

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held at West Lothian Civic Centre, Livingston, on Friday 16 February 2024.

Panel Members: Ms Anne-Marie O’Hara, Chair of the Hearing Panel
Ms Suzanne Vestri
Mr Paul Walker

The Hearing arose in respect of a Report referred by Mr Ian Bruce, the Ethical Standards Commissioner (the ESC), further to complaint reference LA/WL/3698, concerning an alleged contravention of the Councillors’ Code of Conduct dated July 2018 (the Code) by Councillor William Boyle (the Respondent).

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

Referral

Following an investigation into a complaint received on 25 January 2022 about the conduct of the Respondent, the ESC referred a report to the Standards Commission on 3 November 2023, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act).

On receipt of the referral report, the Standards Commission noted that the ESC had identified two issues of complaint. The ESC advised that he found that the allegations in respect of issue 1, even if established, would be unlikely to result in a formal finding of a breach of the Code. The Standards Commission considered it had no evidence before it that would lead it to depart from this conclusion and determined, therefore, that it was neither proportionate, nor in the public interest, for it to consider issue 1 at a Hearing. The Standards Commission determined, therefore, to take no action on the referral in relation to issue 1.

The remaining issue of complaint, to be considered at the Hearing, concerned an alleged contravention, by the Respondent, of paragraphs 3.2, 3.6 and 3.7 of the Code, which were as follows:

3.2 You must respect your colleagues and members of the public and treat them with courtesy at all times when acting as a councillor.

3.6 Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.

3.7 You must respect the Chair, your colleagues, Council employees and any members of the public present during meetings of the Council, its Committees or Sub-Committees or of any Public Bodies where you have been appointed by, and represent the Council.

Preliminary Matters

The Panel noted the complaint concerned the conduct of the Respondent at a Council meeting held online on 28 September 2021. The Panel confirmed that it had listened to an audio recording of the meeting in advance of the Hearing.

Evidence Presented at the Hearing

Joint Statement of Facts

The Panel noted that a joint statement of facts had been agreed between the ESC and the Respondent. This recorded that it was not in dispute that during an online Council meeting on 28 September 2021, the Respondent:

- said to the Chair, while referencing the Complainer (another elected member): “Sorry Chair, I was falling asleep there. I thought I was back in the school for a minute. It’s so lovely to hear that dulcet tone telling you where you’re wrong all the time”;
- shouted and spoke over the Complainer when she was permitted to speak by the Chair;
- yelled at another councillor: “You’re hiding behind your substantial skirts”;
- was told by another councillor that his behaviour was “awful” and “intimidating”; and
- shouted at another councillor, referencing ‘Porky Pig’ in the context of that councillor’s answer to the Respondent’s question.

Submissions made by the ESC’s Representative

The ESC’s representative advised that the Respondent was first elected in 2017, before being re-elected in 2022. The ESC’s representative noted that, as part of his acceptance of office, the Respondent undertook to comply with the Code.

The ESC’s representative advised that the complaint being considered at the Hearing concerned the Respondent’s conduct at a Council meeting, held online, on 28 September 2021. Both the Respondent and the Complainer, another West Lothian councillor, had attended the meeting. While no video recording of the meeting had been made, as the Panel had noted, an audio recording was available.

The ESC’s representative noted that there was no dispute that the Respondent attended the meeting in his capacity as a councillor and, as such, the Code applied.

The ESC’s representative advised that the Complainer’s position was that the Respondent’s use of the term “dulcet tone” was a reference to her as a woman and was intended to mock her. The ESC’s representative advised that the ESC had not accepted, however, that this was necessarily a sexist comment as he had noted it could be a reference to anyone’s voice, regardless of their gender. As such, the ESC had not considered the use of the term “dulcet tone”, in itself, to be disrespectful to the Complainer. The ESC’s representative noted, however, that the Respondent had also referred to ‘falling asleep’ and ‘being back at school’ and contended that, by doing so, he was implying clearly that he was bored of listening to the Complainer when she was permitted to speak. The ESC’s representative noted that the Respondent’s position was that the Complainer had been lecturing him, as opposed to making any contributions that added to the debate. The ESC’s representative accepted that the Respondent may well have held that opinion, but noted that he could have conveyed his frustration in a different matter. The ESC’s representative contended, therefore, that the Respondent’s conduct in making these comments was objectively disrespectful and, on the face of it, amounted to contraventions of paragraphs 3.2 and 3.7 of the Code.

The ESC’s representative noted that in her office’s investigation of the complaint, the question of whether the Respondent’s conduct could be said to amount to bullying and harassment under paragraph 3.6 of the Code was also considered. The ESC’s representative noted that the Respondent had been permitted to speak after the Complainer had addressed the meeting. The ESC representative advised that while the ESC considered the references to ‘falling asleep’ and ‘being back at school’, to be disrespectful, he did not consider, in the circumstances, that they were sufficiently serious as to amount to bullying or harassment.

Turning to the question of whether the Respondent had shouted and spoken over the Complainer during the meeting, the ESC’s representative noted that it was evident from the recording that the Respondent had been trying to raise a point of order. The ESC’s representative noted that the Complainer’s position was that the Respondent had regularly and repeatedly shouted and spoke over others. The ESC’s representative advised, however, that in this case the ESC had found that the point of order the Respondent had been trying to make was valid and, as such, his conduct on this occasion would not in itself amount to a breach of the Code.

The ESC's representative noted the Respondent accepted, in the joint statement of facts, that he had "yelled" at another councillor that he was "hiding behind [his] substantial skirts". The ESC's representative explained that while the Complainer considered this, again, was a gendered comment, the Respondent's position was that the Complainer often accused others of misogyny and or sexism. The ESC's representative advised that the Respondent had indicated that he was insulted by this as he fully supported gender equality.

The ESC's representative advised that the ESC had found that the Respondent's comment had been directed at another male councillor and did not concern the other councillor's personal appearance. As such, the ESC had concluded that the reference to the other councillor's "substantial skirts" was more likely to be a reference to the other councillor's political party as an entity. The ESC's representative contended, therefore, that, in the circumstances, the comment would not amount to a breach of the Code.

The ESC's representative noted that at one point in the meeting, another councillor had pointed out that the Respondent had asked a question that was 'wrong'. The Respondent's position, therefore, was that there had been no point in asking other questions, which was why, when invited to speak, he had made reference to 'Porky Pig' from the 'Looney Tunes' cartoon. The ESC's representative noted that the cartoon usually ended with the Porky Pig character saying his signature line, "that's all folks". The ESC's representative advised, therefore, that the Respondent had explained that his reference to 'Porky Pig' was an attempt at humour to indicate he had finished speaking. The ESC noted that the Respondent's position in this regard had been supported by the meeting Chair, who had confirmed that he understood the Respondent was trying to be funny.

The ESC's representative contended that while it had been unnecessary for the Respondent to have referred to 'Porky Pig', it was evident that he had not aimed this comment at an individual, and that he had only used the phrase to highlight the fact that he was finishing speaking. The ESC had not, therefore, considered this to be disrespectful.

The ESC's representative noted that the ESC had found the majority of the Respondent's comments did not amount to a breach of the Code or to be indicative of a "a sustained problematic pattern of behaviour against the Complainer or others". The ESC's representative argued that the multiple interruptions made by the Respondent would not amount to a breach of the Code, when considered in the context of a particularly challenging meeting that had taken almost 10 hours, especially given that the comments had been aimed at more than one individual. The ESC's representative contended, in any event, that while conduct taken together could, in some situations, add up to a breach of the Code even if all the singular parts did not themselves amount to a breach, that was not the case here given the nature of the interruptions, and the length and context of the meeting. ¹As an analogy, the ESC's representative noted that nearly having an accident ten times does not mean that an individual has had an accident. It simply means that they may not be a good driver or may need refresher lessons.

The ESC's representative noted that the ESC had found, on the face of it, a breach of the Code in respect of the first part of the complaint. The ESC's representative argued, nevertheless, that the Respondent would attract enhanced protection in respect of his right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR), as he was making contributions on matters on a Council meeting agenda, being ones of political interest and public concern.

The ESC's representative contended a restriction of the Respondent's enhanced right to freedom of expression, that a finding of a breach of the Code, and the subsequent imposition of a sanction would entail, was not justified. This was because while an individual's right to freedom of expression could be restricted to protect the rights and reputations of others, the Courts have found that, in a political context, language

¹ Following a request from the ESC, this sentence has been revised in this version of the decision to ensure his position, as outlined at the Hearing, was reflected accurately.

(or other forms of expression) which might be offensive, or even aggressive, can be tolerated. The ESC's representative contended that the Respondent's comments were not so bad or shocking as to justify a restriction on his enhanced right to freedom of expression. The ESC's representative noted, in this regard, that the Respondent had not used any profanities or abusive language, and that his conduct had not been directed at, or focused on, any one individual. The ESC's representative further noted that shouting or talking over another councillor would not be considered particularly shocking in the context of it taking place in a political setting where the usual cut and thrust of debate meant discussions can become heated at times.

The ESC's representative noted that the Courts have held that while politicians were entitled to protection from offensive attacks, the level of criticism they were reasonably expected to tolerate was wider than that of officers or members of the public. The ESC's representative argued that politicians are expected to have 'thicker skins', and to be able to withstand the cut and thrust of political debate. The ESC's representative argued, in this case, that the level of criticism the Respondent directed at the Complainer, in his comments, was not so bad as to mean she required protection from them.

The ESC's representative concluded, therefore, that while the Respondent had, on the face of it, contravened paragraphs 3.2 and 3.7 of the Code, a restriction on his right to freedom of expression that a formal finding of breach would entail was not justifiable.

In response to a question from the Panel about whether the Respondent's conduct during the meeting could objectively be perceived as 'shouting' or 'yelling', the ESC's representative noted that 'shouting' was a subjective experience. The ESC's representative accepted that some participants could have been sitting closer to their microphones than others, or that the volume levels could have been set differently. The ESC's representative noted, however, that at several times during the meeting, other participants had indicated they thought the Respondent was shouting. In addition, the Chair had said to the Respondent that there was no need to be "over shouting".

In response to a question from the Panel about whether the Respondent's conduct, taken as a whole, could be perceived to be bringing the meeting into disrepute, the ESC's representative accepted that perception was a possibility. The ESC's representative argued, however, that the type of 'low-level needling' and 'cut and thrust' on show at the meeting in question was indicative of that usually present at a challenging full council meeting. The ESC's representative advised that she understood why participants could get upset, heated and passionate and noted that, to a certain extent, those kinds of emotions were expected of councillors. In any event, the ESC's representative argued that even if the Respondent's behaviour amounted, on the face of it, to a breach of the Code, a restriction on his right to freedom of expression could not be justified.

Witness Evidence for the Respondent

The Respondent led evidence from two witnesses, being Councillors Moira McKee Shemilt and Carl John.

Councillor Shemilt advised that she considered the complaint had been made in retaliation following a previous incident that had resulted in the Respondent submitting a complaint to the ESC about the Complainer to the ESC. Councillor Shemilt advised that she had attended the meeting in question and while she considered it had been particularly "febrile" in nature, she noted that no one else had made a complaint about how the Respondent had behaved during it.

Councillor Shemilt advised that, during the meeting, the Respondent had raised a point of order about protocol not being followed but that, as a result of a "mix-up", the Chair had allowed the Complainer to speak, instead of the Respondent. Councillor Shemilt advised that she understood how this complication had arisen as, in the context of a particularly chaotic online meeting, it would have been difficult to ascertain which participants had indicated they wished to speak by raising their hands. Councillor Shemilt advised that she considered the Chair had been "particularly short" with the Respondent.

Councillor Shemilt advised that she considered it was clear, at the time, that the Respondent's comment about another councillor hiding behind his "substantial skirts" was a reference to the other councillor's political party. Councillor Shemilt explained she thought this had been it had been a "fleeting moment". Councillor Shemilt confirmed that the comment had not been directed at the Complainer.

Councillor Shemilt noted that she had not heard the Respondent's comment about "Porky Pig" at the time or when she had later listened to the audio recording of the meeting. Councillor Shemilt advised, nonetheless, that her understanding was that the making of the comment would have been an attempt at humour by the Respondent. Councillor Shemilt further advised that it was her understanding that the Respondent behaved in meetings often related to his dyslexia, as individuals with this condition often find it difficult to assimilate both spoken and written words.

In response to a question from the Panel regarding whether the Respondent's conduct, across the whole meeting, could be perceived to amount to disrespect, Councillor Shemilt noted again that the meeting had been "febrile", and that there were other members, including those from her own political party, whose behaviour could have been said to be disrespectful. Councillor Shemilt advised that as meetings were now chaired differently, she did not consider that the behaviour displayed at that meeting would happen now.

In response to a question from the Panel regarding whether the Respondent was shouting during the meeting, Councillor Shemilt noted that the Respondent was not the only person who had raised their voice. Councillor Shemilt noted that another councillor had shouted and had been "told off" for it.

Councillor John advised that he considered the complaint had been made in retaliation for one submitted by the Respondent to the ESC.

Councillor John advised that he understood that a mistake had been made in respect of the protocol of the meeting and that the Respondent should have been afforded the opportunity to speak after raising his point of order.

Councillor John advised he did not understand the Respondent's comment about another councillor hiding behind substantial skirts, but thought it had been "a bit of banter".

Councillor John advised that he thought the Respondent's comment about "Porky Pig" had been an attempt at humour, and that it had not been derogatory or aggressive. Councillor John advised that the Respondent was a great fan of cartoons, and noted that the way the Respondent had behaved may have been related to his dyslexia.

In response to a question from the Panel regarding whether the Respondent's conduct, across the whole meeting, could be perceived as being disrespectful, Councillor John advised that he did not consider the Respondent's behaviour had been worse than anyone else.

In response to a question from the Panel regarding whether the Respondent was shouting during the meeting, Councillor John advised that he considered the Respondent was someone who talked loudly both during and outwith council meetings. Councillor John advised that he did not consider the Respondent's conduct during the meeting in question could be categorised as aggressive shouting.

Submissions made by the Respondent

The Respondent contended that it was common for members of different political parties to try and 'bait' one another. The Respondent acknowledged he himself engaged in this practice and, further, accepted that he may have risen to the bait at the meeting in question. The Respondent argued, nonetheless, that the

complaint before the Panel today was of a vexatious and vindictive nature, and noted that aside from the Complainer, no one else appeared to have complained about his conduct at the meeting.

The Respondent contended that he did not consider his comment regarding “falling asleep” and being “back at school” to amount to a breach of the Code. The Respondent advised that he considered the Complainer’s contribution to the meeting to have been a repeat of a lecture she had given on previous occasions about his political party’s councillors’ conduct. The Respondent indicated that while he understood the Complainer’s point, his response had been borne out of his own frustration at having to listen to what he considered to be a repetitive argument. The Respondent advised that he had not planned his comments in advance and advised that they were not intended to be abusive. The Respondent advised that, instead, he had been intending to highlight what he perceived to be a patronising tone used by the Complainer, which had reminded him of a demoralising and dismissive schoolteacher with “dulcet tones”. The Respondent argued that he had the freedom to express himself, just as the Complainer had done.

The Respondent advised that he considered that the Chair had assumed mistakenly that the point of order he had raised concerned the Complainer having been called to speak. The Respondent advised that he would have expected the Chair to allow him to make his point of order. The Respondent advised that the Complainer had then opened her remarks by thanking the Chair for allowing a woman to speak. The Respondent explained he had been shocked by this as it implied he had been preventing the Complainer from speaking when, in fact, he had not addressed her at any point and, instead, had simply tried to raise a procedural issue with the Chair. The Respondent noted that it was not always possible to raise a point of order without interrupting. The Respondent further contended that while it was sometimes necessary to raise his voice, he had not been shouting, and that he had not raised his voice at the Complainer, or addressed her directly.

The Respondent argued that he had not yelled his comment about another councillor hiding behind “substantial skirts” and instead contended that he had just been forced to speak loudly as he was being talked over by two other councillors. The Respondent argued that those other councillors had been “baiting” him, and that his comment had been aimed clearly at the councillor who had been initially interrupting and talking over him. The Respondent advised that the reference to “hiding behind your mother’s skirts” was based on an old Scottish saying. The Respondent advised that he had been referring to the other councillor’s political party, and that it had been a bit of “baiting” on his part. The Respondent contended that the use of the word “substantial” had not represented any individual’s size or weight, and that its use had been self-mocking and made in reference to his own overuse of that word in a previous meeting. The Respondent further contended that it had been a political comment, which had not been personal or offensive and did not amount to a breach of the Code.

The Respondent noted that another councillor had commented on his behaviour during the meeting as being “awful” and “intimidating”. The Respondent argued, however, that this was simply the other councillor’s personal view based on her own political perspective.

With regards to his reference to “Porky Pig”, the Respondent noted that he had asked a question of another councillor, which transpired to be irrelevant and, as such, had not required an answer. The Respondent advised that despite this being apparent, the Chair asked him if he had anything to say. As it was the end of the agenda of what had been a very lengthy meeting, the Respondent contended that he had offered a “bit of humour” in an attempt to lighten the mood. The Respondent contended that he had not shouted, that the comment was not directed at any individual councillor and that it was neither offensive nor intended to be. The Respondent argued that he would have said nothing if the Chair had not invited him to speak. The Respondent contended that the councillor to whom the “Porky Pig” comment had been directed, had not taken it as a personal comment, albeit he accepted that she had been exasperated by his attempt at humour. The Respondent further noted that the Chair, in his response to the ESC’s investigation, had understood the comment to have been an attempt at humour.

The Respondent advised that despite the conduct towards him by others at the meeting, he would never have submitted a complaint to the ESC as he considered the behaviour to be fairly normal in the context of a council meeting and political debate.

In response to a question from the Panel as to whether his comments to the Complainer about her “dulcet tones” and his implication that she was lecturing could be considered disrespectful, the Respondent accepted that he could have expressed his frustration in a different manner but argued that this did not mean had been disrespectful.

In response to a question from the Panel as to whether he could have raised his point of order in another way, the Respondent advised that as he had already hit the button to virtually raise his hand and been ignored, he had resorted to being “vociferous” in order to make his point.

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 Boyle.
2. The Respondent had not breached paragraphs 3.2, 3.6 or 3.7 of the Code.

Reasons for Decision

In reaching its decision as to whether there had been a breach of the Code, the Panel took the following three-stage approach, as outlined in the Standards Commission’s Advice Note on the Application of Article 10 of the ECHR:

- Firstly, it would consider whether the facts found led it to conclude, on the balance of probabilities, that the Respondent had failed to comply with the Code.
- Secondly, if so, it would then consider whether such a finding in itself was, on the face of it, a breach of the Respondent’s right to freedom of expression under Article 10.
- Thirdly, if so, the Panel would proceed to consider whether the restriction involved by the finding was justified by Article 10(2), which allows restrictions that are necessary in a democratic society (and, in particular, in this case, for the protection of the reputation or rights of others).

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

The Panel considered carefully the evidence led, and the submissions made orally at the Hearing and in writing.

The Panel noted that the Code applies in all situations, and at all times, where an individual is acting as a councillor, has referred to themselves as a councillor, or could be considered objectively to be acting as a councillor. In this case, the Panel noted that there was no dispute that the Respondent was acting in his capacity as a councillor when attending the online Council meeting on 28 September 2021. The Panel was satisfied, therefore, that the Code applied to the Respondent at the time of the events in question.

The Panel noted there was no dispute and found that the Respondent:

- said to the Chair whilst referencing the Complainer: “Sorry Chair, I was falling asleep there. I thought I was back in the school for a minute. It’s so lovely to hear that, eh, dulcet tone telling you where you’re wrong all the time”;
- spoke over the Complainer when she had been permitted to speak by the Chair;
- said to another councillor, “you’re hiding behind your substantial skirts”;
- referenced the cartoon character ‘Porky Pig’ in the context of another councillor’s answer to a question he had posed.

The Panel noted that the joint statement of facts agreed between the ESC and the Respondent recorded that the Respondent had both “shouted” and “yelled” at other councillors during the meeting. The Panel noted, however, that this was a subjective characterisation of the Respondent’s behaviour, as opposed to a ‘fact’. Having listened to the relevant sections of the audio recording of the meeting, the Panel found that the Respondent had raised his voice. The Panel was not satisfied, however, that he had done so to such an extent for it to find that the categorisation of his conduct as ‘yelling’ or ‘shouting’ was reasonable.

The Panel further noted, from its listening to the audio recording of the meeting, that the meeting itself could properly be characterised as heated and somewhat unruly. The Panel noted the witness testimony from other meeting attendees, who had described it as being “febrile” in nature and had advised that others present had also been reprimanded for raising their voices.

While the Panel found that the Respondent had raised his voice and spoken over other attendees at the meeting, and, further, that he had made a number of comments which could be regarded as unnecessary, the Panel did not consider that the Respondent’s behaviour, taken either individually or as a whole, could be said to amount to a breach of the respect and courtesy provisions in the Code. This was because the Panel considered that:

- in the context of what appeared to be a very heated meeting of the full Council, the Respondent raising his voice on a few occasions could not be said to be unduly disruptive;
- in relation to the allegation that the Respondent had spoken over the Complainer, the Panel accepted the ESC’s representative’s submission that the Respondent had been attempting to legitimately raise a point of order about what he perceived to be an error in protocol;
- there was no evidence to suggest that the Respondent’s conduct prevented anyone else in attendance from participating fully in the meeting;
- the Respondent’s comments were neither repeatedly aimed at any one individual, nor particularly personal in content or nature;
- the Respondent had not used any profanities, or any terms which could be said to be even mildly offensive, abusive or derogatory;
- while the Respondent’s comments relating to “Porky Pig” were unnecessary, the Panel accepted the Respondent’s position that it was an attempt at humour employed as a closing remark; and
- the Respondent’s comment regarding another councillor hiding behind “substantial skirts” could neither properly be characterised as disrespectful nor reasonably interpreted as such. Instead, the Panel accepted they were a reference to the other councillor’s political party.

The Panel agreed with the ESC’s representative that the Respondent could have expressed frustration about his perception that the Complainer had been lecturing him and other members of his political party in a different manner. The Panel considered, nevertheless, that it was clear that, while directed at the Complainer as an individual, the Respondent’s comments regarding her “dulcet tones”, and his suggestion that he was “falling asleep” and made to feel like he was “back at school” while listening to her were political points relating to the nature of her remarks and contribution to the meeting, rather than a personal attack about the way she sounded. The Panel did not consider, therefore, that the Respondent’s conduct in making these comments was objectively disrespectful.

The Panel concluded, therefore, that the Respondent had not breached paragraph 3.2 or 3.7 of the Code.

The Panel determined that as it did not find the Respondent’s conduct to be disrespectful, it followed that it was not sufficiently serious as to amount to either bullying or harassment, particularly given there was no significant personal element in respect of the Respondent’s conduct and the comments he made. The Panel concluded, therefore, that the Respondent had also not breached paragraph 3.6 of the Code.

Having found, on the face of it, that the Respondent had not breached the Code, the Panel noted it was no longer required to continue to stages 2 and 3, as noted above.

The Panel nevertheless noted, in any event, that it was satisfied that the Respondent was engaging in political discussion in the context of a public meeting of the Council. In the circumstances, therefore, the Panel considered that the Respondent would attract the enhanced protection of freedom of expression afforded to politicians, including local politicians, under Article 10.

The Panel noted that the Courts have held that the less egregious the conduct in question, the harder it would be for a Panel, when undertaking its balancing exercise, to justifiably conclude that a restriction on an individual's right to freedom of expression is required.

Furthermore, the Panel noted that the Courts have held that, in a political context, a degree of the immoderate, offensive, shocking, exaggerated, provocative, controversial, colourful and emotive, that would not be acceptable outside that context, is tolerated².

The Panel determined that the Respondent's behaviour had not been sufficiently shocking, offensive and egregious as to justify a restriction on his right to freedom of expression, even if it had, on the face of it, found a breach of the Code. The Panel noted this was because that it had not found that the Respondent used profanities, resorted to any personal abuse or insults, and / or engaged in threatening behaviour. The Panel further noted that the Respondent's conduct had been directed at his fellow politicians, who are expected to have more tolerance to comment than member of the public or officers³.

In the circumstances, the Panel determined that even if it had determined that the Respondent had, on the face of it, breached the Code, the imposition of a restriction on the Respondent's right to freedom of expression would not have been relevant, sufficient or proportionate.

The Panel nevertheless wished to remind elected members that the requirement for them to behave in a respectful and courteous manner towards others, including their political opponents, is a fundamental requirement of the Code. The Panel considers that adherence to this requirement is vital as it helps ensure the Council can function effectively and prevents public confidence in the role of an elected member and the council itself from being undermined.

Date: 15 March 2024 (original version was dated 28 February 2024)



**Anne-Marie O'Hara
Chair of the Hearing Panel**

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

³ *Janowski v Poland (1999) 29 EHRR 705*