribution of public funds. The Panel accepted that in discharging their scrutiny role, councillors might be expected to pose robust questions. The Panel further accepted, therefore, that the Respondent was fully entitled to scrutinise the Council's approach to funding the museum, and the process of decision-making surrounding this and, indeed, was entitled to do so robustly.
22. The Panel acknowledged that the trustees (except for those who were councillors) were members of the public who were appointed to the museum on a voluntary basis. As such, the Panel did not consider that they should be expected to tolerate the same degree of criticism, or have as 'thick a skin' as that which might be expected of elected members engaging in political debate (or even senior council officers facing questions on a report at a council meeting). The Panel nevertheless agreed that, as trustees, they were responsible for governing the museum, ensuring it was run effectively and that it made best use

⁷ Lingens v Austria (1986) Series A 103

⁸ Lingens (ibid)

⁹ Pedersen and Baadsgaard v Denmark (GC) 49017/99

of its resources (including any council funding). The Panel was of the view that, as such, it would be reasonable for them to expect their actions and decisions as a collective to be scrutinised robustly. Indeed, the Panel noted the Complainer had testified that he had expected to answer questions from elected members at the meeting.

23. The Panel noted it had found the Respondent had effectively accused the trustees of incompetence and suggested they were colluding to mislead and manipulate elected members. While the Panel agreed, such accusations would have been upsetting and hurtful, it did not consider they could be categorised, reasonably, as being excessive, given:

- the context of the long-term funding implications;
- the character of political debate, including the passionate manner in which the Respondent sought to express his points; and
- the limited nature of the information available to elected members (due to the unavailability of the consultancy firm's report).

The Panel therefore did not consider the comments to be as serious or egregious as an accusation of fraud or some form of illegality.

24. In further considering whether the Respondent's remarks about the trustees were excessive, the Panel accepted they were spontaneous in nature and delivered in a political setting during a political debate. In that context, the Panel recognised the case law regarding the need to allow a margin for exaggeration and emotive expression. The Panel noted the Respondent had not used profanities, resorted to any personal abuse or insults or engaged in threatening behaviour. It further noted the Respondent had not referred to any of the trustees by name.

25. Turning to the Respondent's conduct towards Officer A, the Panel accepted that, by putting questions to her in an aggressive manner, the Respondent had contributed, to a large extent, to the stress she had experienced. The Panel nevertheless recognised that the Respondent had only been responsible for a minority of the questions put to her by elected members on the agenda item, in the context of an unusually extensive session. It further noted that Officer A held a relatively senior position and, therefore, would be expected to face scrutiny from elected members (albeit the Panel accepted fully she should not be expected to tolerate aggressive behaviour). The Panel nevertheless acknowledged that Officer A had testified that she did not feel the Respondent's comments or accusations were being levelled either at her or council officers more generally. The Panel further acknowledged that the Respondent had recognised Officer A was upset and had apologised to her after the meeting (albeit only for the fact that she was upset and not for his own behaviour). Having taken into account all these factors, the Panel concluded, on balance, that the Respondent's conduct towards Officer A was not so offensive, shocking, or disturbing that it fell outwith the range of what should be tolerated, in terms of whether a restriction on an individual's right to freedom of expression should be tolerated.

26. Having taken into account the context and factors outlined above, the Panel determined, on balance, that, while inappropriate, the Respondent's conduct in:

- making comments about the performance of the museum trustees and expressing the view that councillors were being manipulated and trapped into a position on funding the museum; and
 - directing questions towards Officer A in an aggressive manner,
- was not so sufficiently offensive, personally abusive or egregious in the specific circumstances as to justify, as proportionate, a restriction on his enhanced right to freedom of expression. The Panel concluded, therefore, that a formal finding of a breach of the Code could not be made.

27. The Panel emphasised, nonetheless, that the Standards Commission and, indeed the public, expect elected members, to lead by example and be courteous and respectful at all times. The Panel noted a

failure to do so can have a detrimental impact on the standards of public debate and can erode public confidence in both elected members and the local authorities they represent.

Date: 4 June 2026