

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held at the Lothian Valuation Joint Board, Edinburgh on Wednesday, 14 October 2026.

Panel Members: Mr Malcolm Bell, Chair of the Hearing Panel
Ms Helen Donaldson
Dr Lezley Stewart

The Hearing arose in respect of a report referred by Mr Ian Bruce, the Ethical Standards Commissioner (the ESC), further to complaint reference LA/E/4529, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor James Dalgleish of City of Edinburgh Council (the Respondent).

The ESC represented himself at the Hearing. The Respondent was represented at the Hearing by Mr Ross Cameron, Advocate.

REFERRAL

Following an investigation into a complaint received on 6 February 2026 about the conduct of the Respondent, the ESC referred a report to the Standards Commission on 10 August 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, 3.21 and 3.23, 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.

Confidentiality

3.21: I will not disclose confidential information or information which should reasonably be regarded as being of a confidential or private nature, without the express consent of a person or body authorised to give such consent, or unless required to do so by law. I note that if I cannot obtain such express consent, I will assume it is not given.

3.23: I will only use confidential information to undertake my duties as a councillor. I will not use it in any way for personal or party-political advantage or to discredit my council (even if my personal view is that the information should be publicly available).

EVIDENCE PRESENTED AT THE HEARING

Introductory remarks by the ESC

The ESC advised that the Complainer, a member of the public and an employee of Edinburgh University (the University), sent an email, using her employer email account, to eight councillors (including the Respondent) on 3 September 2025. The ESC further advised that in her email the Complainer set out her opinion on a Council policy that had been discussed the day before at a meeting of the Education, Children and Families Committee (the Education Committee). The ESC confirmed that the Respondent was the Committee Convener.

The ESC advised that it was not in dispute that following receipt of the Complainer's email of 3 September 2025, the Respondent forwarded it to the University on the same day. The ESC explained that, on 19 September 2025, the University advised the Complainer of an anonymous complaint made about her in relation to the contents of her email.

The ESC confirmed that the Complainer then submitted a complaint to his office on 6 February 2026, alleging that the Respondent had breached the confidentiality provisions of the Code by forwarding her email to the University. The ESC advised that the Complainer further alleged that the Respondent's conduct in doing so amounted to a breach of the provisions in the Code that concerned respect, bullying and harassment.

Written productions

Copies of the emails in question had been provided and circulated to the Panel in advance of the Hearing. The Panel noted that in her email of 3 September 2025 the Complainer outlined her disappointment at a decision taken by the Education Committee the previous day. The Complainer outlined alternative actions she considered Committee members could have taken, together with legal considerations she considered to be pertinent to the matter at hand. The Complainer also made a number of personal criticisms of particular Committee members, including the Respondent. This included describing the Respondent as a "*vacuous politician*" and suggesting he lacked the "*principles, political courage and competence*" to challenge changes to the policy with which he might disagree.

In his cover email of 3 September 2025, the Respondent advised the University he was forwarding the Complainer's email. The Respondent advised he was asking the University to look into the email as he assumed it did not "*condone an email being sent from an employee with this language on their work email and (I presume) in work hours?*". The Respondent requested that his identity not be disclosed to the Complainer.

Witness Evidence on behalf of the Panel

The Panel led evidence from the Complainer.

The Complainer advised that the reason she sent her email, of 3 September 2025, was because she thought that the decision taken at the Committee the previous day was serious and wished to communicate her unhappiness with it.

When asked what she wished to achieve by sending her email, the Complainer advised that she hoped it would make Green, SNP and Liberal Democrat councillors (whom she felt were on the same side of the debate as her) understand they could have conducted themselves differently at the committee. The Complainer explained that she further hoped it would make councillors aware that the public is paying attention to their discussions and decision-making.

When asked if she expected any repercussions from the email, given its robust nature and the personal criticisms it contained, the Complainer advised that she had expected some feedback, and indeed had received some replies in which councillors had explained their decision-making. When asked, given the criticism of the Respondent in the email, whether she expected a response from him, the Complainer replied that she did not expect him to reply but would have been pleasantly surprised had he done so. The Complainer advised that she had singled the Respondent out for criticism in her email because he was the Convener of the committee and because she knew him from her own prior involvement with, and membership of, the Labour Party. The Complainer advised that her opinion of the Respondent was based on years of experience.

The Complainer advised that she used her employer email address to send the email because she used that email for "various things" that were "serious and important", not just for matters concerning her work. The Complainer explained she has had the email address for many years, having first obtained it as a student, and retained it on becoming an employee of the University. The Complainer advised that she also had a personal email account, which she used for some things, such as buying tickets for events.

The Complainer advised that upon being informed on 19 September 2025 that a complaint had been made to the University about her, she initially did not know what it could be about. The Complainer indicated she was shocked when told it concerned her email of 3 September 2025 as she could not understand why anyone, let alone a politician, would make such a complaint.

The Complainer explained that following the Respondent's email, her employer's Human Resources Department shared the University's policy on the use of its email addresses. The Complainer stated that the policy allows the use of employer email addresses for personal reasons.

The Complainer was asked to explain what she considered to be confidential about her email of 3 September 2026. The Complainer advised that she considered emails, sent to elected representatives, are sent solely for the purpose of the subject of the email. The Complainer explained that she considered it would have been acceptable for her email to have been shared within the Council, for example with the Council's legal team. The Complainer advised that she did not expect the email to be shared more widely.

Following a request for clarity from the ESC, the Complainer confirmed that using her employer email address for non-work correspondence was compatible with its policy. The Complainer also advised that the "footers" on emails sent from her work email address, and which identified the University of Edinburgh, was something she tended to forget about, and that she assumed these were automatically generated.

In response to a question from the Respondent's representative, the Complainer was unable to confirm that her work emails were hosted on a server owned by her employer or whether her employer would have access to them.

The Complainer accepted that her name, role and employer email address were publicly available on her employer's website, and also, therefore, that her email to the members of the committee had been sent from a publicly available business email address. The Complainer further accepted it had not been marked as private or confidential. The Complainer advised she did not accept, however, that the fact it had been sent from her employer email address meant it should not be treated as confidential. The Complainer did not agree that the presence of her employer's footer on the email meant it was reasonable to assume it had been sent in an official capacity, given the footer was automatically generated and general in its terms. The Complainer advised that she did not believe that the Respondent had assumed the email to have been sent in that capacity. The Complainer confirmed that she had been given advance notice, by the ESC's office, that she may be questioned by him regarding the footer on her employer email.

The Complainer agreed that the emails concerned a topic of public interest and, further, that members of the public can email councillors for a variety of reasons; not just for assistance with personal matters. The Complainer nevertheless confirmed she did not live in the Respondent's ward.

When it was put to her by the Respondent's representative that an email sent to a large group of people is less likely to be confidential, the Complainer advised she disagreed. The Complainer explained that councillors are sent confidential information regularly, often via emails addressed to various elected members.

The Complainer acknowledged that she expected the recipients of her email may discuss it amongst themselves but explained that expectation did not extend to them sharing it with partner organisations (such as her employer).

The Complainer confirmed that she forwarded her email of 3 September 2025 to one further councillor on the Committee, and also to another councillor who was not a member of the Committee.

The Complainer acknowledged that the Respondent's email to her employer did not contain any abusive language. The Complainer explained, however, that she found it to be threatening, as it referred to her working hours and asked her employer to look at the language she had employed in her email of 3 September 2025. The Complainer accepted the Respondent had not used the word 'complaint' in his email, but advised she considered it to be one given it was sent to her employer's complaints inbox and given the Respondent would have known it would precipitate an internal process. The Complainer advised she considered the Respondent's conduct in forwarding her email to her employer without her consent was disrespectful and was intended to intimidate or harass her.

When asked why she had not stated, in her initial complaint to the ESC, that she considered her email of 3 September 2025 to be confidential or private, the Complainer asserted that she had implied this by stating that an email containing her personal information had been shared without her consent.

The Complainer confirmed she had sent a further email to the members of the Committee on 6 February 2026, advising them that the fact a complaint had been made to her employer left her feeling intimidated and harassed.

Witness Evidence on behalf of the Respondent

The Respondent's representative led evidence from the Respondent.

The Respondent advised that the Complainer sent her email of 3 September 2025 to Labour Party councillors on the Education Committee, which included him as its Convener. The Respondent advised that he understood the subject of the email to be decision-making in respect of a public policy that was considered by the Committee at a meeting the previous day.

The Respondent advised he had not understood the Complainer's email to be a request from a constituent for assistance with a personal issue, given its contents and the fact she did not reside in his ward. Instead, he had considered it to be a discussion on matters in the public domain, being a council report on a policy matter and the Committee's discussion and decision-making. The Respondent explained this view was further strengthened by the fact that the Complainer referred to herself as a "City Centre resident" and sent the email from a work email account during normal office hours. The Respondent suggested there was no indication the Complainer was sending the email in a private capacity and noted, on the contrary, that she had not removed the work 'footer' at the end. The Respondent noted he would have expected the Complainer to have done so if the email was entirely private and not connected to her employment. The Respondent indicated he would have dealt with the email differently had he considered the email concerned an entirely private matter only.

The Respondent advised that he did not consider there was anything about the email that suggested it should not be shared. It was not marked as being private or confidential and had been sent openly to numerous individuals (as opposed, for example, to being sent to one person with others 'blind copied' in).

The Respondent advised he considered the email belonged to the University as the Complainer's employer. The respondent noted that, as it was a professional email sent from a university email account (rather than a private one), he had assumed the Complainer was, at least in part, purporting to speak on the University's behalf.

The Respondent explained he contacted the University by email, on 3 September 2025, because he wanted clarity on whether the Complainer was sending it on behalf of the University or any of its departments. The Respondent advised that while he did not take the content of the email personally, he was also concerned that the criticisms it contained were unwarranted and unjustifiable, and that the University may not support the use of some of the language it contained (given this could be damaging to its reputation). The Respondent advised he had sent his email to the University's complaint email address as, while he was not trying to raise

a formal complaint, he was intending to express concerns and did not consider, therefore, that it was appropriate to send it to a general enquiries inbox.

The Respondent explained that, as the Committee Convener, he felt ignoring the Complainer's email would be a dereliction of duty. The Respondent explained this was particularly the case given the Complainer had referred to other members of the Committee individually. The Respondent noted the University was a Council stakeholder and explained he was conscious, therefore, that he might need to engage with it, if it was confirmed that the Complainer was expressing its views or speaking on its behalf. The Respondent noted that he had been careful to employ a neutral and non-emotive tone in the email he sent the University as he did not want to inflame the situation or criticise the Complainer.

The Respondent advised he considered it was sufficient for him to raise his concerns and seek clarification and noted that he had not demanded the University take any particular action. The Respondent explained that, instead, he considered it was a matter for the University to determine what action, if any, it considered appropriate to take.

The Respondent advised, that while he was accustomed to receiving correspondence that was robust in tone, he nevertheless had been surprised by both the content and tone of the Complainer's email of 3 September 2025. The Respondent explained this was both because he did not consider the criticisms were warranted and also because he was taken aback by the belittling and insulting language the Complainer had employed.

The Respondent advised he had not intended either to be discourteous, or to cause the Complainer any professional embarrassment or harm, by raising the matter with her employer. Indeed, he noted that had this been his aim, he could have shared her email with the press or on social media. The Respondent further advised that he had not shared the Complainer's email with the University for any personal or party-political advantage and, indeed, questioned how doing so could have resulted in any such benefit.

In response to cross-examination from the ESC, the Respondent confirmed that the Committee's work and remit would affect individuals across the whole council area and not just those who resided in his ward. The Respondent accepted that, as such, the Complainer was a constituent.

When asked whether he could have raised his concerns and sought clarity from the University without sending his correspondence to its complaint email address, the Respondent advised he had simply considered, at the time, that it was the most appropriate contact address to use.

The ESC asked the Respondent why he asked for his identity to remain confidential, when making his complaint, if he was corresponding in his capacity as Committee Convener. In response, the Respondent noted his email sign-off made his position clear. The Respondent explained his motivation had been to raise what he considered to be a legitimate concern, without the risk of further negative correspondence being directed at him. The Respondent reiterated that he was not motivated by any desire to cause the Complainer difficulties with her employer.

When asked whether he could have discovered what the University's position was and whether the Complainer was representing this in her email of 3 September 2025 without making a complaint, the Respondent accepted some of the University's policies would be publicly available.

When asked whether he accepted the Respondent's email contained her political or philosophical views, the Respondent noted it was not clear to him whether these were her views or whether she was speaking on behalf of the University. The Respondent further noted the email contained criticisms of individual Committee members.

In response to questions from the Panel, the Respondent confirmed he had not sought advice from council officers before sending his email to the University. The Respondent further acknowledged that he could have replied to the Complainer to ask her about the capacity in which she was acting, but explained he had not done so, as he considered the Complainer's email to be confrontational in nature and he had not wanted to inflame the situation by replying.

When asked whether receipt of the Complainer's email had made him angry and, if so, whether this had influenced his decision to contact the University within an hour of receipt, the Respondent advised he was more surprised by its tone, than angry. The Respondent advised he made the decision to contact the University about the email after giving the matter proper consideration.

The Panel noted the Respondent had asked the University whether it condoned the use of the language employed by the Complainer in her email. The Panel asked whether this suggested he was motivated by concerns about that, rather than by solely wanting to establish whether the Complainer was representing the University's views on the policy. The Panel noted, when asking this question, that the Complainer's email disclosed her job title and questioned whether it was obvious from this that she did not appear to be involved in policy work. In response, the Respondent indicated that while that may have been the case, the fact remained that the Complainer had sent the email from an email account of her employer, which was an education provider. As this concerned a policy relating to education provision and was sent to him in his capacity as a member of the Education Committee, he considered it was reasonable for him to contact the employer to ask whether it reflected its own policies or views.

Submissions made by the ESC

The ESC noted the Complainer was critical of the Respondent (and certain other committee members) in her email to them of 3 September 2025. The ESC observed, however, that the Complainer did not refer to her role at the University in the sign off to the email and, instead, stated under her name, that she was a "city centre resident". The ESC contended, therefore, that it was clear the Complainer sent the email in personal and not professional capacity.

The ESC argued it was also clear that the Respondent's email of the same day to the University, as the Complainer's employer, was intended as a complaint about the Complainer rather than as an enquiry about its stance on any matters she had raised in her correspondence.

The ESC noted that the Respondent accepted he was acting as a councillor when sending the email to the University. The ESC argued this was evident in any event, as while the Respondent did not refer to himself as the committee convener, he sent it from his Council email address and was only sent the Complainer's email because he was a councillor.

The ESC contended the Complainer's email contained personal data, being her name, status as a city centre, resident, number of children, and her political and philosophical beliefs. The ESC contended much of this information amounted to special category data under the Council's Data Protection Guidance for Elected Members and, as such, was confidential. The ESC advised the Council's Guidance notes that councillors are data controllers in their own right in respect of information provided to them by constituents and that they should treat this differently to information that relates to Council business. The ESC further suggested that Committee members have a duty of care to all constituents, not just those who reside in their individual ward. The ESC noted the footer of the Respondent's email referred to his obligations under data protection law. The ESC argued that by forwarding the Complainer's email to her employer, the Respondent shared confidential information without the Complainer's consent and without a lawful basis for processing her personal data.

The ESC noted that, during the course of his investigation, the Respondent had explained that, as the Committee Convener, he forwarded the Complainer's email to her employer because he felt that the

Complainer was using an official email account of a partner organisation to try to bully and harass Committee members. The ESC argued this was implausible as he did not consider the Complainer's email could have been construed reasonably as having been sent in a professional capacity. In addition, the ESC noted that the Respondent made no reference to his role as Committee Convener in his cover email.

The ESC noted that the Complainer sent her email to a defined group (being the members of the committee) and argued that, as such, it was clear it was not intended for wider circulation. The ESC contended that given this and the fact it contained personal data, the Complainer's email should have been regarded reasonably as being confidential. The ESC contended, therefore, that the Respondent had shared confidential information without consent, in breach of paragraph 3.21 of the Code.

The ESC advised it was not part of the Respondent's duty as councillor and data controller, to make complaints or to monitor whether an employee of another organisation, even a partner organisation, is following that organisation's internal rules and guidelines. In that regard, the ESC argued the Respondent used confidential information for a purpose outwith his duties as a councillor, in breach of paragraph 3.23 of the Code. The ESC further noted the Respondent asked that his name not be disclosed.

The ESC suggested that the Respondent forwarded the Complainer's email to her employer, as retaliation, with the clear intention of embarrassing and causing professional difficulty for her. The ESC noted, in support of this view, that the Respondent's email was sent very shortly after he received the Complainer's email, and without warning, to her employer's complaints email address. The ESC therefore contended that irrespective of any findings made or action taken by the Complainer's employer as a result, the Respondent's conduct was discourteous and disrespectful, in breach of paragraph 3.1 of the Code.

The ESC advised the Complainer felt harassed and intimidated by the Respondent's conduct in sending her email to her employer. The ESC advised he nevertheless was of the view that this did not meet the threshold for bullying under the Code because, while he acknowledged it had caused discomfort for the Complainer, he did not consider it to be offensive, frightening or insulting. The ESC further advised he did not consider, objectively, that it was reasonable to conclude the conduct would be likely to have such an effect. The ESC advised he had concluded, therefore, that the Respondent had not breached paragraph 3.3 of the Code.

The Panel noted that it could only consider whether the Code had been contravened and did not have any remit in respect of determining whether there was a breach of the General Data Protection Regulation (GDPR). It asked the ESC whether the disclosure of special category data would necessarily amount to a breach of confidentiality. In response the ESC suggested he considered that it did in this case. . The ESC further advised he did not accept that councillors were data controllers only for the purpose of dealing with constituent casework.

When asked by the Panel if the making of a complaint in itself represented a breach of the respect provisions of the Code, the ESC advised this would depend on the circumstances but contended, in this case, the Respondent had also breached the Complainer's confidentiality when making a complaint to her employer.

The ESC noted that a formal finding of a breach of the Code and imposition of a sanction would represent a restriction on the Respondent's right to freedom of expression, under Article 10 of the European Convention on Human Rights (ECHR). The ESC advised he did not consider the Respondent would be entitled to the enhanced protection in respect of freedom of expression that is afforded to politicians when discussing matters of political or public concern. The ESC contended this was because the email the Respondent disclosed contained the Complainer's personal views and opinions that she had sent privately to the Respondent and other Committee members.

The ESC advised that the legitimate aims that justified a restriction on the Respondent's freedom of expression included the prevention of the disclosure of information received in confidence, the need to

ensure the conduct of public life at the local government level does not fall below a minimum level, and the need to ensure public confidence in elected members and a local authority is not undermined.

The ESC noted the Respondent's position was that he had shared the Complainer's email as he was concerned with the wellbeing of his fellow Committee members and considered the Complainer's employer should address this. The ESC contended, however, that as the email contained only the personal and private opinions of the Complainer, as a Council resident and constituent (as opposed a public figure), there was no public interest in these being shared with her employer.

The ESC suggested there were other ways the Respondent could have addressed his concerns about the content of the Complainer's email. The ESC accepted the Respondent's email to the Complainer's employer was not egregious or shocking in nature but contended it was, nevertheless, targeted and was intended to undermine her. The ESC argued the Respondent's disclosure of the Complainer's email could also undermine public confidence in the Council as it could discourage other constituents from engaging with their elected representatives. The ESC submitted, therefore, that a restriction on the Respondent's Article 10 rights could be justified.

Following a question from the Panel, the ESC advised he considered the Complainer sent her email to express her political views and suggest the recipient councillors reflect on their actions with which she disagreed. The ESC advised that, as such, he did not consider the Complainer was seeking a response or asking for any particular action to be taken.

The ESC confirmed, following a question from the Panel, that he did not consider the Respondent had sought to gain any personal or political advantage in forwarding the Complainer's email to her employer.

The Panel asked the ESC, whether he considered the fact that the Complainer's employer had seen fit to instigate a process following receipt of the Respondent's email, to be relevant to the question of whether the respect and courtesy provision in the Code had been breached. In response the ESC advised he considered the important point was that the Respondent's email resulted in the Complainer being investigated by her employer.

The Panel asked whether the Complainer might reasonably expect her email to be shared if its purpose was to express views on a matter of public or political debate. In response, the ESC advised the Complainer accepted her email could have been shared internally within the Council, had the recipients decided to seek advice from officers, but that she had no expectation it would be disclosed externally.

The Panel noted the Complainer stated, in her evidence, that she used her work email account for serious correspondence and asked the ESC if he considered, therefore, she may have used it to give her email more weight. The ESC advised he had not reached this view as his impression was that the Complainer used her employer account as her primary email address.

Submissions made by the Respondent's representative

The Respondent's representative contended that the wording of paragraph 3.21 of the Code did not render all correspondence received by a councillor from a constituent as confidential. Instead, he noted that the paragraph contained an objective test relating to information which "should reasonably be regarded as being of a confidential or private nature". The Respondent's representative contended this test required an objective assessment and could not be determined solely by the views of either the Complainer or Respondent. The Respondent's representative instead suggested that, in order to determine if any information should be deemed confidential, the Panel was required to examine objectively both the nature of the information in question and the circumstances in which it was communicated.

The Respondent's representative contended that the Court's decision in case of *Coco*¹ was helpful as it confirmed there can be no breach of confidence in respect of information that is already commonly known. The Respondent's representative noted that the Panel had been provided with evidence demonstrating that the Complainer's email address and name were publicly available. The Respondent's representative further argued that the Complainer's employer would have been able to access her email on its servers. The Respondent's representative suggested, therefore, that the Respondent was simply sending back to the Complainer's employer an email that it had generated.

Turning to the content of the Complainer's email of 3 September 2025, the Respondent's representative observed that it expressed her disappointment over the outcome of the Committee's vote and her criticisms of elected representatives, and concerned council policy and political decision-making. The Respondent's representative contended the content was, therefore, materially different to conventional private casework and, instead, was akin to political advocacy.

The Respondent's representative noted the Complainer had accepted she had a personal email address. The Respondent's representative contended the Complainer could have used her private email account to send the email in question and, instead, chose to use her employer one. The Respondent's representative contended that as this was a public email account with a publicly available address, it could not be said that the personal data it contained was private.

The Respondent's representative noted while the Complainer's email was initially sent to a number of the members of the Committee, she also then forwarded it to another individual. The Respondent's representative argued that, generally speaking, the more people in receipt of a piece of information, the less likely it is to be confidential. The Respondent's representative argued that the context and circumstances of the matter at hand meant that it would not be reasonable for any councillor receiving the email to have considered the information it contained was being given to them in confidence.

The Respondent's representative accepted that the Complainer was a Research Assistant (and, therefore, she was unlikely to be involved in policy work) but contended that her email, nevertheless, constituted a view from an employee of an education provider on an education matter.

The Respondent's representative noted the Complainer's email, as received by the Respondent, contained a footer concerning her employer. The Respondent's representative argued that, as such, whether it was automatically generated and whether the Complainer was aware of it or not was irrelevant.

The Respondent's representative observed that if the Complainer intended her email to be treated as either private or confidential, she should have marked as such, especially given she was sending it from an email account of her employer, and her employer was an education provider.

The Respondent's representative argued that the ESC had conflated the question of data protection and GDPR with that of confidentiality and contended that information can be personal or sensitive data, but that did not, in and of itself, render it confidential.

The Respondent's representative noted the Respondent received the Complainer's email due to his role as an elected representative and Education Committee member. The Respondent's representative noted the Respondent was concerned about whether the email was sent from the Complainer in a personal or professional capacity. The Respondent's representative argued, therefore, that the Respondent was acting in his capacity as a councillor when forwarding the email to her employer in order to determine whether it, as an important stakeholder, shared or endorsed her views. The Respondent's representative contended the Respondent had not made a complaint or invited the Complainer's employer to discipline or reprimand her.

¹ *Coco v. AN Clark (Engineers) Ltd* [1968] FSR 415

Instead, he had simply asked the employer to look into the matter. The Respondent's representative contended that whether other options were available to the Respondent was irrelevant to whether his conduct in doing so amounted to a breach of the Code.

The Respondent's representative argued that, given the tone and content of the Complainer's email, the Respondent had also acted, as Committee Convener and in accordance with the key principles in the Code of duty and leadership, out of concern for the wellbeing of his fellow Committee members. The Respondent's representative suggested the Respondent also acted in the interests of the Council in emailing the Complainer's employer. This was because the University was a key stakeholder and, as such, the Council would wish to know if it held a view that was at odds with a decision the Council had made on a policy matter.

The Respondent's representative argued, therefore, that not only was the Complainer's email not confidential, but that the Respondent had a legitimate purpose in forwarding it to her employer. As such, the Respondent's representative contended the Respondent had not breached either paragraph 3.21 or 3.23 of the Code.

The Respondent's representative noted that in his email to the Complainer's employer, the Respondent simply asked a question and the email did not contain any mischaracterisation or any insulting, abusive, demeaning or derogatory comments about her. The Respondent's representative contended that, as such, the Respondent's conduct could not be said to demonstrate an intention to embarrass, punish or cause professional difficulty for the Complainer. The Respondent's representative further contended even if professional scrutiny of the Complainer by her employer was a reasonably foreseeable consequence, this did not mean it was the Respondent's intention. The Respondent's representative argued that, instead, it was evident the Respondent focused in his email on the use of the Complainer's employer email account and the language she had used.

The Respondent's representative argued that even if the Panel concluded the Respondent's actions were ill-judged, or disproportionate, this did not mean that he had failed to treat the Complainer with respect and courtesy. The Respondent's representative contended that the Respondent's primary intention had been, to seek clarification on a matter of public interest, and he had intended no disrespect in doing so. As such, the Respondent's representative argued the Respondent had not breached paragraph 3.1 of the Code.

The Respondent's representative advised that he agreed with the reasoning and conclusion advanced by the ESC, in respect of the Respondent's conduct not meeting the threshold for amounting to a breach of the bullying and harassment provisions in the Code.

Turning to the application of Article 10 of the ECHR, the Respondent's representative drew the Panel's attention to the case of *Heesom*² and noted the Court in that case held that the imposition of a restriction on an individual's right to freedom of expression may only be justified when it is necessary in a democratic society and in response to a pressing social need.

The Respondent's representative noted the Court found, in the case of *Higgs*³, that free speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative, and that freedom only to speak inoffensively is not worth having. The Respondent's representative contended, in this case, that while the Respondent's email to the Complainer's employer may well have been unwelcome, the Respondent had been entitled to send it.

The Respondent's representative accepted that preventing the disclosure of information received in confidence was a legitimate aim under which an individual's rights under Article 10 could be restricted. The

² *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504 (Admin)

³ *Higgs v. Farmor's School* [2025] EWCA Civ 109

Respondent's representative contended, however, that in this case as the Respondent received the email in his position as a member of the Council's Education Committee, his email to the Complainer's employer would attract the enhanced protection afforded to politicians when discussing matters of public concern. The Respondent's representative contended that the Respondent's motive in sending the email to the Complainer's employer was to protect his fellow Committee members, and to ascertain the Complainer's employer's position on the contents of the Complainer's email. The Respondent's representative argued that, as such, the Respondent was entitled to raise the matter with the Complainer's employer, and the fact she may have been distressed by the fact he had done so was not in itself a sufficient ground to restrict that entitlement. The Respondent's representative argued that even if the Respondent's motive had been for political gain, or to irritate the Complainer, that did not lessen the enhanced protection that should be afforded in terms of Article 10, as found by the Court in the case *Robinson*⁴.

The Respondent's representative noted that in the case of *Oberschlick*⁵, the Court found that freedom of expression applies not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. As such, the Respondent's representative argued, even if the Respondent's email was viewed as directed towards the Complainer, and categorised as a personal attack, it would still enjoy protection under Article 10.

The Respondent's representative noted that it had been suggested the Respondent, as an alternative course of action, could have raised the matter privately with the Complainer, and as such his email to her employer had been disproportionate and unnecessary. The Respondent's representative argued this did not stand up to scrutiny in light of the available jurisprudence and in particular the case of *Robinson*⁶, where the Court held that the suggestion that a matter should be raised in private can be inconsistent with the right to freedom of expression under Article 10. The Respondent's representative contended that the Respondent, as Committee Convener, was entitled to express his opinion on the Complainer's email and that he was promoting the key principles of transparency and accountability when doing so.

The Respondent's representative noted the Court in the case of *Jerusalem*⁷ had held that private individuals (such as the Complainer) lay themselves open to scrutiny when they enter the arena of public debate.

The Panel asked whether it may have been more appropriate for the Respondent to have used the word 'condone' instead of 'endorse' when asking the Complainer's employer about the wording of her email. In response, the Respondent's representative contended either word would be reasonable in the circumstances.

In response to a query about whether the private opinions of the Complainer were a matter of public interest, the Respondent's representative argued they were in circumstances where there was a question as to whether they purported to be from her employer, as an education provider and Council stakeholder.

The Panel asked whether it was reasonable to regard the Respondent's email to the Complainer's employer as a complaint, given it was sent to the University's complaints inbox. In response, the Respondent's representative confirmed the Respondent had not intended it as such but argued, in any event, that it is not inherently disrespectful to make a complaint and the context in which one was made had to be considered.

DECISION

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

⁴ R (on the application of Robinson) v. Buckinghamshire Council [2021] EHC 2014 (Admin)

⁵ Oberschlick v. Austria (1995) E.H.R.R. 389

⁶ Robinson, ibid

⁷ Jerusalem v. Austria (26958/95) (2003) 37 E.H.R.R. 25

1. The Councillors' Code of Conduct applied to the Respondent, Councillor Dalgleish.
2. The Respondent had not breached paragraphs 3.1, 3.3, 3.21 and 3.23 of the Code.

Reasons for Decision

1. The Panel noted it was not in dispute, and found, that the Respondent received the Complainer's email of 3 September 2025 and then sent it to her employer in his capacity as a councillor and from his Council email account. 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, for preventing the disclosure of information received in confidence).

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

3. The Panel noted it was not in dispute that the Respondent raised concerns with the Complainer's employer on 3 September 2025 and, in doing so, forwarded an email she had sent him earlier that day.
4. Having considered carefully the evidence led and submissions made, the Panel firstly considered whether, in forwarding the email in question, the Respondent breached the requirements in the Code for councillors to refrain from disclosing confidential information. The Panel noted this can include not just information that is marked as confidential but also information which should reasonably be regarded as being of a confidential or private nature.
5. The Panel noted that it was not the Standards Commission's role to determine whether there had been any breach of the GDPR as that would be a matter for the Information Commissioner. The Panel nevertheless noted that councillors are only Data Controllers when they process personal data outwith formal council business, such as when they are dealing with constituency casework. The Panel further noted, in any event, that personal data can be shared lawfully, without an individual's consent, for a number of purposes. The Panel agreed, as such, the disclosure of personal data would not in itself necessarily amount to a breach of confidentiality.
6. The Panel noted, in this case, that it had been provided with evidence that the Complainer's name, job title and email address were publicly available on a Staff List on her employer's website. The Panel did not consider the Respondent's disclosure of this information to her employer amounted to a breach of the Code.
7. The Panel proceeded to consider whether any other information in the Complainer's email, and even the fact that it had been sent, could be considered confidential. The Panel noted that the Complainer lived in the council area and, as such, was a constituent. The Panel agreed that an email between a councillor and a constituent seeking assistance with a personal matter could carry an expectation of confidence. The Panel noted, however, that in this case the email outlined the Complainer's political views and criticisms of the actions and decision-making of members of the Education Committee in respect of a matter of education policy and local political debate. It did not include any request for advice or assistance. As such, the Panel was satisfied the Complainer did not send her email in the capacity of a constituent seeking help with a case or assistance in seeking information from the Council and,

therefore, could not expect her email to be treated in the same manner. Indeed, in reaching this conclusion, the Panel noted that the Complainer advised she understood her email may be shared more widely within the Council (even if she did not expect it to be disclosed to her employer).

8. The Panel accepted the Complainer was not acting as an employee when sending her email and, further, that she may not have wanted her views and criticisms to be disclosed to her employer. It further noted that she had referred to herself as a city centre resident, rather than an employee of the University. The Panel noted that the Complainer's job title was not included in her email. The Panel was satisfied, therefore, that it should have been evident to the Respondent from this that she was unlikely to be speaking on the University's behalf, in respect to the particular policy being considered by the Council's Education Committee.
9. The Panel nevertheless noted that the Complainer sent her email from her work email address. The Panel considered, therefore, that it was not unreasonable for anyone reading it to question whether she was attempting to purport it represented the views of her employer, as a Council stakeholder, or attempting to add weight by inferring the University might endorse its content. The Panel further noted that the email was not marked as confidential and contained no express or even implied request that it be treated accordingly. On the contrary, the Panel noted it had been sent, in the first instance, to eight councillors. The Panel noted the Complainer then forwarded it to at least two other councillors, one of whom was not a member of the Education Committee. The Panel further noted that all recipients of the email were able to see the entire recipient list.
10. The Panel considered, in light of the above points and the particular context of this case, that the Complainer's email did not carry a sufficient expectation of confidence such that it should reasonably be regarded as being of a confidential or private nature for the purposes of the Code. In reaching this conclusion, the Panel noted that the Complainer had confirmed in evidence that while she had a personal email account, she used her university email for matters that she considered "serious and important" and that, in this case, she wished to communicate her unhappiness with what she considered to be a serious decision made by the Education Committee the previous day.
11. While the Panel acknowledged the Complainer used her work email account for personal matters, it nevertheless considered that, in doing so, the Complainer would be obliged to adhere to any policy the University had adopted in respect of the acceptable use of information technology. The Panel noted that most employers only allow the use of work email accounts for incidental personal use and that this was, in part, to reduce the risk that an email, sent in a personal capacity, could be construed as representing the organisation from which it originated. The Panel considered that, regardless of any other motivation, it was not unreasonable for the Respondent to have sought to check whether the Complainer's employer was aware that she was using her work email account to send emails of that nature, given doing so could potentially be a breach of the policy and, further, could be misconstrued as an attempt to represent the organisation (even if, as in this case, this seemed unlikely).
12. The Panel further noted that the Respondent only sent the Complainer's email to her employer's complaints email account and did not disclose it to the wider public. The Panel considered it would be reasonable to assume that only a limited number of individuals at the University would have access to the complaint account and that these individuals would be subject to internal policies on confidentiality and how any information should be processed, meaning the Respondent's actions were unlikely to result in the Complainer's email entering the public domain.
13. For the reasons outlined above, the Panel concluded that the Respondent did not breach paragraphs 3.21 or 3.23 of the Code in forwarding the Complainer's email to her employer.

14. The Panel then considered whether the Respondent's conduct amounted to a failure to treat the Complainer with courtesy and respect, or amounted to bullying and harassment, contrary to paragraphs 3.1 and 3.3 of the Code. The Panel noted that there was some dispute between the parties regarding whether the Respondent's email was a complaint. The Panel noted the Respondent had sent his email to the University's complaints inbox and, in his cover email, outlined his concerns about the language the Complainer used in her email. The Panel considered, therefore, that it was reasonable to characterise the Respondent's email as a complaint. The Panel did not consider, however, that the question of whether the Respondent's email was a complaint or an enquiry was relevant to the question of whether his conduct in sending it amounted to a breach of the Code.
15. The Panel noted, in this regard, that the making of a complaint is not in itself inherently disrespectful. The Panel noted that individuals can make complaints for a variety of reasons, including because they are seeking clarity, have misunderstood a situation or because they consider the subject of their complaint should face a consequence.
16. While, in this case, the Panel accepted that the Complainer was upset by the Respondent's actions, it was not satisfied that the act of raising his concerns to her employer and providing the email in support of those concerns, amounted either to a lack of courtesy and respect, or to bullying and harassment. In reaching this conclusion, the Panel noted it had found that the Complainer's email:
 - was unsolicited and could be characterised, at the very least, as being robust in its criticisms of elected members;
 - contained personal criticisms of the Respondent; and
 - had been sent to a number of elected members without any apparent restriction on its further use.
17. While the Panel considered it was evident the Complainer was expressing her personal views in her email, it again noted it was sent from her work email account and, therefore, could reasonably have been construed as an improper use of that resource, particularly given the contentious nature of its contents. The Panel again noted that most employers normally only allow the personal use of resources, including email accounts, for incidental personal use and that this is, at least in part, to avoid any potential perception, however unlikely, that staff are speaking on behalf of the organisation when they are expressing personal views.
18. Having regard to these factors, the Panel could not conclude that, regardless of any motivation, the Respondent had acted unreasonably in raising his concerns, or that doing so could be termed as vexatious, spurious or malicious in nature. In support of this conclusion, the Panel noted that the Respondent's concerns were not dismissed out of hand by the Complainer's employer, which instead had confirmed, in an email to the Respondent, that it had considered the matters he raised under its internal procedures. The Panel was further satisfied that the Respondent's cover email to the Complainer's employer was measured in tone and did not contain any personal remarks about her.
19. In the circumstance and for the reasons outlined above, the Panel concluded the Respondent had not breached paragraphs 3.1 or 3.3 of the Code.
20. As the Panel did not consider there had been a breach of the Code, it did not need to proceed to consider stages two and three.

Date: 26 October 2026

**Malcolm Bell
Chair of the Hearing Panel**