

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held at the Municipal Chambers, Buccleuch Street, Dumfries, on Tuesday, 15 September 2026.

Panel Members: Ms Suzanne Vestri, Chair of the Hearing Panel
Mrs Morag Ferguson
Ms Helen Donaldson

The Hearing arose in respect of a report referred by Mr Ian Bruce, the Ethical Standards Commissioner (the ESC), further to complaint reference LA/DG/4408, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Andrew Wood (the Respondent).

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

REFERRAL

Following an investigation into a complaint received on 9 October 2025 about the conduct of the Respondent, the ESC referred a report to the Standards Commission on 14 April 2026, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The substance of the referral was that the Respondent failed to comply with the provisions of the Code and, in particular, that he had contravened paragraphs 3.1, 3.3, 3.4, 3.5, and 3.8, which are as follows:

Respect and Courtesy

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

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

3.4: I accept that disrespect, bullying and harassment can be:

- a) a one-off incident,*
- b) part of a cumulative course of conduct; or*
- c) a pattern of behaviour.*

3.5: I understand that how, and in what context, I exhibit certain behaviours can be as important as what I communicate, given that disrespect, bullying and harassment can be physical, verbal and non-verbal conduct.

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

Preliminary Matters

The Respondent noted he had not called any witnesses to appear on his behalf at the Hearing and explained this was because he was unsure as to whether allowed. Similarly, he had not lodged certain documents as he was not sure whether they should be submitted or not.

The Panel Chair noted that the Respondent had previously raised these concerns with Standards Commission staff [in emails on 10 and 12 September 2026]. Standards Commission staff had noted [in email responses of 10 and 14 September 2026] that the Respondent had been advised by letter of 17 April 2026 that he was entitled to submit evidence to be added to the productions and considered by the Panel, provided he did so no later than 14 days before the Hearing. The Respondent was also told he was entitled to call witnesses. The Panel Chair noted that a pre-Hearing meeting was held on 13 August 2026, at which the Respondent was again asked if he wished to submit any productions or call any witnesses. While it was noted the Respondent indicated he did not wish to do so, he had nevertheless been advised he could still do so, provided any

documents were submitted before 1 September 2026. A press article the Respondent submitted on 24 August 2026 was accepted and added to the productions, and the Respondent was advised accordingly the same day.

The Respondent accepted this but argued that given the quasi-judicial nature of the Hearing, he should have been provided with legal representation. The Panel Chair noted that the Respondent had been told, from the outset, that he was entitled to obtain legal representation, albeit this was not something the Standards Commission could provide. The Chair noted that Hearing Panels were accustomed to dealing with unrepresented Respondents and would ensure the Respondent had the opportunity to give evidence and make any arguments and points he wished.

EVIDENCE PRESENTED AT THE HEARING

Introductory remarks by the ESC's representative

The ESC advised that the complaint before the Panel concerned comments the Respondent made in public about the Chief Executive and senior officers of the Council in:

- an article in a local newspaper on 16 August 2025;
- an article in a local newspaper on 9 September 2025; and
- video clips of an interview that was posted on social media on 13 September 2025.

The ESC contended that the Respondent could be considered reasonably as acting in the capacity of a councillor when making the remarks and publishing the post. This was because they concerned Council activities and decision-making, along with the performance and conduct of the Complainer (the Council's Chief Executive) and other senior officers. In addition, the Respondent was referred to as a councillor in both the articles and the interview referred to in the post.

The ESC's representative explained that one of the matters the Respondent was writing and speaking about concerned an emergency decision made by officers to purchase buses. The ESC's representative explained the decision was made in accordance with the Council's Standing Orders and Scheme of Delegation. These provide that if a matter was of such special importance and urgency as to render it not expedient to await the decision of the Council or the appropriate committee, the Chief Executive, after consultation with the Convener, Deputy Convener, and the chairs and vice chairs of relevant council committees, could take all such steps as may be necessary.

The ESC's representative noted that a report was provided to the Council at a special meeting on 11 August 2025 explaining that the expedited procedure had been approved by senior officers, including the Chief Financial Officer. The report asked councillors to endorse the decision of the Chief Executive and noted it had been made in accordance with recommendations from senior officers, and in consultation with the Convener, Deputy Convener, and chairs and vice chairs of the relevant Council committees. The report noted the decision was to invest in the purchase of six coaches and one bus to support the delivery of home to school transport and local transport subsidised routes. It explained the decision had been made under the expedited procedure in the Standing Orders because a decision was required, before the next scheduled committee, to support urgent procurement of the vehicles in order to ensure the Council's statutory obligations were fulfilled.

Article of 16 August 2025: The ESC's representative explained that in the article of 16 August 2025, the Respondent stated he had been "inundated with emails from concerned parents about the new timetables for school transport". The Respondent stated that he had "refused and boycotted" the special Council meeting on 11 August as "all decisions had now been taken out of elected members hands as it had clearly been hijacked [sic] by the CE, who had in my opinion abused her powers and used Standing Orders 19.2 to make serious high investment of over £2.6 million decisions [sic] without having to go through elected members."

The Respondent referred, in the article, to “too many poor-quality leadership issues” having arisen and stated, as an example, that “many readers will recall the very poor way in which our region performed in presenting the last election results with delay after delay and many recounts and there is only one person who takes the lead in that role”. The Respondent further stated that “The massive increase in senior officer salaries that was supposed to transform and bring in new talent from outwith our region, though has not realised the change promised by the Chief Executive”.

The Respondent stated that “[another councillor] has been wrongly suspended for allegations of bullying senior officers and Chief Executive, reported by the Chief Executive to the Standards Commission as there is now culture within our council that elected members must be careful not to try and hold officers to account or be accused of bullying.” The Respondent further stated “what little confidence I had in our Chief Executive is now completely eroded and believe that she is not the correct Chief Executive to take our region forward into the future... I have now served under two previous Chief Executives who were far more professional and engaging with all aspects of a Chief Executive's role.”

Article of 9 September 2025: The ESC's representative advised that, in the article of 9 September 2025, the Respondent reiterated his view that officers were trying to “silence” councillors and prevent them from doing their jobs properly. The Respondent was quoted as saying: “Elected members are supposed to scrutinise council operations, the spending of taxpayers' money, and also hold officers to account. As soon as you do that these days, you are accused of bullying or bringing the council into disrepute. Council officers are weaponising council standing orders to carry out this silencing of elected members.”

Video clips posted on 13 September 2025: The ESC's representative advised that, in these, the Respondent stated that council papers that were now being presented “are all about decisions that have already been made and are for noting and for rubber stamping. In days gone past it used to be that an item on an agenda would be openly discussed with options that we could debate on and even vote on and that is set in the strategic direction of the council. We are not getting that now. These decisions are being made by senior officers and that's why we're getting these papers set in the way they are.”

The ESC's representative advised that the Respondent contended that the appointment of a bus industry specialist was ‘ridiculous’ as there was an officer who could have done the work required had left the Council allegedly because “he did not get the support, assistance and capacity” he needed.

The ESC's representative noted the Respondent accepted he had made the comments attributed him, as outlined above, but contended the Complainer was using the ethical standards framework to ‘silence’ councillors.

Witness evidence on behalf of the ESC

The ESC's representative led evidence from the Complainer. The Complainer explained that she was the Council's Chief Executive and had been in post for some four years. The Complainer advised that the main contractor for bus services in the area withdrew as they no longer wished to provide these. The Complainer noted this was a major issue for the Council as it has statutory responsibilities in respect of local transport under the Transport Act 1985, and regarding services to and from schools under the Education (Scotland) Act 1980. The Complainer advised that, as a result, the Council embarked on significant, intensive activity to secure the continuity of services and, in particular, ensure provision for certain school routes. The Complainer explained that while discussions were held with an alternative contractor, that company withdrew at a late stage, meaning that there was a significant risk of service failure and the Council not meeting its statutory responsibilities.

The Complainer advised that Council officers considered a range of options and the decision reached was to recommend the purchase of buses to expand the service being provided by the Council. The Complainer accepted this involved capital borrowing and a realignment of the Council's budget but explained that the

Council's Standing Orders provided that, when faced with an urgent situation, expedited procedures could be used. The Complainer noted that she did not want to use these procedures as, ideally, she would want input from the full Council. The Complainer reiterated, however, that the situation was urgent as the buses were needed in a matter of days and a significant amount of work would require to be undertaken to achieve this.

The Complainer advised that, given the significant nature of the decision, she embarked on a consultation, as required under the Standing Orders, with the Council's Convener, Deputy Convener, and the Chair and Vice Chair of the relevant committees (including the Enabling and Customer Services Committee and Economy and Infrastructure Committee). The Complainer noted that she also advised party group leaders of the proposal and a report was prepared for the next Council meeting (being a special meeting of the full Council on 11 August 2025), held in public. The Complainer advised that the report set out the rationale, financial implications and governance matters in respect of the purchase, with the meeting then giving all councillors the opportunity to ask questions and seek information.

When asked whether the Respondent, as a senior councillor, would have been made aware of the decision-making process and rationale, the Complainer advised it was up to group leaders to decide what information to share with members of their groups. The Complainer contended, however, that the Respondent would have been aware of the particulars by the time he made his comments in the articles published on 16 August and 9 September 2025, given that details about it were included in the meeting papers, issued before the special meeting on 11 August 2025.

When asked how the Respondent's public comments had made her feel, the Complainer advised she felt disappointed, frustrated and undermined. The Complainer explained that she felt the Respondent was questioning her professionalism, integrity and reputation by suggesting she was not following due process. The Complainer also advised she considered he was undermining her standing as the Chief Executive, and explained his overall conduct had an adverse effect on her wellbeing and family.

The Complainer noted that any public commentary about a council officer has a wider impact as it creates an environment that erodes trust and the relationship between officers and councillors that enables a council to function effectively. The Complainer noted that officers at all levels who had seen the articles felt disappointed and demoralised as they were committed to and proud of what they tried to deliver for the Council. The Complainer noted that undermining officers not only has an impact on their motivation, but it also becomes a distraction and impacts upon the workload of the individuals who are required to respond to consequent media enquiries and requests for information.

When asked whether the Respondent had other available channels for raising any concerns, the Complainer noted that while she accepted fully that scrutiny is an integral part of local democracy, there was no reason why this could not be conducted respectfully. The Complainer noted that if a councillor had a concern about an individual officer, they should raise it with the officer's line manager in the first instance. The Complainer noted that if a councillor has any issue with the Chief Executive, they should raise that privately with them in the first instance. If that does not resolve the issue then, in accordance with the agreed 'Gold Book' (being the scheme outlining the conditions of service for Chief Executives agreed by the Scottish Joint Negotiating Committee) the councillor should refer the matter to the Council Leader, who is responsible for conducting the Chief Executive's appraisal and for dealing with any issue about performance. The Complainer further noted that any concerns about maladministration or serious governance failures should be raised with the Council's Monitoring Officer, who had statutory responsibility for dealing with any such concerns. The Complainer advised that she considered the Respondent, as an experienced councillor would have been aware of these governance arrangements. The Complainer noted, in this regard, that training was routinely provided to councillors on governance arrangements such as the Standing Orders and Scheme of Delegation.

The Respondent asked the Complainer, in cross-examination, whether she was aware he had previously been the Chair of The South West of Scotland Transport Partnership (SWestrans) and therefore had good knowledge of transport in the region and the history of engagement with the previous contractor prior to it withdrawing its services. The Complainer confirmed she was.

The Respondent further asked the Complainer if she was aware of discussions, held with the Scottish Government prior to the bus provider withdrawing services, and regarding a potential pilot scheme involving the phasing in of more SWestrans buses to meet routes the previous contractor had provided, which could potentially be partially financed by the Scottish Government. The Complainer confirmed she was aware that there had been discussions about this, albeit she was not sure when she became aware of them.

When asked by the Respondent why officers had decided the decision on the bus purchase could not wait until the special meeting of the Council, which was due to take place on 11 August 2025, the Complainer explained that the meeting was after the date the previous contractor's service ended. As such, if the Council deferred a decision until that meeting, or after it, there would have been a period when the Council failed to provide the required service. This was particularly the case as time would be needed to complete the purchase of the new vehicles. The Complainer explained that, given the urgency of the situation and need to meet the Council's statutory obligations and, having discussed the matter with other senior officers (including those responsible for transport, legal, procurement and finance services), she had taken the decision to proceed with the purchase under the powers delegated to her.

The Complainer explained that councillors had agreed following the meeting on 11 August 2025 that, moving forward, external support would be engaged so a full review of local transport options could be undertaken to inform future decisions on provision.

The Panel asked how often the emergency procedure under the Standing Orders had been used. In response, the Complainer confirmed this was a very unusual step, and she was only aware of it having been used on four occasions over the previous three years.

The Panel asked whether the Complainer had sought a meeting with the Respondent after being made aware of the articles of 16 August and 9 September 2025. In response, the Complainer advised that the Monitoring Officer had sought a meeting with him, but that the Respondent had not responded to his request.

The Panel noted that the Respondent advised the ESC, during the investigation into the complaint, that he considered himself a whistleblower and asked whether the Council had a policy and process for whistleblowing. In response, the Complainer confirmed it did, and that the procedure allowed for a whistleblower to report an issue outwith the normal line management chain. The Complainer confirmed that she was not aware of the Respondent having either made a whistleblowing complaint or having raised any issues about her conduct or performance with the Council Leader.

The Panel noted the ESC had referred, in his report, to there being a power imbalance between councillors and officers, particularly given officers have no public right of reply, and it would not be considered appropriate for them to criticise individual councillors. The Complainer advised that while she accepted that, as the Council's most senior officer, she would be expected to have a thicker skin than, for example, a junior officer, she nevertheless agreed with this view. The Complainer advised that she considered the Respondent's comments felt very personal. The Complainer explained this was because they went beyond a challenge about a professional decision about a particular issue and into the realm of questioning her honesty, integrity and capability.

When asked whether the article resulted in any additional work for officers, the Complainer recalled there was a spike in interest that may have resulted in more press enquiries but advised she would not be able to provide details about any increase in respect of the volume of these.

The Complainer advised, in response to a question from the Panel, that other councillors had concerns about the decision made in respect of the purchase, with a significant number of questions being asked at the special meeting on 11 August 2025. The Complainer noted the Respondent did not attempt to have a conversation with her beforehand or since.

When asked by the Panel whether the Respondent, as an independent councillor, would have been advised of the decision in advance of the Council meeting, the Complainer confirmed that he was in the independent group at the time and that the leader of that group was informed along with other group leaders. She did not know how or whether the group leader would pass on that information.

Introductory remarks by the Respondent

The Respondent advised, by way of background, that in his former role as Chair of SWestrans, he had raised concerns with the Council that, unless action was taken, it was inevitable that the contractor would decide to stop providing bus services in the area. The Respondent advised that he raised this with both the Government and the Minister for Transport. The Respondent explained that, during this time, he had been involved in discussions with the Government about a potential pilot scheme (that the Government would assist to finance) to phase in more SWestrans buses to cover the routes at risk from a withdrawal of services by the contractor, but when this scheme did not happen and officers did not otherwise address the issue, he had resigned from the role.

The Respondent advised that at the time the service provider withdrew and the decision was made to purchase buses, a debate on transport had been scheduled to take place at the special meeting on 11 August 2025. The Respondent contended, therefore, that the issue had not suddenly arisen, as stated by the Complainer, and that there was no need for an urgent decision to be made outwith the normal process.

The Respondent noted that, at the special meeting on 11 August 2025, other councillors expressed similar concerns about the bus purchase to those he had raised in the newspaper articles. The Respondent noted that no complaint had been made about the other councillors and advised he felt, therefore, that he was being singled out. The Respondent noted he had not made any contribution to the discussion at the meeting and suggested that this was evidence he was not bullying anyone.

The Respondent advised that he was confronted by constituents who had demanded to know why, as the former Chair of SWestrans, he had not informed the Council of the risk that the service provider would withdraw its bus provision in the area. The Respondent advised he felt this undermined his own reputation and that, with an election looming, he had been keen to address these criticisms. The Respondent contended that the only way councillors could defend themselves from criticisms was to make public statements and that he was simply expressing his views on the situation.

The Respondent advised that he had been a councillor for a long time and that former Chief Executives would not have reported councillors to the ESC straightaway and, instead, would have sought a meeting to try to resolve concerns, and help ensure councillors and officers enjoyed a positive and constructive relationship.

Witness evidence on behalf of the Respondent

The Respondent gave evidence on his own behalf. The Respondent explained that he wrote a fortnightly column in a local paper, which was intended to support the community by providing information about Council meetings and decisions made at these.

The Respondent confirmed that he had authored the remarks in question that appeared in the articles of 16 August and 9 September 2025. The Respondent explained he was made aware of various negative comments being made by constituents about the position regarding the withdrawal of the previous service provider and that questions were being asked about why he, as the former Chair of SWestrans, had not prevented this.

The Respondent advised that he had decided to take action and defend himself when a constituent pointed out that not doing so could harm his chances of being re-elected.

Turning to the interview, as published on social media on 13 September 2025, the Respondent confirmed he was not associated with the local group responsible for the post and, instead, had been approached by the interviewer. The Respondent confirmed the transcript of the interview clips submitted into evidence by the ESC was a fair record of what he had said.

When asked by the Panel whether he had made any attempt to follow either whistleblowing procedures or the procedures for raising concerns about officers, the Respondent advised that, as he was being challenged by constituents, he felt he had no time to do so.

The Panel noted that the Chief Executive had confirmed she had consulted, in advance, with various senior councillors, before proceeding with the bus purchase. It asked the Respondent whether he had made any public criticisms of any of these individuals and, further, why he had not raised any concerns at the meeting on 11 August 2025. In response, the Respondent advised he had not commented on the matter at the meeting because, while he had concerns, other councillors were raising similar points. The Respondent further stated he had not done so because he had not considered the decision had any impact on him personally. The Respondent explained that it was only when he was challenged on the matter by constituents that he had sought to clarify the position. The Respondent advised he had made the comments in order to maintain his own reputation and standing in the community.

When asked by the Panel whether he was advised by the leader of the independent group about the withdrawal of services by the contractor and the subsequent decision to purchase the buses, the Respondent stated that he knew nothing about the purchase until he saw an article in the local press. The Respondent noted this was also how his constituents became aware of the matter. The Respondent accepted, however, that the group leader may well have been told but may have failed to pass on the information.

The Panel asked the Respondent whether he was aware that the comments he was making publicly could potentially amount to a breach of the Code. In response the Respondent advised he was “very much aware he was in breach of the Code”, but that his decision to make them was based solely on a desire to explain to the community what had happened as a matter of urgency.

When asked by the Panel if the concerns raised by his constituents were about the decision to purchase the buses or the use of the expedited process, the Respondent advised they related to a perception that he had failed, as the former Chair of SWestrans, to take action. The Respondent advised his comments were intended to relay his position that he was acting in the best interests of the region, and that he had warned both officers and the Scottish Government in advance that the contractor might withdraw services. The Respondent reiterated that he was motivated by a desire to salvage his reputation in light of the forthcoming election.

The Panel asked whether the Respondent could have made public comments to that effect without accusing the Chief Executive of abusing her powers or commenting on her performance and conduct. In response the Respondent said no.

The Panel noted that it appeared, on the face of it, that the Complainer had acted in accordance with the Standing Orders and asked, therefore, why the Respondent considered she had abused her powers. The Respondent advised it was because she was aware the contractor might withdraw services and could have taken action sooner. As such, the decision was not one that should have been considered urgent.

The Panel asked whether the Respondent had asked the Complainer for a meeting either to discuss his concerns or the comments he made in the articles. The Respondent confirmed he had not and had only realised she had an issue with his comments when the complaint was made to the ESC.

The Panel asked why the Respondent made the comment to the effect that the Complainer was using the complaint process to silence councillors. The Respondent explained it was because three councillors had been reported to the ESC. The Respondent noted that one of these had been retracted, due to health issues and another was still to be determined. The Respondent advised he considered however, that it had been “right” to report the third councillor.

In response to questions from the ESC’s representative in cross-examination, the Respondent confirmed he had received, and read elements of, the report being presented for councillors to endorse the decision in respect of the bus purchase before the meeting on 11 August 2025 (and before his comments were made in the two articles). The Respondent confirmed this report included a timeline for the bus procurement process and presented various options. The Respondent further confirmed that while the report contained sections concerning risk, governance, financial and legal matters, he had not made mention to any of these, or of the fact that use of the expedited process under the Standing Orders was very rare, in the articles that were the subject of the complaint. He had also not mentioned that the Chief Executive had consulted with councillors in accordance with the Standing Orders. The Respondent advised he had not mentioned these matters because he had not considered them relevant.

When asked whether any of the other councillors who had raised concerns about the decision to purchase the buses at the meeting on 11 August 2025 had published articles criticising the conduct or competence of the Chief Executive or any other officer, the Respondent advised he was not aware of them having done so.

The ESC’s representative noted that the Respondent had referred in the article of 16 August 2025 to the Chief Executive hijacking decisions without consulting councillors and asked whether the Respondent was aware that the Standing Orders required that consultation be undertaken if the expedited process was being used. The Respondent confirmed he was and, further, that he accepted the Chief Executive had consulted councillors before making the decision in respect of the bus purchase. The Respondent argued, however that there would have been no need for her to have used the expedited process had officers acted earlier on the information they had about the contractor potentially withdrawing services.

The Panel noted, in follow up questions, that the Respondent advised the ESC during the investigation that he had not been given an opportunity to apologise to the Chief Executive. It asked whether he would have apologised if the Chief Executive had requested that he did so. In response, the Respondent advised whether he would have done would have depended on any discussion they may have had and whether the Chief Executive would have recognised that, due to failures on the part of the Council, he had also been put in a position where his conduct and character were being judged.

Submissions made by the ESC’s representative

The ESC’s representative advised that it was not in dispute that, in the article of 16 August 2025, the Respondent:

- Referred to the Chief Executive as having hijacked and taken decisions out of the hands of councillors.
- Accused the Chief Executive of having abused her powers.
- Stated that senior officers had failed to act proactively in respect of the potential withdrawal of bus services by the contractor.
- Stated that “too many poor-quality leadership issues have arisen” and the region had performed “very poorly” in presenting the last election results “with delay after delay and many recounts and there is only one person who takes the lead in that role”.

- Stated “the massive increase in senior officer salaries that were supposed to transform and bring in new talent from outwith our region, has not realised the change promised by the Chief Executive.”
- Contended that another councillor had been “wrongly suspended” for allegations of bullying senior officers and the Chief Executive as a result of being reported by the Chief Executive and that this meant there was now a culture within the Council under which “elected members must be careful not to try and hold officers to account or be accused of bullying.”
- Stated that “what little confidence I had in our Chief Executive is now completely eroded and I believe that she is not the correct Chief Executive to take our region forward into the future. I have now served under two previous Chief Executives who were far more professional and engaging with all aspects of the Chief Executive role.”

The ESC’s representative contended that, it was evident from the context in which it was made, that the comment about issues with the election results was intended to insinuate the person responsible was the Complainer. The ESC’s representative noted this was despite the Complainer not being the Returning Officer at the time of the election in question.

The ESC’s representative advised that it was not in dispute that, in the article of 9 September 2025, the Respondent repeated his views about the Chief Executive and his allegation that, in contrast with her predecessors, the Complainer was using the ethical standards framework and complaint process to silence councillors.

The ESC’s representative noted that the Respondent expressed a similar view in his interview of 13 September 2025, in which he alleged that the papers for Council meetings now only contained decisions for noting that had already been made by senior officers. The Respondent contended that a decision to appoint a transport “guru” was “ridiculous” given that there had previously been an officer in post who could have done the job.

The ESC’s representative noted that, in his remarks, the Respondent referred to the Complainer by name and also made reference to her function and role. The ESC’s representative contended, therefore, that she was identifiable. The ESC’s representative noted that, in his remarks, the Respondent further:

- criticised the Complainer’s competence and performance, as the Council’s Chief Executive;
- accused her of hijacking decisions, abusing her powers, of poor-quality leadership and poor decision-making in terms of recruitment of new talent;
- openly stated that he had lost confidence in her;
- compared her unfavourably to her predecessors; and
- implied clearly that she was unprofessional.

The ESC’s representative contended that the making of such comments publicly, in the knowledge that the Complainer would not have a right of response, was disrespectful and discourteous towards her and represented, on its face, a breach of paragraph 3.1 of the Code.

The ESC’s representative acknowledged a comment about a referral being made to the ESC would not in itself be disrespectful as it would be a statement of fact. The ESC’s representative argued, however, that the Respondent implied that the Complainer was abusing the ethical standards framework to control or threaten councillors who may be critical of her and, further, that he made this allegation as an example of incompetence or performance failure. The ESC’s representative argued that doing so was also disrespectful because the Complainer would have no means of refuting the allegation, other than making a complaint. The ESC’s representative noted that complaints about councillors are investigated by the ESC and subsequently adjudicated upon by the Standards Commission, both being bodies that were entirely independent of the Council. If a councillor has not breached the Code, an independent finding to this effect will be made. The ESC’s representative noted that, as such, the framework does not preclude proper and effective scrutiny of performance by councillors, it just ensures that it is undertaken in a respectful and appropriate manner. The

ESC's representative contended, therefore, that the Respondent's remarks to the effect that the Complainer was somehow using the ethical standards framework to silence him and other councillors, in circumstances where she had no right or means to reply, was also disrespectful towards her.

The ESC's representative argued that, notwithstanding her seniority, the Complainer was an employee of the Council and should not have to be subjected to public commentary on her competence, professionalism and performance in the media, without a right of response. The ESC's representative noted this was particularly the case given there were appropriate channels for raising concerns about the conduct, capability or performance of council officers (including the Chief Executive) in private. The ESC's representative argued that, as such, the Respondent's remarks also amounted, on the face of it, to a breach of paragraphs 3.8 and 3.10 of the Code.

The ESC's representative noted that the Standards Commission's Advice Note for Councillors on Bullying and Harassment recognised that bullying is inappropriate and unwelcome behaviour which is offensive and intimidating and which makes an individual feel undermined, humiliated or insulted. It further recognised that bullying usually arises as a result of an individual misusing power they have either from status or some other position of strength.

The ESC's representative argued that, in this case, the Respondent's remarks were made and repeated in a short period of time between 16 August and 13 September 2025, were targeted at the Complainer and, by their nature, were sufficient to cause offence and humiliation. The ESC's representative noted that the Respondent's comments did not contain any profanities or particularly derogatory or offensive terms. The ESC's representative suggested, nonetheless, that they were of a personal nature and concerned the Complainer's integrity, competence and professionalism.

The ESC's representative acknowledged that the Complainer is the Council's most senior officer and the Respondent is an independent councillor, without political party support. The ESC's representative recognised, however, that while the Respondent was able to criticise the Complainer, she had no right of reply and contended that this, in itself, constituted a power imbalance. The ESC's representative contended, therefore, that the Respondent's conduct, when considered as a whole, amounted to bullying and, on the face of it, a breach of paragraph 3.3.

The ESC's representative noted that the Respondent had also made comments about the performance of, and decisions taken by, "senior officers". The ESC's representative noted that the Standards Commission's Guidance on the Code advises councillors to refrain from making public statements that expressly, or by implication, criticised the conduct, performance or capability of a group of officers, where individuals in that group are or could be identifiable. The Guidance further states that, in considering whether an individual employee or group of employees is or was publicly identifiable, the Standards Commission will consider whether ordinary members of the public in the local area would be able to readily understand who they were. The ESC's representative contended, in this case, that it was likely members of the public would have a different understanding of who would be covered by the term "senior officers". This was because it could be taken to encompass any combination of officers from anyone who held a management role to those at a director level. The ESC's representative argued, therefore, that the officers in question were not identifiable for the purpose of the Code. As such, the Respondent's comments in respect of "senior officers" would not amount to a breach of the Code.

The ESC's representative then turned to the question of whether a restriction on the Respondent's 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's representative noted that the Respondent was expressing views in respect of matters of public concern, specifically the decision-making around the emergency purchase of buses by the Council and

whether the ethical standards framework was being used to silence councillors and prevent effective scrutiny. In the circumstances, the ESC's representative argued that the Respondent would be entitled to enhanced protection in respect of the right to freedom of expression that is afforded to politicians when discussing matters of political or public concern.

The ESC's representative noted that the right to freedom of expression is not absolute, however, and that restrictions can be imposed, if necessary and proportionate. In this case, the ESC's representative argued that a restriction was necessary and proportionate to:

- Protect the rights and reputation of the Complainer.
- Protect the bond of mutual trust and confidence between councillors and officers, that allows officers to undertake their tasks in conditions free of undue perturbation and enables local government to function effectively.
- Ensure public confidence in local government is not undermined and that a council is not brought into disrepute.

The ESC's representative observed that any restriction on freedom of expression must be proportionate to the legitimate aim and that the less egregious the conduct, the harder it is to conclude justifiably that a restriction is required. The ESC's representative further recognised that case law has established that Council officers, particularly senior ones, may be expected to tolerate higher levels of criticism than, for example, members of the public. The ESC's representative noted, however, that this does not mean they should be subjected to unwarranted comments that prevent them from performing their public duties or undermine public confidence in the local authority.

In this case, the ESC's representative noted that the Respondent had the opportunity to raise any concerns he may have had about the Complainer's performance through the appropriate channels, without using the media to engage in public, personal criticism. The ESC's representative contended that the Respondent's conduct, in commenting about the Complainer's competence in a public forum, facilitated damage to her professional reputation.

The ESC's representative recognised that the Respondent was expressing value judgements or opinions, rather than statements of fact. The ESC's representative stated that case law has provided that a value judgement does not require a significant basis in fact, which meant that even if the Respondent's opinions about the Complainer's competence and conduct were incorrect, he could be within his right to express himself in the manner he had. The ESC's representative noted, nevertheless, that the Courts have held that there must exist a sufficient factual basis to support a value judgement, failing which it can be deemed excessive.

The ESC's representative contended that it was evident that the decision in respect of the bus purchase was made, following a consultation with the relevant senior councillors, in accordance with the Council's Standing Orders and Scheme of Delegation. The ESC's representative noted that the Respondent would have been aware of the Standing Orders and that the decision had been made in accordance with these. The ESC's representative argued that, as such, his accusation that there had been no oversight by councillors was entirely false and, therefore, wholly egregious.

The ESC's representative suggested, in any event, that the Respondent's comments about the hijacking of processes by the Complainer, of her making poor quality decisions, and lacking professionalism went beyond criticism of a decision and Council processes into personal commentary against the Chief Executive. The ESC's representative suggested that the Respondent had no sufficient basis in fact to support them.

The ESC's representative further suggested that the Respondent's comments about the ethical standards framework allegedly being abused in order to silence councillors had no basis other than the fact that the Complainer had referred both him and another councillor to the ESC's office for alleged breaches of the Code.

The ESC's representative noted that this, in itself, did not mean the Complainer was using the complaint process to threaten or silence councillors. The ESC's representative noted, in support of this, that the referral of a complaint to the ESC is the correct process to follow if an individual considers the Code may have been breached.

The ESC's representative argued that, when taken together, the Respondent's comments about the Complainer amounted to excessive personal commentary that were made with the intention of bringing her, the Council and the ethical standards framework into disrepute.

The ESC's representative further submitted that the Respondent could have expressed concerns about how the decision in respect of the buses was made and the ethical standards framework, without contravening the Code. The ESC's representative therefore concluded, for the reasons outlined above, that a restriction on the Respondent's right to freedom of expression in the specific circumstances of this case was justified and proportionate. It was also in response to the pressing social need to protect the rights and reputation of the Complainer and the reputation of the Council more generally.

The Panel asked whether the fact that two (or possibly three) referrals had been made about councillors from a small local authority might be considered a sufficient basis for the Respondent's stated view that the ethical standards framework was being weaponised. In response, the ESC's representative suggested that while it may be a sufficient basis for concerns that complaints were being made unnecessarily, this was not the same as suggesting it was being used to prevent effective scrutiny. The ESC's representative noted, in this regard, that the Respondent made his remarks after the special meeting of the Council, convened so councillors could discuss and ask questions about the bus purchase, which was held on 11 August 2025.

Submissions made by the Respondent

The Respondent indicated that he considered it important for the Panel to consider the full context, including his former status as Chair of SWestrans and the fact that he was trying to defend his own reputation in advance of the forthcoming election. The Respondent contended that he has an equal right to maintain his public reputation and standing and noted his health had been adversely affected by the complaint proceedings. The Respondent urged the Panel to take into account the fact that the Council had been warned well in advance of the possibility that the former contractor would stop providing bus services.

The Respondent rejected wholly the accusation that he had bullied the Complainer and suggested she should have held a meeting with him to discuss any concerns, rather than making a complaint.

The Respondent explained that the reason why he had targeted and criticised the Complainer, and not the councillors with whom she had consulted on the potential purchase of buses, was because it was the Complainer who had brought forward the proposal and overseen the process.

When asked by the Panel whether he considered his comments about the Complainer were courteous and respectful, the Respondent said no, but advised he believed in being truthful and being able to express an opinion.

The Panel noted that the Respondent had stated, in the article of 9 September 2025, that while elected members were supposed to scrutinise council operation and to hold officers to account, "as soon as you do that these days, you are accused of bullying or bringing the council into disrepute" and asked him what he meant by this. In response, the Respondent advised that governance officers would phone elected members and tell them that they may not be in a position to vote on certain matters and, if they did, they could be in breach of the Code. When asked by the Panel whether he was referring to situations where officers were concerned that a councillor might have a declarable interest, the Respondent confirmed it was, but that his view was that such advice should be given face to face at the meeting in question, rather than over the telephone. When asked by the Panel whether instead of being perceived as making a threat, the officers in

question may just be trying to highlight, in advance, situations where councillors might have an interest that they would need to declare, in order to help prevent them from inadvertently breaching the Code. In response, the Respondent indicated that he did not accept this.

The Respondent advised that he did not consider it was disrespectful or discourteous to suggest the Complainer was using the ethical standards framework to prevent effective scrutiny. When asked whether he considered there was sufficient evidence to support such a claim, the Respondent advised it was more of a general point rather than being about the Complainer in particular.

The Respondent advised that he considered that, unlike her predecessors, the Complainer had very little engagement with councillors. The Respondent advised that he considered the Complainer would have been in a stronger position in respect of the issue with the bus provision had she consulted with him, as the former Chair of SWestrans and someone with considerable experience of transport matters. The Respondent denied the suggestion, however, that some of his comments may have partly been borne out of frustration that he had not been consulted on the proposal to purchase the buses. The Respondent confirmed that he made the comments in order to address criticism from constituents about his perceived lack of action.

When asked by the Panel whether he had considered whether there were other avenues available to him to raise any concerns he might have about the Complainer's conduct or performance, the Respondent advised that he considered she should have held more meetings. The Respondent noted, however, that as the Chief Executive, and the individual who had taken the lead in respect of the bus purchase, the Complainer should expect scrutiny and be expected to take responsibility for decisions made and the service provided.

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 Wood.
2. The Respondent had breached paragraphs 3.1, 3.8 and 3.10 of the Code and a restriction on his right to freedom of expression that such a finding would entail could be justified.
3. The Respondent had not breached paragraphs 3.3, 3.4 or 3.5 of the Code.

Reasons for Decision

1. The Panel noted the complaint before it concerned comments the Respondent made in press articles dated 16 August and 9 September 2025 and an interview posted on social media on 13 September 2025.
2. The Panel noted it was not in dispute that the Respondent was acting as a councillor when he made the comments in the articles and gave the social media interview. The Panel further noted that the Respondent was referred to as a councillor throughout and that he was commenting on the Council's decisions and the performance and conduct of the Chief Executive and other senior officers. The Panel was satisfied, therefore, that the Code applied to the Respondent's conduct at the time of the events in question.
3. 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

4. The Panel noted the complaint concerned comments the Respondent made, in press articles published on 16 August and 9 September 2025, and in an interview posted on social media on 13 September 2025.
5. The Panel considered carefully the evidence provided and led, which included the two articles and a transcript of the interview, along with submissions made orally at the Hearing. The Panel noted there was no dispute that the Respondent made the comments as published and recorded.
6. The Panel found that, in the article of 16 August 2025, the Respondent made several comments about the Complainer. These included that she had clearly "highjacked" Council decisions and "abused her powers" in respect of the emergency purchase of buses.
7. The Panel found the Respondent stated the "little confidence" he had in the Complainer was "completely eroded", that she was not the "correct" person to take the region forward. The Respondent compared the Chief Executive unfavourably to her predecessors, whom he described as "far more professional".
8. The Respondent further referred to "too many poor-quality leadership issues". The Respondent suggested a delay in presenting election results was the responsibility of "one person who takes the lead on [sic] that role". Given the context in which the comment was made the Panel was satisfied this was a further reference to the Complainer.
9. The Panel noted that the Councillors' Code of Conduct, as issued by Ministers with the approval of the Parliament, requires councillors to act with courtesy and respect and to refrain from criticising the capability, conduct and performance of identifiable officers in public.
10. The Panel further noted that the reasons for the Code's provisions in this regard are because officers have no public right of reply and, further, because there are internal procedures for dealing with any issues about their capability, conduct or performance. A failure to follow these could expose the Council to legal challenge. The Panel noted that the Respondent accepted he had agreed to abide by the Code's provisions as part of his declaration of acceptance of office.
11. The Panel acknowledged that councillors have an important role in scrutinising their council's performance and the use of funds, to ensure best value is achieved. As such, they are entitled to raise questions and concerns about decisions made and processes followed. The Panel noted the Respondent wished to rebut criticisms that he had failed to take action, in his capacity as the former Chair of SWestrans. The Panel considered, if that was the case, the Respondent could have simply explained what action he had taken and even explained (if, indeed, it was his view) that there would have been no need to use the emergency powers, had action been taken sooner in respect of the threat that the previous contractor would decide to stop providing services. The Panel considered, however, that the comments, when taken together, went well beyond this and suggested clearly that the Complainer had conducted herself improperly and was failing to perform adequately in her role. The Panel was satisfied this was disrespectful and amounted to public criticism of her performance as an individual.
12. The Panel further agreed that the Respondent had implied clearly in the article of 16 August 2025 that the Complainer was also misusing her power by making complaints that councillors had breached the Code in order to prevent them from trying to hold officers to account. The Panel agreed this also amounted to public criticisms of the Complainer's conduct and integrity. In reaching this conclusion,

the Panel agreed with the ESC's representative that simply noting referrals had been made would not be disrespectful, it was the suggestion that the Complainer had done so improperly that was the issue. The Panel agreed with ESC's representative that doing so was also disrespectful because the Complainer would have no means of refuting the allegation. The Panel noted this was particularly the case given the ESC required parties to maintain confidentiality while a complaint was being investigated.

13. For the reasons outlined above, the Panel was satisfied that the Respondent had been disrespectful towards the Complainer and had criticised her performance and conduct in public. The Panel therefore concluded that the Respondent had, on the face of it, breached paragraphs 3.1, 3.8 and 3.10 of the Code.
14. The Panel was not satisfied, however, that it was clear the comments the Respondent made in the article of 9 September 2025 and in video clips posted on social media on 13 September 2025 were specifically directed at the Complainer and were therefore disrespectful towards her. It was further not satisfied that they could reasonably be taken as public criticisms of her conduct, capability or performance. The Panel did not consider, therefore, that these represented further breaches of the Code.
15. The Panel agreed that, as an elected member, the Respondent was in an inherent position of power over the Complainer. This was because the Complainer, as an officer, had no public right of reply to the personal criticisms levelled in the article. The Panel noted that officers can be accused of not being politically neutral if they make public comment about or respond publicly to an individual councillor.
16. The Panel acknowledged, however, that, as the Council's most senior officer, the Complainer would be expected to face robust public scrutiny. It further noted the Respondent was an independent councillor who lacks party political backing. The Panel therefore agreed that, in this case, the inherent position of power enjoyed by councillors over officers was somewhat less pronounced.
17. The Panel acknowledged the public accusations of inadequate performance were serious in nature. It considered it was evident from the context in which it was made, however, that the accusation about abuse of power mainly concerned whether the Complainer had followed the correct or appropriate procedure when approving the acquisition of the buses. The Panel further acknowledged the Respondent's conduct in overtly criticising the Complainer was restricted to the first article and, as such, was limited in duration. The Panel also took into account the content and tone of the comments, including that they did not involve the use of offensive or derogatory language and were not abusive or intimidating in tone. In the circumstances, the Panel concluded, on balance, that the Respondent's conduct did not reach the threshold as to amount to a breach of the bullying provision at paragraph 3.3 of the Code.
18. The Panel noted that the Respondent also made a number of comments about "senior" council officers. The Panel noted that the term "senior" was open to interpretation and, as such, was not convinced it could be interpreted as a comment about the conduct or performance of an identifiable individual officer or group of officers. As such, the Panel did not find the Respondent's comments in this regard to be a breach of the Code.

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

19. 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 concern¹. In this case, the Panel noted the content of the Respondent's

¹ Thorgeirson v Iceland (1992) 14 EHRR 843

comments in the articles and interview in question concerned matters of public interest and concern, being:

- The decision by the Council to purchase buses under emergency powers;
- The actions of the Chief Executive and senior officers in respect of the ethical standards framework; and
- The performance and capability of the Chief Executive and other senior officers.

20. In the circumstances, the Panel determined 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

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

- protect the rights and reputations of others;
- protect the mutual bond of trust and confidence between councillors and officers;
- ensure council officers enjoy public confidence in conditions free of undue perturbation to allow them to be successful in performing their tasks;
- enable local government to function effectively; and
- ensure public confidence in local government was not undermined and that a council was not brought into disrepute.

22. 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. 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 tolerated².
- 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 expression³.
- 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 issues⁴.
- 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 proof⁵.

23. The Panel noted, in this case, the Respondent was expressing his views on the emergency purchase of buses, the Complainer allegedly misusing her power to raise complaints about councillors and the performance and capability of the Complainer. The Panel agreed, therefore, that the Respondent's

² Heesom v Public Service Ombudsman for Wales (2014) EWHC 1504 (Admin)

³ R (Calver) v Adjudication Panel for Wales (2012) EWHC 1172 (Admin)

⁴ Lingens v Austria (1986) Series A 103

⁵ Lingens (ibid)

remarks could be classed as value judgements or opinions (as opposed to statements of fact), in that they were not susceptible to proof.

24. The Panel noted the approach taken by Lord Justice Hickinbottom in *Heesom*, 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* 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*, 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”⁶. The Panel noted that similar references to the need for a sufficient factual basis for value judgements are made in the cases of *Jerusalem*⁷ and *Dichand*.⁸
25. 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*,⁹ 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*. The ECtHR held, however, that this evidence did not, in itself, “constitute a sufficient factual basis” for the value judgement. 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.
26. 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.
27. 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 be¹⁰.
28. In this case, the Panel did not consider there was a sufficient basis for the Respondent’s accusations, relative to the emergency purchase of buses, that the Complainer had “abused her powers” and “hijacked” the Council’s decision. The Panel noted, from his submissions made orally at the Hearing, that the Respondent’s position was not that he considered the Complainer had failed to comply with the terms of the Council’s Standing Orders, including the consultation requirements. Instead, the Respondent’s position appeared to be that the Complainer and other officers should have taken more proactive action, at a much earlier stage, to address the possibility that the bus provider would withdraw services and further, that if they had done so, there would not be an emergency or a need to use the expedited process under the Standing Orders.
29. The Panel accepted that the Respondent genuinely believed more could be done, at an earlier stage, to address the bus issue, stemming from his previous experience with SWestrans. It did not accept, however, that this equated, in any way, to an abuse of powers by the Complainer. The Panel noted that this was a serious accusation that implied the Complainer had deliberately exploited or misused her

⁶ *Lombardo v Malta* 7333/06.

⁷ *Jerusalem v Austria* (Application 26958/95 para 45) 12.

⁸ *Dichand v Austria* (Application 29271/95 para 50).

⁹ *Scharsach v Austria* (Application 39394/98).

¹⁰ *Pedersen and Baadsgaard v Denmark* (GC) 49017/99.

authority for personal gain. The Panel considered that even if there had been a failure to proactively address the bus issue in the past, it was apparent the emergency situation had arisen and there was no suggestion or evidence the Complainer's actions contravened the Standing Orders in attempting to address this. The Panel further noted that, by his own admission, the Respondent had not raised any issue about the bus purchase decision-making at the time of the 11 August 2025 meeting or with the Complainer, either privately or through any formal process. While the Panel accepted the Respondent may not have been told by his group leader, before the meeting, that the Complainer had consulted with other senior councillors as required by the Standing Orders, the fact that she had done so was included in the report considered at the meeting. As such, the Respondent was aware of this before he made his public accusation. The Panel noted that it was only when the Respondent was approached by constituents who questioned his role in the events leading up to the emergency situation and raised the potential political consequences on this for him (given his former association with SWestrans), that he made the accusation of an abuse of powers. The Panel noted that it would have been open to the Respondent to simply defend his actions without making any personal or professional attack on the Complainer. He would also have been entitled to question why the Council found itself in an emergency situation and to express concerns about this. Indeed, the Panel noted the Respondent stated in the article of 16 August 2025 that he had warned the Council and Ministers of the potential issue during his time at SWestrans. The Panel noted that, instead, the Respondent made a serious accusation about the personal conduct of the Complainer in respect of the decision-making process. The Panel was not satisfied, therefore, that the Respondent made this accusation in good faith or that a sufficient factual basis existed to support it.

30. The Panel was satisfied that the Respondent implied in his article that the Complainer was using the ethical standards framework to prevent effective scrutiny by councillors. The Panel noted the Respondent advised, at the Hearing, that he was trying to make more of a general point rather than being critical of the Complainer in particular. It noted, however, that he had also explained it was because three councillors had been reported by the Complainer to the ESC. The Panel did not accept, given the context in which it was made that the Respondent's comment in this regard, in the article of 16 August 2025, was not intended to be critical of the Complainer. It accepted, nevertheless, that the Respondent was sincere in his belief that there was a culture that discouraged scrutiny at the Council and that the referrals to the ESC may have contributed to or been an example of this. The Panel accepted, therefore, that the Respondent's comments to this effect were made in good faith and had a factual basis, even if untrue.
31. The Panel further accepted that the Respondent had a right to defend his own actions, to raise concerns about Council operations and to scrutinise Council decisions, including the emergency purchase of buses. The Panel noted it had found, however, that he had gone well beyond this by making remarks that amounted to wider criticisms of the integrity, performance and capability of the Complainer. These included suggesting she had conducted herself improperly and was failing to perform adequately in her role.
32. In determining whether the Respondent's conduct was excessive, the Panel considered that the degree of latitude that should be afforded to it was narrow. This is because, as previously noted, it considered Council employees have a right to work in a safe and respectful environment, without being subjected to disrespectful behaviour. The Panel noted, among other things, a restriction on free speech may be necessary to protect officers and civil servants from offensive and abusive verbal attacks when on duty¹¹. The Panel considered, therefore, there was a clear pressing social need for a restriction to prevent this from occurring.

¹¹ Janowski v. Poland (2000) 29 E.H.R.R 705 at [33].

33. As outlined above, the Panel considered, however, that it would have been entirely possible for the Respondent to have defended himself against the suggestion that, during his time at SWestrans, he might have done more to avoid the circumstances that ultimately resulted in the Council making the emergency bus purchase. Moreover, the Panel did not consider that there was anything that would have prevented the Respondent, in any way, from commenting publicly on, or even criticising the decision-making regarding the emergency bus purchase, without engaging in a public personal attack on the Complainer's performance, conduct and integrity. The Panel again noted that if the Respondent had concerns about the Complainer's performance, conduct or capability, he could have raised them directly with her or in accordance with the procedures set out in the 'Gold book'. He could also have raised concerns about the decision-making process and whether it was necessary to use the expedited process at the Council meeting on 11 August 2025.
34. As such, the Panel considered the Respondent had a number of opportunities to express any views and concerns in a manner that was compatible with the Code. The Panel noted it had found, instead, that he had chosen to make public and personal criticisms of the Complainer. The Panel considered these went far beyond that which she, even as the Council's most senior officer, would be expected to tolerate. This was particularly the case as the Complainer had no public right of reply. The Panel noted, in this regard, that if the Complainer had engaged publicly with the Respondent about his comments about her conduct and performance, she could open herself up to accusation that she was targeting the Respondent and not maintaining political neutrality, as required. As such, the Panel was satisfied that the Respondent's conduct was excessive.
35. The Panel was further satisfied that, in the circumstances, the finding of breach, and imposition of a sanction, was sufficient and proportionate and could not be said to have a chilling effect on his ability to raise questions and concerns (whether these were legitimate or not).
36. The Panel therefore agreed 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 councillors and local authorities;
 - protect the mutual bond of trust and confidence between councillors and officers; and
 - ensure the conduct of public life does not fall below a minimum standard.
37. The Panel concluded, therefore, that the finding of a breach of paragraphs 3.1, 3.8 and 3.10 of the Code, and the subsequent imposition of a sanction, would not contravene Article 10.

Evidence in mitigation

The Respondent did not make any specific submissions in mitigation and, instead, restated his view that Respondents should be entitled to legal representation in respect of complaints, to ensure they were not disadvantaged. The Respondent advised he had experienced significant stress as a result of the investigation and the Hearing and that this had impacted adversely on his health. While the Respondent noted there had been a focus on the Complainer, he felt that his position, as a councillor responding to concerns from constituents, and the impact on him of the process should also be considered.

SANCTION

The decision of the Hearing Panel was to suspend, for a period of one month with effect from 12 October 2026, the Respondent, Councillor Wood, from all meetings of the council and of any committee or sub-committee thereof and of any other body on which the councillor is a representative or nominee of the council or body.

This 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 (i.e. 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 outweighs 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, here: <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 noted that the Respondent had agreed, as part of his acceptance of office as a councillor, that he would abide by the terms of the Code, which include the requirements for councillors to treat everyone with whom they come into contact in their capacity as elected members with respect, and to refrain from criticising the conduct or performance of an individual officer in public. The Panel agreed that these are key provisions of the Code as a failure to comply with them can adversely affect the rights and reputations of others and can have a detrimental impact on working relationships that enable a Council to function effectively. It can also erode public confidence in the role of a councillor and the local authority itself.
4. The Panel noted it had found that the Respondent had been disrespectful towards and had criticised publicly both the conduct and performance of the Complainer, in a situation where he was aware she had no right of reply. The Panel agreed the Respondent's behaviour was relatively serious in nature.
5. 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 which may lessen the severity or culpability of the breach.
6. The Panel noted that the conduct in question was limited in duration. It further noted that the Respondent had co-operated fully with the investigative and Hearing processes and had not been the subject of any previous finding of a contravention of the Code. The Panel further noted the Respondent had acknowledged that he had failed to comply with the Code.
7. The Panel then proceeded to consider whether there were any aggravating factors; being those that may increase the severity or culpability of the breach.
8. The Panel acknowledged that the Respondent had every right to:
 - raise concerns or questions about how the decision in respect of the bus purchase had been made;
 - defend himself against any perceived criticisms of his own actions or inaction; and
 - highlighted any concerns he had about the use of the ethical standards framework and complaint process.
9. The Panel nevertheless agreed that, as an experienced member, the Respondent should have been able to do so without being disrespectful or making public criticisms and accusations of a personal nature. The Panel further noted that the Respondent could have raised any concerns he had about the performance or capability of the Chief Executive in private, using the appropriate internal procedures.

10. The Panel was concerned that the Respondent had not demonstrated any insight or understanding either at the time or at the Hearing, into how his conduct could be perceived and the impact it both could and, indeed, did have on others; or of the importance of building and maintaining good relations with officers. The Panel further noted that the Respondent appeared to be largely motivated, on his own admission, by political gain and to defend his own reputation.
11. The Panel was of the view that, in light of this, a censure, being the minimum sanction available to the Panel, was not appropriate and 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;
 - 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.
12. Having considered the nature and seriousness of the breach, as well as any aggravating and mitigating factors identified, the Panel nonetheless concluded that a short suspension was the appropriate sanction in the circumstances and the minimum necessary to achieve the aims listed above. This was because the Panel accepted that, while the Respondent's conduct was relatively serious, it had been limited in duration and he had not previously been found to be in breach of the Code.
13. Having considered all of the matters outlined above, the Panel concluded, on balance, that the appropriate sanction, in the circumstances, was to suspend the right of the Respondent to attend all meetings of Dumfries and Galloway Council, of any committee or sub-committee thereof, and of any other body on which the councillor is a representative or nominee of the council for a period of one month, with effect from 12 October 2026.

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: 2 October 2026

**Suzanne Vestri
Chair of the Hearing Panel**