

# Complaints against Edinburgh councillors decided by Standards Commission

There were two recent cases against councillors heard by The Standards Commission for Scotland.

☒ One of these centred on an alleged breach of the Councillors' Code of Conduct by two councillors, former councillor Jeremy Balfour who is now an MSP, and Councillor Cameron Rose. Both are members of the Conservative Group and the hearing found that neither had breached the code.

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But the Hearing Panel found that the Councillors had been discourteous and disrespectful by publicly identifying five Council officials at a meeting of Edinburgh Council's Governance, Risk and Best Value Committee. This was in the context of a discussion about accountability for alleged failings in the management of the Cameron House Community Centre building project.

Although the names were disclosed without either Councillor making any critical comment, a clear inference could be drawn from the reading out of the names that those staff may have had some responsibility for any failures in respect of the Council's management of the project.

☒ However, the Hearing Panel also found that the Councillors had legitimate grounds for concern about the project, and for taking the view that the Council Committee would not commission further reports without being convinced there were still officials employed by the Council who could assist with

inquiries. The rationale of identifying staff was done for that purpose.

In the particular circumstances of this case, the Hearing Panel took the view that, as local politicians taking part in a discussion on matter of public concern, the councillors should be afforded the enhanced protection of freedom of expression under Article 10 of the European Convention on Human Rights.

The Panel also found that the Councillors' right to this enhanced protection when performing their scrutiny role in an open and transparent way was not outweighed by the benefit of protecting officers from the potential inference that they had been involved in any of the alleged failings.

The Hearing Panel concluded that whilst it was regrettable that the five officers were named, this did not constitute a breach of the Councillors' Code of Conduct in light of the application of the enhanced protection enjoyed by Councillor Rose and Mr Balfour to the right to freedom of expression.

The Panel Chair, Mr. Kevin Dunion, said: "The Hearing Panel found the balancing exercise it had to undertake difficult in this case. On the one hand, the Councillors Code of Conduct is intended to prevent discourtesy and disrespect such as comment about the capability and performance of officials.

"On the other, Councillors are entitled to enhanced protection to freedom of expression, especially as in the case when pursuing a legitimate political aim and discussing matters of public concern. Having given careful consideration to the particular facts and specific circumstances of the case, we determined the restriction involved in the finding of a breach and the imposition of sanction was not justified."

## SECOND CASE

The second case was that heard against the former councillor

Jim Orr.

The Hearing Panel found that former Councillor Orr had made a number of allegations and critical comments on his online blog about the complainer, Mr Steve Cardownie, who had been a fellow councillor, which were of a personal and insulting nature.

They further found that the comments were clearly intended to impugn and demean the complainer in a public forum. The Hearing Panel noted that Councillor Orr had subsequently proffered an unqualified apology to the complainer, in which he had accepted the allegations and imputations he had made in the blog were 'entirely false and without foundation'.

In the particular circumstances of this case, the Hearing Panel took the view the comments in question did not amount to a value judgement and that the Respondent should not, therefore, be afforded the enhanced protection afforded under Article 10 of the European Convention on Human Rights for political expression. The Hearing Panel concluded, therefore, that it was satisfied that a finding of breach and subsequent imposition of a sanction, would not contravene Article 10.

Neither Mr Orr or Mr Cardownie stood for re-election at May's council elections.