



Northern Ireland

Local Government Commissioner for Standards

Local Government Act (Northern Ireland) 2014

In the matter of Alderman Ruth Patterson (Belfast City Council).

Decision of the Northern Ireland Local Government Commissioner for Standards following the Adjudication Hearing held in public at Progressive House, Wellington Place, Belfast, on Monday 25 February, Tuesday 26 February and Monday 4 March 2019.

Adjudication Hearing: Mrs Marie Anderson, Northern Ireland Local Government Commissioner for Standards (the Commissioner).

The Deputy Commissioner was represented at the Adjudication Hearing on the above dates by Counsel (Fiona Fee BL), which was convened for the purposes of the Commissioner making a determination as to whether or not the Respondent had breached the Northern Ireland Local Government Code of Conduct (the Code). The Respondent, Alderman Ruth Patterson did not attend the Adjudication Hearings on the above dates and neither was she represented.

Complaint about Alderman Ruth Patterson

By virtue of section 55(1)(a) of the Local Government Act (NI) 2014 (the 2014 Act), the Commissioner may investigate a written allegation made by any person that a Councillor (or former Councillor) has failed, or may have failed, to comply with the Code. The Deputy Commissioner had received a complaint from Councillor Tim Attwood dated 6 July 2017 about the Respondent's conduct at a meeting of Belfast City Council on 3 July 2017. Councillor Attwood's complaint to the Deputy Commissioner stated:

"I wish to make a complaint against Councillor Ruth Patterson in that she failed to comply with the conduct [sic] at the meeting of full Council in Belfast City Council on Monday 3rd July 2017.

I submit that under the item 'Crumlin Star' in peoples and communities Councillor Patterson made comments which breached 3.3 of the code of conduct in relation to respect in that she made comments which were offensive and dangerous.

I also submit her comments broke the code under 4.13 that she failed to show 'respect and consideration for others'."

The Investigation

The Deputy Commissioner commenced an investigation pursuant to section 55(1)(a) of the 2014 Act. The investigation report of the Deputy Commissioner dated 8 November 2018 (the investigation report) addressed whether the Respondent had failed to comply with the following paragraphs of the Code:

Paragraph 4.2

'You must not conduct yourself in a way which could reasonably be regarded as bringing your position as a Councillor, or your Council, into disrepute'.

Paragraph 4.13(a)

' You must show respect and consideration for others '

Paragraph 8.1

'When participating in meetings or reaching decisions regarding the business of your Council, you must

- a) Do so objectively on the basis of the merit of the circumstances involved and in the public interest*
- b) Take into account only relevant and material considerations and discount any irrelevant and immaterial considerations*

- f) Act fairly and be seen to act fairly*

Following his investigation, the Deputy Commissioner submitted the investigation report to the Commissioner in accordance with sections 55 and 56 of the 2014 Act. In particular, in accordance with section 55(5) of the 2014 Act, the Deputy Commissioner found at paragraphs 72 to 91 of the investigation report that there was evidence that the Respondent had failed to comply with paragraphs 4.2, 4.13(a) and 8.1(a),(c) and (f) of the Code and that the Commissioner should make an adjudication on the matters which were the subject of the investigation. On 15 November 2018, the Commissioner determined to hold an Adjudication Hearing in relation to the Respondent's conduct in order to determine whether or not she had failed to comply with the Code.

In response to the Commissioner's decision to adjudicate on this matter, Alderman Patterson submitted a completed Councillor Response Form on 7 December 2018 in which she accepted that she had breached the Code and also accepted the contents of the Deputy Commissioner's report.

Pre Adjudication Review Meetings ('pre-Adjudication Hearings')

The Commissioner may arrange for one or more pre-Adjudication Hearings to be held in any case in order to establish whether facts and issues can be agreed between the parties and to set directions in order to expedite the hearing and for the saving of costs. The Procedures for the Adjudication of Cases ('The Procedures') provide that the pre-Adjudication Hearings are held in private, the public do not attend these meetings.

The Commissioner scheduled a pre-Adjudication Hearing for 13 December 2018 for the purposes of the Commissioner settling procedural matters and agreeing where possible the facts in order to expedite the Adjudication Hearing. By email dated 4 December 2018, Alderman Paterson requested that the pre- Adjudication Hearing be adjourned because of the unavailability of her then appointed legal representative.

The Commissioner agreed to her request and a further date of 18 December 2018 was set for the pre-Adjudication Hearing. This adjournment was communicated to Alderman Patterson by way of letter dated 7 December 2018.

On 7 December 2018 Alderman Patterson again requested during a phone conversation that the re-scheduled pre-Adjudication Hearing be changed to a different date to accommodate her legal representative. The Commissioner again granted this request and directed that the pre-Adjudication Hearing take place on 20 December 2018.

On 19 December 2018, the Commissioner notified Alderman Patterson and her legal representative that she had adjourned the pre-Adjudication Hearing scheduled to take place on 20 December 2018.

On 8 January 2019 the Commissioner directed that a new date for the pre-Adjudication Hearing was set for 22 January 2019. Both Alderman Patterson and her legal representative contacted the Commissioner by email on 9 January 2019 stating that the date of 22 January 2019 was also unsuitable for her legal representative's attendance at the pre-Adjudication Hearing.

A further three opportunities to hold the pre-Adjudication Hearing were provided to Alderman Patterson and her legal representative by the Commissioner by way of email dated 9 January 2019 (14 January 10.30am, 14 January 2pm and 16 January 2pm) - none of which were initially accepted by her legal representative.

When the Commissioner directed that the pre-Hearing meeting would proceed in any event on 14 January, Alderman Patterson's legal representative then reverted to requesting an earlier date (16 January 2019) which was previously rejected as unsuitable. This date was accepted by the Commissioner.

The pre-Adjudication Hearing was held by the Commissioner on 16 January 2019 and although Alderman Patterson did not attend, her legal representative was in attendance. The Commissioner issued a number of directions to both parties including that they should produce a mutually agreed Statement of Facts (indicating

any disputed facts). These directions were issued by the Commissioner to expedite the Adjudication Hearing which was arranged for 5 and 6 February 2019.

Alderman Patterson's legal representative advised by email on 18 January 2019 that he was no longer instructed by her in relation to this matter.

On 21 January 2019, Mr Jamie Bryson advised the Commissioner of his instructions from Alderman Patterson and subsequently communicated on her behalf that she wished to resile from previous admissions made by her in her Councillor Response Form and that she was wished to resile from (unspecified) parts of her interview with Deputy Commissioner's staff at investigation stage.

A second pre-Adjudication Hearing was arranged by the Commissioner for 6 February and the substantive Adjudication Hearing (scheduled to take place on 5 and 6 February 2019) was adjourned 1 week (until 12 & 13 February 2019) in order to address matters set out in Mr Bryson's submissions and to issue further directions to the parties.

At the pre-Adjudication Hearing on 6 February 2019 the Commissioner addressed as a preliminary matter the appropriateness of Mr Bryson acting on Alderman Patterson's behalf given that at interview Alderman Patterson identified him as having been the author of the speech giving rise to the complaint before the Commissioner.

Given that Mr Bryson was the author of the speech in question, the Commissioner heard submissions from Mr Bryson and also from the Deputy Commissioner as to whether or not this might give rise to an actual or a potential conflict of interest that could prejudice the right of Alderman Patterson to have a fair hearing.

Having heard submissions from Mr Bryson and the Deputy Commissioner, and on the advice of her Legal Assessor having considered relevant case law, in particular the case of *Smith v The Bar Standards Board*¹, the Commissioner determined that Mr Jamie Bryson should not be permitted to represent Alderman Patterson for the purposes of the Adjudication Hearing.

By email of 6 February this decision was communicated to Alderman Patterson and she was advised to seek alternative representation. The contact details of the Bar Library Pro Bono Unit were also provided to her. Further the date for the Adjudication hearing was scheduled for 12 and 13 February 2018.

On 7 February a member of the Commissioner's staff contacted with Alderman Patterson by phone in which she communicated that she did not wish to instruct an alternative legal representative.

¹ Smith v The Bar Standards Board [2016] EWHC 3015 (Admin)

Adjudication Hearing

On 11 February 2019, it was communicated to Alderman Patterson by email that the Adjudication Hearing would be adjourned for one day and would instead commence on Wednesday 13 February 2019. In this correspondence the Commissioner provided Alderman Patterson with the opportunity to clarify or add to any previous submissions made either by her or on her behalf by Mr Bryson

Following consideration of three emails by Alderman Patterson received on 11 and 12 February 2019, the Commissioner decided on 13 February 2019 to adjourn the Adjudication Hearing scheduled to take place that day, and provided Alderman Patterson with a further opportunity to make submissions.

By email of 18 February Alderman Patterson sought a late adjournment in respect of the hearing set for 19 February. This application was considered as a preliminary matter at the commencement of the Adjudication Hearing on 19 February 2019.

Having considered this late application which was heard in private, and having sought submissions from the Deputy Commissioner in relation to this matter, the Commissioner directed, in the interests of ensuring in so far as possible a fair hearing, that the Hearing be adjourned until Monday 25 and Tuesday 26 February 2019. The Commissioner made it clear that this would be a final adjournment and that the case would proceed on those dates.

By email to Alderman Patterson 19 February 2019, the Commissioner exhorted Alderman Patterson to seek alternative representation for the purposes of this Adjudication Hearing and again signposted her to the details of the Pro Bono Unit at the Bar Library.

Stage 1 of the Adjudication Hearing 25 and 26 February 2019

Alderman Patterson did not attend the Adjudication Hearing on 25 February 2019, neither was she represented. The Commissioner decided that the hearing be held in public and where necessary the public could be excluded when private matters were being heard and considered by the Commissioner. The Commissioner directed that the reasons for Alderman Patterson's non attendance should be heard in private. At the commencement of Hearing the Commissioner sought oral submissions from the Deputy Commissioner as to whether she should proceed with the hearing in Alderman Patterson's absence. The Deputy Commissioner provided submissions pursuant to paragraph 48 of the Adjudication Procedures which provides as follows:

"48. If a Respondent, or any other person requested to be present (except the Deputy Commissioner or her representative) fails to attend or be represented at an Adjudication Hearing of which he/she has been notified, the Commissioner may: a. adjudicate in that person's absence; or b. adjourn the Adjudication Hearing to another date, in which case the Commissioner will advise the Respondent, or any other person required to be present, accordingly.

49. Before adjudicating in the absence of a Respondent, the Commissioner will consider any written representations submitted by or on behalf of that person in response to the notice of the Adjudication Hearing. For this purpose, any reply shall be treated as a representation in writing”.

On the advice of her Legal Assessor, the Commissioner determined in light of these submissions (which addressed matters detailed in private) and also in light of the history of the pre-Adjudication Hearings and previous adjournments of the Adjudication Hearing, that in the public interest and in the interests of Alderman Patterson, that it was appropriate to proceed with the Adjudication Hearing in the Respondent’s absence.

Stage 1 of the Adjudication Hearing – Findings of Fact

At Stage 1 of the hearing, which was heard in public, the Commissioner directed that in the absence of Alderman Patterson and given her resiling from the acceptance of the investigation report (as outlined in her Councillor Response Form dated 5 December 2018) that the Deputy Commissioner’s representative prove the investigation report dated 8 November 2018. The Commissioner also directed that the video of the Respondent’s speech on 3 July 2017 and the Council debate be viewed at the hearing.

Applying the balance of probabilities test, the following facts have been established by the Commissioner from the Deputy Commissioner’s submissions at the hearing and viewing the video evidence of the incident on 3 July 2017.

1. Alderman Ruth Patterson signed an undertaking on 24 May 2014 that she had read and would observe the Local Government Code of Conduct for Councillors (the Code).
2. Alderman Patterson has served as a member of Belfast City Council from June 2001. Alderman Patterson was first elected to Belfast City Council in 2001 and again in 2005, 2011 and 2014.
3. Alderman Patterson currently sits on the Council but not on any Council Committees. She has been appointed by the Council to sit on the Donegall Pass, Olympia and Sandy Row Community Centre Committees as a member of an Outside Body.
4. At the relevant time, 3 July 2017, Alderman Patterson was a member of Belfast City Council.
5. Alderman Patterson was not at the relevant time (13 June 2017 and 3 July 2017) a member of the People and Communities Committee.

6. Alderman Patterson had attended the January, March and May 2017 meetings of the full Council earlier that year.
7. At a meeting of the People and Communities Committee on 13 June 2017, under the item 'Crumlin Star re: Strangford Avenue' the Committee considered a report which contained 4 recommendations, one of which was that the Committee 'Agree...that the proposal to develop Strangford Avenue (Playing Fields) is no longer an option'.
8. The People and Communities Committee accepted the recommendations contained within the report (on vote by a show of hands eleven members voted for and seven against).
9. A full Council meeting was held on 3 July 2017 at which Crumlin Star Football Club addressed the Council on the decision of the People and Communities Committee on 13 June 2017 to refuse the club's request to use the Strangford Avenue Playing Fields at its home venue.
10. In the course of discussing Crumlin Star Football Club's address to the Council, Alderman Patterson made the following remarks: "*But there's something that is maybe a little bit more worrying to me, and me being me will bring it to the fore, it is well known that a man named in Parliament as a senior member of the Provisional IRA, and widely reported to have been the Second in Command...*".
11. When asked to choose her words carefully by the Lord Mayor, Alderman Patterson stated "*Yes, but it is something that's extremely important whenever things are being considered*".
12. When it was then highlighted by the Lord Mayor that this was not an appropriate issue to raise, Alderman Patterson stated "*Well, I can certainly say that it is absolutely hypocritical em [sic] of anyone to ask the Unionist members of this Council to then support any club linked with a high-ranking Republican terrorist. Thank you Lord Mayor*".
13. When asked twice by the Lord Mayor if she was going to apologise, Alderman Patterson stated "*Yes, if Crumlin Star think that I was attacking them or making allegations against Crumlin Star per se as a football team I was absolutely not doing that. I'm sure Crumlin Star...*".
14. Councillor McVeigh, the then the Lord Mayor, Councillor McAteer, Councillor Attwood and Councillor McDonagh-Brown spoke out against the remarks made by Alderman Patterson, during the Council meeting on 3 July 2017.
15. Alderman Patterson did not name the individual to whom she was referring, however, a number of the witnesses spoken to as part of the investigation were able to identify the individual.

16. An amendment to the minutes (of the proceedings of the People and Communities Committee meeting of 13 June) was proposed by Councillor McCabe, seconded by Councillor Clarke *'that the decision of the People and Communities Committee of 13 June, under the heading 'Crumlin Star re: Strangford Avenue' be referred back to the Committee for further consideration'* was declared lost on a recorded vote of 24 Members for the amendment and 28 against the amendment.
17. Alderman Patterson voted against the amendment.
18. On 4 July 2017, Alderman Patterson was reported in the Irish News as stating: *'There has been much hypocrisy from Sinn Fein and those that provide them with covering fire in the chamber. I did not make allegations against Crumlin Star, who are [a] successful and popular club'*. The media article reported that *'However, she repeated what she claimed was a factual link with a Republican'*. Alderman Patterson was also quoted as stating *'Perhaps now Sinn Fein and their SDLP and Alliance allies will think twice about demonising loyalists. They cannot have it both ways; loyalists cannot be fair game whilst republicans are a protected species'*.
19. In the same Irish News report, a spokesman for Crumlin Stat Football Club stated that:

'Ms Patterson's outrageous comments have placed at risk our players, supporters and the many volunteers who give up their free time to work with the club. Just like other football clubs, we travel in and out of mixed areas or areas that would be perceived to be unionist every other week. Likewise other clubs travel from various areas to play against us. For a political representative to try and jeopardise those valuable community relationships is quite shocking'.
20. On 7 July 2017, Belfast Media Group reported Eamonn Hawkins, Chairman of Crumlin Star Football Club from 2012-2017 and the current Treasurer of the Club, as having stated that as a result of the comments the club would *'have to look again at our security when we are travelling to away matches'*.
21. Alderman Patterson stated at interview on 2 July 2018 that she was informed of the link between the person to whom she referred at the Council meeting on 3 July 2017 and Crumlin Star Football Club by Mr Jamie Bryson, her former campaign manager.
22. The remarks made by Alderman Patterson and referred to in points 10 & 12 above were read out by Alderman Patterson from a speech prepared on her behalf by Mr Jamie Bryson. The speech was prepared after receiving the agenda for the meeting and in advance of the meeting taking place on 3 July 2017.

23. Alderman Patterson stated at interview on 2 July 2018 that she ought not [to] have read out the remarks drafted by Mr Bryson.
24. Alderman Patterson stated at interview on 2 July 2018 that the remarks could be regarded as offensive and she should not have made them.
25. Alderman Patterson accepted at interview on 2 July 2018 that by making the remarks she had failed to show respect and consideration for others.
26. The interview on 3 July 2018 lasted from 2.06pm to 3.35pm. Alderman Patterson was offered the option to be accompanied at the interview by a friend but declined to do so. During the course of the interview she was offered several comfort breaks.

Stage 2 of the Adjudication Hearing - The Commissioner's decision on whether there had been a breach of the Code

The Commissioner, having established the facts and considered all of the available evidence before her, found as follows:

1. The Code applied to Alderman Patterson in her conduct at the meeting of Belfast City Council on 3 July 2017 and her subsequent media interviews.
2. Alderman Patterson attended meetings of the Council in January 2017, March 2017 and May 2017. She did not attend meetings of the Council in February 2017, April 2017 and June 2017.
3. Alderman Patterson attended the meeting of the Council on 3 July 2017 solely for the purpose of the debate on this issue and made a public statement at a full Council meeting of Belfast City Council linking Crumlin Star Football Club to a high ranking member of the Provisional IRA who had been named in Parliament. The relevant extract of her speech is as follows:

"But there's something that is maybe a little more worrying to me, and me being me, will bring it to the fore, it is well known that a man named in Parliament as a senior member of the Provisional IRA, and widely reported to have been Second in Command..."

The Lord Mayor intervened following this comment requesting that Alderman Patterson choose her words carefully and advising that it was not an appropriate issue to raise, and that if she proceeded with what she was about to say she would be asked to sit down.

Alderman Patterson continued with her speech with the following comments:

“Well I can certainly say that it is absolutely hypocritical em of anyone to ask the Unionist members of this Council to then support any club linked with a high-ranking Republican terrorist. Thank you Lord Mayor”

The Lord Mayor again told Alderman Patterson that her speech was not appropriate and was not necessary for the debate, and reminded Councillors that they have to adhere to a Code of Conduct.

A number of Councillors raised objections to the speech and in particular Councillor Attwood who later complained to the Commissioner’s office.

Alderman Patterson was subsequently asked by the Lord Mayor whether or not she intended to apologise and she indicated that she did intend to do so. The Council halted the live webcast of the speech.

4. A number of media reports of the speech and Alderman Patterson commenting on same appeared in the Irish News (4 July 2017) and the Belfast Media Group (7 July 2017).
5. The background to the incident is that Crumlin Star Football Club did not have a home ground and played home games in Larne which results in a 40 mile round trip for members of the team and coaching staff. Having been refused access to the pitches at Strangford in South Belfast at the People and Communities Meeting of the Council on 13 June 2017, Crumlin Star Football Club had sought an opportunity to make representations to the full Council in this regard.
6. Mr Eamon Hawkins, the Club’s Treasurer had earlier attended the meeting on 3 July 2017 but had heard about the speech and was offended and concerned. Given the potential for the comments made to have put at risk the safety of the players, the Club commenced a review of its security measures. No harm had in fact been caused to players as a result of the comments.
7. The Club were concerned that serious reputational damage had been caused and had sought legal advice but not commenced defamation proceedings.
8. The Deputy Commissioner’s representative had argued that Alderman Patterson’s speech was made in a political context and that both the speech and the subsequent media statements by Alderman Patterson attracted therefore the protection of article 10 of the European Convention on Human Rights (‘the ECHR’). The Deputy Commissioner referred to a number of relevant cases on this point, in particular the case of Livingstone² The Deputy Commissioner’s representative argued however that the protection of article 10 was not absolute and that the provisions of the Code were a proportionate restriction on the

² Livingstone v Adjudication Panel for England [2006] EWHC 253

freedom of expression. She referred to the cases of Calver³ and Heesom⁴ in this respect.

9. The Commissioner is satisfied that Alderman Patterson's speech on 3 July 2017 and subsequent media statements were matters of political comment and therefore attracted the enhanced protection of article 10.
10. The Commissioner was mindful of the need to apply the three part test set out in Heesom as outlined by the Standards Commission for Scotland⁵ to complaints involving freedom of expression.
 1. Can the [Commissioner] as a matter of fact conclude that the [Respondent's] conduct amounted to a relevant breach of the Code of Conduct;
 2. If so, was the finding of a breach and the imposition of a sanction prima facie a breach of article 10;
 3. If so, is the restriction involved one which is justified by reason of the requirement of article 10(2).

The Commissioner has considered the decision of Beatson J in Calver⁶ and the references at paragraph 42 of that judgment in which he references quotes from Lord Steyn and Lord Bingham⁷ respectively that freedom of expression has been described as having '*the status of a constitutional right with attendant high normative force*', and '*a fundamental right which has been recognised at common law for very many years*'. In the Calver judgment, Beatson J also stated "*Neither freedom of speech nor the principle reflected in the exceptions under consideration e.g. reputation or privacy) can be given effect in an unqualified way without restricting the other.*"⁸

However the Commissioner is also mindful that statements or speeches made in a political context by politicians which are unnecessary and offensive may not enjoy the enhanced protection under article 10.

11. In this case, the Commissioner considers that a careful balancing exercise is required to balance the freedom of expression of Alderman Patterson and the article 8⁹ rights of the members and players of the Club, and in particular Mr Eamon Hawkins and also the unnamed person.

³ R (on the application of Calver) v The Adjudication Panel for Wales ([2012] EWHC 1172 (Admin))

⁴ Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin)

⁵ <http://www.standardscommissionscotland.org.uk/uploads/files/1507113045171004FINALCllrsAdviceNoteonApplicationofArticle10ofECHR.pdf>

⁶ Ibid [3]

⁷ McCaran Turkington and Breen V Times Newspapers Ltd [2001] 2 AC 277,297 and R V Shayler [2003] 1 AC 247 para 21

⁸ Ibid [7] para 47

⁹ Article 8 of the European Convention on Human Rights provides as follows: "(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

12. Having conducted that balancing exercise and having regard to the particular circumstances of this case, the submissions made on behalf of the Deputy Commissioner and the relevant case law, the Commissioner is satisfied that Alderman Patterson breached paragraphs 4.2, 4.13(a) and 8.1 of the Code. The reasons for this decision are set out below:

Reasons for the Commissioner's Decision

The Commissioner, addressing the first part of the Heesom test as to whether as a matter of fact Alderman Patterson's conduct amounted to a breach of the Code, finds as follows:

1. In relation to paragraph 4.2 of the Code, the Commissioner is satisfied that Alderman Patterson brought her position as a Councillor and the Council into disrepute. The Commissioner referred to paragraph 4.2.3 of the Code of Conduct Guidance ('the Guidance') which states:

'When considering whether such conduct is such that it could reasonably be regarded as bringing your position, or your Council, into disrepute, I will consider:

- *Whether that conduct is likely to diminish the trust and confidence the public places in your position as Councillor, or your Council, or is likely to result in damage to the reputation of either; and*
- *Whether a member of the public – who knew all the relevant facts – would reasonably consider that conduct as having brought your position as Councillor, or your Council, into disrepute'.*

The Commissioner was satisfied that the conduct was such that it is likely to have diminished the trust and confidence that the public places in Alderman Patterson in her position as Councillor and her Council. There was not sufficient evidence before the Commissioner to conclude on the extent of the reputational damage. However, the Commissioner was also satisfied that a member of the public, knowing all of the facts would reasonably consider that the conduct brought the position of Alderman Patterson as Councillor and also the Council into disrepute.

5. In relation to the breach of paragraph 4.13(a) of the Code the Commissioner was satisfied that by linking the Club to "*a high ranking Republican terrorist*" in the context of a debate about the availability of football pitches, and in voting against the club's motion, that Alderman Patterson took into account irrelevant factors. The Commissioner in arriving at this decision was mindful of the fact that if the motion had passed, the decision would have reverted to the relevant Council

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Committee for further consideration and thereafter a business case and public consultation were necessary.

6. In relation to the breach of paragraph 8.1 of the Code, the Commissioner noted that paragraph 8 of the Code applied to conduct at any meeting of the Council which would include the full Council meeting. In any event, after inviting submissions from the Deputy Commissioner, the Commissioner was satisfied that a decision was made at the Council meeting on 3 July 2017 after a vote, not to return the issue of the use of Strangford pitches by the Club to the relevant Committee. The Commissioner was further satisfied that Alderman Patterson linking the Club to “*a high ranking Republican terrorist*” in the context of a debate about the availability of football pitches and in voting against the club’s motion, had not acted objectively and fairly by taking into account an irrelevant consideration .

Article 10 and the Code of Conduct

The Commissioner’s consideration of the second and third part of the Heesom test, [whether the above finding of a breach of the Code by Alderman Patterson and the imposition of a sanction in this case is prima facie a breach of article 10] is set out below:

1. Article 10 of the European Convention on Human Rights provides:
 - “(1) *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*
 - (2) *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*”
2. The Commissioner is mindful that her decision that Alderman Patterson’s conduct breached paragraphs 4.2, 4.13(a) and 8.1 of the Code is a restriction on her article 10 rights. However the Commissioner considers that the interference is proportionate and necessary in a democratic society, as outlined in article 10(2) of the ECHR, for the following reasons:

- i) Pursuant to the Local Government Act (NI) 2014 ('the 2014 Act'), the Northern Ireland Assembly approved the Code on 27 May 2014.

Paragraph 1.5 of the Code under the heading "*Public Expectations*" sets out:

"The Northern Ireland public has the right to expect high standards of behaviour from councillors and the manner in which they conduct themselves in undertaking their official duties and in maintaining working relationships with fellow councillors and council employees. As a councillor, you must meet those expectations by ensuring that your conduct complies with the code. The code details the principles and rules of conduct which you are required to observe when acting as a councillor and in conducting council business. Therefore, your behaviour will be judged against these standards of conduct."

- ii) The Code is mandatory and is based on Principles and Rules that regulate the conduct of councillors in Northern Ireland. The Commissioner is satisfied that the restrictions in the Code on a councillor's conduct in general and in particular in relation to freedom of expression are necessary for the protection of health or morals and for the protection of the reputation or rights of others. The Commissioner is mindful in particular of paragraph 4. 12 states that:

"You are entitled to legally express any political opinion that you hold. In doing so, however, you should have regard to the Principles of Conduct and should not express opinions in a manner that is manifestly in conflict with the Principles of Conduct."

- iii) The United Kingdom gave direct effect to the ECHR under the Human Rights Act 1998. Section 3 of that Act provides that legislation, including subordinate legislation, must be read as compatible with the Convention rights, so far as it is possible to do so. Article 10 makes it clear that this right is not absolute and that it may be restricted if (and in so far as) the restriction is prescribed by law and is: "*necessary in a democratic society.... for the protection of the reputation or rights of others*"¹⁰

- iv) Article 10(2) expressly recognises that the right to freedom of expression brings with it duties and responsibilities. As with all ECHR rights that are not absolute, the State has a margin of appreciation in how it protects

¹⁰ Ibid [4]

freedom of expression and how it restricts that right. As a qualified right, Article 10 is subject to restrictions in order to protect against its abuse.¹¹

- v) The purpose of, and the legitimate aim being furthered by the Code is to provide for and secure the high standards required from elected Councillors thereby seeking to protect the rights of others and prevent crime and disorder. The Commissioner is satisfied that in construing the Code in the present case, any restriction upon the Respondent's freedom of expression in the context of the facts which she has established, was a necessary and proportionate restriction.
- vi) The Commissioner took into account the importance of allowing a tolerance of views that others in society may find offensive. In coming to this conclusion the Commissioner had also taken into account the decisions in *McShane*¹² and *Donaldson*.¹³
- vii) The Commissioner is satisfied that a proportionate restriction on Alderman Patterson's right to freedom of expression did not inhibit her right, under Article 10, "*to hold opinion*", as she remained free to exchange and discuss her political ideas without expressing them in a context that offended and put others at risk.

The Commissioner was mindful of the relevant case law and refers to the following dicta in *Calver*¹⁴:

"In limiting what a member of a relevant authority may say and do, the provisions of the 2000 Act and the codes of conduct made under it restrict the rights of members to free expression under article 10. Neither in this case nor in the cases to which I have referred in para 8 (above) was it contended that the legislative scheme making provision for codes of conduct in itself constitutes a breach of article 10. Accordingly, and subject to one qualification, the principal questions are whether the undoubted restriction on the article 10 rights of councillors in the code, as applied by the panel to the comments the claimant posted on his website, falls within article 10.2 and is justified in the circumstances of this particular case either on a purely common law interpretation of the relevant provisions of the community council's code of conduct, or as a result of the operations of section 3 of the Human Rights Act 1998."

Stage 3 Sanctions Hearings – Tuesday 26 February 2019 and 4 March 2019

Having found that the Respondent had breached paragraphs 4.2, 4.13(a) and 8.1 of the Code, the Commissioner invited the Deputy Commissioner to make submissions

¹¹ Re *Misbehavin' limited* (2006) 1 NI 181 NICA and {2007} 3 All ER 1007 HL

¹² Case Reference: C00030 & High Court Leave Judgement Court reference: BUR10340. On appeal to the Court of Appeal; judgment is awaited

¹³ Re *Donaldson* (2009) 1 NICA 25 and (2011) 53 EHRR.

¹⁴ *Ibid* [3] para 21

on sanction in this case. The Commissioner heard submissions from the Deputy Commissioner's Counsel at the Hearing on Tuesday 26 February 2019 in respect of sanction.

Submissions on Sanction

At the Hearing on 26 February 2019, Counsel for the Deputy Commissioner referred in her oral submissions to the purposes of sanction; the sanctions available to the Commissioner in ascending order of severity; and the list of mitigating and aggravating factors outlined in the Sanctions Guidelines were not exhaustive. Counsel for the Deputy Commissioner stated that the question of sanction is a matter for the Commissioner in the exercise of her discretion. Further, that the list of factors at page 9 of the Sanctions Guidelines are neither prescriptive nor exhaustive. However, in summary she submitted as follows:

- (i) **No Action** – For the Commissioner to take no action would not be appropriate in this case as this was a deliberate act.
- (ii) **Censure** - Given the weight of the public interest and the seriousness of the conduct under consideration, which was not a minor or inadvertent failure to comply with the Code, censure would be not a suitable sanction outcome.
- (iii) **Partial Suspension** - Partial suspension was not an applicable sanction as the Alderman Patterson's conduct did not arise from a particular activity or section of Council business. She referred to the case of Sanders and Kingston¹⁵ in which the partial suspension imposed was for a period of one year in respect of the role of leader of the Council. This was a matter of general conduct and one which therefore went to the heart of public trust and confidence in public representation.
- (v) **Suspension** - The conduct was serious and deliberate. The comments made were unnecessary and offensive to the Crumlin Star FC, its members and players and in particular Eamon Hawkins and the unnamed person. Counsel submitted that the Deputy Commissioner considered this was a case where suspension was appropriate as the breach of paragraph 4.2 by the Respondent was within the 'disrepute' provisions of the Code identified within the Sanctions Guidelines as being in the suspension category of sanction. Counsel for the Deputy Commissioner also addressed the issue of the impact of suspension on the Councillor in relation to the availability of allowances and expenses. She indicated that the Council's current Scheme of Allowances was silent as to whether they would be payable. It was confirmed to the Commissioner that this Scheme of Allowances is currently subject to review by the Council. For the purposes of this case, the question of allowances payable to a Councillor in the event of suspension from office was a matter for the Council's discretion.

¹⁵ Sanders v Kingston [2005] EWHC 1145 (Admin)

(vi) **Disqualification** – Disqualification is the most severe sanction available to the Commissioner. However the extent of the reputational damage in this case was not such as to warrant the sanction of disqualification.

In addition, the Deputy Commissioner submitted as follows:

Mitigating Factors:

- (a) Alderman Patterson had no previous history of non-compliance with the Code
- (b) Alderman Patterson was a long serving member of the Council
- (c) Alderman Patterson had co-operated with the Deputy Commissioner's investigation
- (c) Compliance with the Code since the events giving rise to the adjudication.

Aggravating Factors:

- (a) The deliberate nature of the Respondent's conduct as the speech had been prepared for her by Mr Bryson and she had come to the Council specifically on that day to deliver the speech.
- (c) Alderman Patterson's actions had brought the Council into disrepute.
- (e) There were a number of breaches of the Code although they all arose from one event.
- (d) Alderman Patterson caused disadvantage to the Club both in terms of its concerns over reputational damage but also the club had to review its security measures.
- (g) Alderman Patterson had potentially put at risk the safety of the Club, its members, players and the unnamed person
- (h) The Deputy Commissioner submitted there were breaches of article 8 and article 2 of the European Convention on Human Rights (ECHR).
- (i) Alderman Patterson had failed to offer a meaningful apology and had not shown insight given the inconsistent stance she had adopted in originally accepting the breaches of the Code and then subsequently resiling from same. Therefore it could not be concluded with any certainty that she was unlikely to breach the Code again.
- (j) It was contended that Alderman Patterson had sought to unfairly blame Mr Bryson for her conduct and she was personally responsible for her conduct

Counsel for the Deputy Commissioner, having submitted that this was a matter for the Commissioner to determine, considered an appropriate sanction was suspension in

this case. The Commissioner decided to hear further submissions in private that were personal to Alderman Patterson and indicated that these matters would be addressed in a private schedule to her Decision Notice. The Commissioner in public announced her decision to adjourn the sanctions hearing until Monday 4 March 2019 at 10.30am as she intended to provide a copy of the transcript with the Deputy Commissioner's submissions to Alderman Patterson and invite her to make representations, exhorting her again to seek legal representation.

The Commissioner also enquired of Counsel for the Deputy Commissioner as to as to the appropriate actual length of any suspension served given the impact of section 59(5) of the 2014 Act, which states as follows:

'Where the Commissioner makes such a decision as is mentioned in subsection (3)(b), the Commissioner must suspend or partially suspend the person from being a councillor for such period as the Commissioner thinks appropriate but not exceeding one year or, if shorter, the remainder of the person's term of office.'

Counsel for the Deputy Commissioner indicated that the length of any suspension imposed would cease to have legal effect on 6 May 2019 by virtue of the operation of section 59(5) of the 2014 Act and section 11(2) of the Electoral Law Act 1962.

The Commissioner's Decision on Sanction - Monday 4 March 2019

The Commissioner considered the Sanctions Guidelines, relevant case law and the submissions of the Deputy Commissioner. In view of the Commissioner's earlier decision that Mr Bryson should not be permitted to represent the Respondent additional submissions on sanction, which the Respondent stated were prepared by Mr Bryson, were not read or considered.

The Commissioner dealt with sanction in ascending order of severity.

No Action

The Commissioner determined that to take no action in this case is not an appropriate response to the failure by the Respondent to comply with the Code because her conduct was a serious matter and not merely an 'inadvertent' failure to comply with the Code.

Censure

On the facts of this case, the Respondent's conduct could not be considered as a deliberate but nonetheless minor failure to comply with the Code, and therefore censure was not a suitable sanction.

Disqualification

Before determining if partial suspension or suspension was the appropriate sanction in this case, the Commissioner considered carefully whether the Respondent's

conduct was sufficiently serious to warrant disqualification. The Commissioner noted that the Deputy Commissioner had not considered that the matter was sufficiently serious to warrant disqualification and that this was the most severe sanction that could be imposed. The Commissioner also took into consideration that Alderman Patterson did not seek re-election in the forthcoming local government elections.

However a number of the factors that would lead to a sanction of disqualification were evident in this case as follows:

- Alderman Patterson had deliberately sought to misuse her position to disadvantage the Club and the unnamed person
- Alderman Patterson had deliberately failed to abide by the Code
- There were repeated failures to abide by the Code although they arose from a single event
- There was a misuse of Council resources in that Alderman Patterson had used the Council's chamber to make a public statement

Having regard to paragraph 19(g) of the Sanctions Guidelines and noting the mitigating and aggravating factors referred to below, the Commissioner determined that, although her actions had brought the Council into disrepute, there was insufficient evidence on the extent of the reputational damage to the Council. There was no evidence upon which to decide that Alderman Patterson was unfit to hold public office; she was a long serving Councillor who sat on an external body and there were mitigating factors of a personal nature in this case. These factors would be outlined in a confidential schedule.

Partial Suspension

The Sanctions Guidelines indicate that partial suspension may be appropriate where the conduct in question is not sufficiently serious as to warrant disqualification but is of a nature that:

- (a) it is necessary to uphold public confidence in the standards required of local democracy;
- (b) there is a need to reflect the severity of the matter; and
- (c) there is a need to make it understood that the conduct should not be repeated.

The Commissioner accepted the submissions on behalf of the Deputy Commissioner that partial suspension is more likely to be appropriate where the conduct relates to a particular activity or are of Council business from which the relevant Councillor could be easily removed. The Commissioner determined that the Respondent's conduct that led to a breach of the Code in this matter was serious and related to general conduct. The Commissioner concluded that the sanction of partial suspension was not appropriate in this case.

Suspension

The Commissioner has taken into account the Sanctions Guidelines which state that the sanction of suspension is to be considered where the conduct is not sufficiently serious to warrant disqualification but the conduct is of a nature that:

- (a) it is necessary to uphold public confidence in the standards regime and on local democracy;
- (b) there is a need to reflect the severity of the matter; and
- (c) there is a need to make it understood that the conduct should not be repeated.

The Commissioner has considered the applicability of the objectives identified in paragraph 3 of the Sanctions Guidelines and considered that the following objectives are relevant to the consideration of sanction in this case:

- (i) the public interest in good administration
- (ii) upholding and improving the standard of conduct expected of councillors;
- (iii) the fostering of public confidence in the ethical standards regime introduced by the 2014 Act

Any sanction imposed must also be justified in the wider public interest and should be designed to discourage or prevent the particular Respondent from any future failures to comply with the Code or to discourage similar conduct by other Councillors.

The Commissioner referred to Appendix A of the Sanction Guidelines, which set out a non-exhaustive list of mitigating and aggravating factors in determining the appropriate sanction. The Commissioner also considered the submissions on this issue received orally from Counsel for the Deputy Commissioner and the relevant case law. In her consideration the Commissioner is entitled to take into account not only the actual consequences that have followed as a result of the Respondent's conduct but also what the potential consequences might have been, even if they did not in fact occur.

The Commissioner's Conclusions on Mitigating/Aggravating Factors

Mitigating Factors:

1. The Respondent has a previous record of good service and compliance with the Code.
2. Alderman Patterson was expressing political comments both in the Council Chamber and in her media statements that enjoyed article 10 enhanced protection. The Commissioner gave Alderman Patterson credit for admitting at

interview that she considered she had acted without respect and consideration for others.

3. There had been co-operation with the investigation
4. Alderman Patterson did express regret that it was not her intention to offend anyone.
5. There were mitigating factors of a personal nature that are dealt with in the confidential schedule to this Decision Notice.

Aggravating Factors:

1. The serious nature of the conduct which was deliberate and pre-meditated. Alderman Patterson's conduct was an intentional failure to comply with the Code. Alderman Patterson failed to heed the warnings given by the Lord Mayor and continued with her course of conduct. Further, she did not take an opportunity to subsequently correct her position in the media.
2. The Respondent's actions had brought herself and the Council into disrepute.
3. Although Alderman Patterson had co-operated to an extent with the investigation, she had not respected the adjudication process and the Commissioner's office by continuing to permit submissions to be made by a person whom the Commissioner had directed could not act on her behalf. In this regard she was exhorted on a number of occasions to seek alternative representation. Dealing with these matters had caused expense to the public purse.
4. Although the Deputy Commissioner had considered there was a breach of article 8 and article 2 rights, the Commissioner was unable to make that finding. She considered given the public nature of the statement and the fact that the personal details of Eamon Hawkins, the Club and the unnamed person were read out without due notice, this showed disregard for the individuals privacy rights. There was potential risk to the club, its members and the unnamed person but the Deputy Commissioner had failed to persuade the Commissioner this was an article 2 case.
5. Although Alderman Patterson had indicated Mr Bryson was the author of the speech in question, she is personally responsible for her conduct under the Code and ought to have reflected on the speech.
6. Alderman Patterson had the opportunity to apologise at the time but she did not do so in a meaningful manner. Whilst she had apologised for her conduct in her Councillor Response Form, she subsequently resiled from this later in the adjudication process, which increased the time and the public expense in dealing with the investigation process and bringing the matter to a conclusion.
7. Alderman Patterson's conduct did not demonstrate regard for need to promote good relations under section 75(2) of Northern Ireland Act 1998.

Taking all of this into account the Commissioner has concluded that a period of suspension is the appropriate sanction.

Period of Suspension

While the duration of suspension is a matter for the Commissioner, the Guidelines state a suspension of less than a month is unlikely to have such an effect. The Commissioner noted that it was found that the Respondent had failed to comply with paragraph 4.2 of the Code.

The Commissioner carefully considered the impact of suspension on the Respondent in financial terms and on the electorate in relation to her being unable to conduct business on its behalf. However, in weighing the public interest against the article 10 rights interests of the Respondent, the Commissioner is satisfied that suspension is an appropriate and proportionate sanction. In terms of the economic impact on the Respondent, the Commissioner has noted that whether she would continue to be paid allowances during suspension was a matter for the Council's discretion

The impact on the electorate in relation to the lack of the Respondent's voice at Council meetings has also been considered. The Commissioner noted that, for the duration of the suspension, a suspended councillor cannot participate, formally or informally, in any council business or any activities associated with his/her position as a councillor, including the business of any council meetings, committees or sub-committees.

During suspension suspended councillors are excluded from all activities associated with the position of Councillor, however they remain entitled to speak with constituents as a fellow member of the public. The Commissioner notes that that Councillors have been democratically elected to undertake certain tasks and that their ability to serve the public and perform those tasks should only be restricted where she considers it is justified in the particular circumstances of the case.

Alderman Patterson is an experienced Councillor and would have been aware of her obligations under the Code when making the speech on 3 July 2017 at the full Council meeting which was made public on the webcast.

Subsequently Alderman Patterson did not seek to excuse or apologise meaningfully for her actions, although she was called upon by the Lord Mayor to do so and had expressed an intention to do so.

The Commissioner is aware that Alderman Patterson's speech falls within the enhanced protection article 10 provides given that her comments and statements to the media were made in a political context. However that right is not absolute and any restriction such as in the rules of the Code must be proportionate and necessary. The Code in particular at paragraph 4.12 states that:

4.12 “You are entitled to legally express any political opinion that you hold. In doing so, however, you should have regard to the Principles of Conduct and should not express opinions in a manner that is manifestly in conflict with the Principles of Conduct.”

Alderman Patterson’s conduct in this case put the Club to a disadvantage and put its members, players and the unnamed person at a disadvantage and potentially put at risk their safety. Alderman’s conduct since then and her inconsistent approach to the matters alleged and in particular the adjudication process do not demonstrate that she has adequately reflected on her conduct and there is no evidence of insight on her part.

Taking into account the Guidelines and having regard to the facts, the relevant case law and the submissions of the Deputy Commissioner, the appropriate sanction in this case is six months suspension, to take effect from Monday 11 March 2019. This is a mid-range suspension given that the Commissioner can suspend for up to 12 months. The Commissioner would have considered disqualification but for the factors previously outlined. This was a serious matter and a deliberate act which related to general conduct.

The ECHR article 10 right and the enhanced protection is not unqualified. Any restriction such as the imposition of a sanction as in this case must be proportionate. It is the Commissioner’s view that in this case a period of six months suspension is a proportionate interference as what was said went beyond the acceptable bounds of proper political debate which was unnecessary and offensive.

Case Law

In the case of *Heesom*,¹⁶ in considering the approach to sanction by the Adjudication Panel for Wales (‘APR’), Mr Justice Higginbottom referred to the need to ensure that a sanction is in line with other similar cases. That case involved article 10 of the ECHR and a disqualification of eighteen months was imposed by the Administrative Court. This was reduction from the original sanction imposed by the APW of two and half years.

In *Sanders v Kingston*¹⁷ the leader of Peterborough Council was partially suspended from his role as leader as a result of a request by Carrickfergus Borough Council to call for an inquiry into the death of a soldier whose family resided in Carrickfergus and the deaths of other army personnel. The response of the leader of the Council was described by the Judge (Wilkie J) as “little more than an expression of anger” at his time being wasted by [the] request and that he chose to express his anger in “personal and abusive terms.” Wilkie J found that the case tribunal in that case was entitled to conclude that the conduct did not treat others with respect and courtesy and was conduct that could “reasonably as bringing the office or the authority into disrepute.”

¹⁶ Ibid [4]

¹⁷ Ibid [15]

In the Scottish Standards Commission case of *Councillor MacDiarmid*,¹⁸ the Respondent was suspended for two months from the Council's Regulation and Licensing Committee. The panel found the Councillor guilty of a personal on member of the public. The panel confirmed that members of the public have a right to be treated in a respectful and courteous manner. Mr MacDiarmid was an experienced Councillor and he know of importance of acting fairly and being seen to act fairly. In that case there was no evidence of an appropriate apology. The Panel found there was a personal responsibility on the part of the Councillor to ensure compliance.

In the case of *Councillor Brian Boyd*¹⁹ , the Scottish Standards Commission imposed a censure because the Respondent signed a petition that removed the complainant from being a Chaplain of a high school in the Council area. The petition referred to the complainant as "a homophobic Reverend" and included allegations he had on multiple occasions expressed hatred for the LGBT community. The petition included an allegation that the complainant "had kicked his transgender daughter out, she was thirteen" – which the complainant's daughter refuted in an online posting on 15 April 2018. In that case the Councillor had signed the petition on the website change.org and encouraged others to do so. Imposing a sanction of Censure, the Panel noted the importance of the respect provisions of the Code. But noted also that the Councillor did not make the comment himself and noted other mitigating factors including the fact he had co-operated fully with the investigation and an adjudication.

In the Scottish Standards case of *Councillor Richard Moore*²⁰ of Angus Council, the Panel imposed a suspension of two months form all meetings of the Council in respect of disrespectful behaviour to fellow councillors and officers in four separate incidents. He had referred to "lovely ladies" and there was evidence of his being tactile in nature. He was an experienced councillor who produced character references and he had made an apology once the behaviour had been brought to his attention by a female colleague.

In the case of *Councillor Jim Orr*²¹, the Scottish Standards Commission found Councillor Orr to be in breach of the Code when he published an online blog which identified him as a councillor and related to council business. The Panel found the blog which was a disrespectful and personal attack and without a factual basis that was designed to undermine the complainant. In that case the Panel found the comments affected the rights and reputation of the relevant party and impacted on the public's confidence the local government. In addressing the article 10 issue , the

¹⁸ Standards Commission for Scotland decision notice issued on 2 May 2018 (subject to an appeal to the Sheriff Principal, judgment awaited)

¹⁹ Standards Commission for Scotland decision notice issued on 22 February 2019

²⁰ Standards Commission for Scotland decision notice issued on 22 November 2018

²¹ Standards Commission for Scotland decision notice issued on 12 July 2017

Panel stated “the more egregious the conduct, the easier it would be for a panel or tribunal undertaking a balancing exercise to justifiably conclude that a restriction was required.”

In the case of *Councillor Paul Mack*²², the Scottish Standards Commission found comments made by the councillor about fellow councillors to the effect that “them up the Celtic end would not be capable of understanding it” to be disrespectful and sectarian. Further he had referred to a female councillor as being “a cross between Hyacinth Bucket and Glenn Close just before she boiled the rabbit” and to the Chief Executive and “his cronies” who were “troussing Council funds” and guilty of “self enrichment.” The Panel found he also failed to show respect to the adjudication Panel which he described as a “Kangaroo Court.” The Panel imposed suspension for a period of seven months.

In the case of *Councillor Pdraig McShane*²³ the High Court in Northern Ireland refused leave to appeal to Councillor McShane in respect of a decision of Acting Commissioner Ian Gordon imposing a three month period of suspension. Councillor McShane had requested permission to show Palestinian visitors around the Council chamber in Causeway Coast and Glens Council. He then, against Council policy, arranged for photographs to be taken with those visitors with an Irish Tricolour and Palestinian flag. Burgess J found as follows:

“[42] The court accepts that any sentence/sanction must be proportionate to the actions of the Applicant. These have been covered above but it is worth repeating that one breach related to improper conduct on his part in seeking to improve his own position by a breach of the Code: and in respect of the other to a quite deliberate misleading of the relevant authority in seeking permission to have access to the Council Chamber but without disclosing the purpose of that access. It was deliberate: it related [to] a matter under consideration by the Council: it related to a matter which, for the reasons stated, could give rise to inflaming public opinions with results that can be disorderly and disruptive: and it was in clear breach of the very obligation that the Applicant undertook in being afforded the right and obligations as a councillor.

[43] The Applicant had the opportunity to make submissions as to any matter that should inform any sanction. He did not do so, and again deliberately chose not to engage in the process. That was his right as regards any sanction that might be imposed, but he cannot complain that the Commissioner did not afford him that chance. In all the circumstances I see no grounds for arguing that the sanction was not reasonable – indeed it may well have been possible for the Commissioner to impose an even greater length of suspension.”

²² Standards Commission for Scotland decision notice issued on 25 October 2017

²³ High Court Leave Judgement Court reference: BUR10340. On appeal to the Court of Appeal; judgment is awaited

Length of Suspension

Taking into account the relevant case law, the facts and circumstances of this case, the submissions of the Deputy Commissioner and the Sanctions Guidelines, the Commissioner considers a period of six months suspension is appropriate and proportionate. However the Commissioner noted that the suspension will by operation of law cease to have effect on 6 May 2019. That is because Alderman Patterson's term of office ends four days after the local government elections on 2 May 2019, as provided for under section 11 of Electoral Law Act (Northern Ireland) 1962.

Although Alderman Patterson will only complete a period of suspension with effect from 11 March 2019 for 8 weeks, the Commissioner considers it is important to outline the length of suspension imposed as she has done in earlier cases.

Leave to Appeal

The Respondent may seek the permission of the High Court to appeal against a decision made by the Commissioner, which must be made within 21 days of the date that the Respondent receives written notice of the Commissioner's decision.

Other Matters

The Commissioner would like to take this opportunity to highlight that when considering an appropriate period of suspension or disqualification, the Commissioner will take into account the Councillor's co-operation with both the investigation and adjudication (with the consequential saving to the public purse).



Marie Anderson
NI Local Government Commissioner for Standards
8 March 2019