

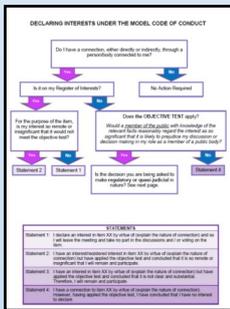
STANDARDS UPDATE

ISSUE 22: July 2019

News

Section 19(6) Policy and Procedure

Section 19(6) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 provides that the Standards Commission may, on imposing a suspension on a member of a devolved public body, direct that any remuneration or allowance deriving from membership of the body that would be payable to the member, not be paid or be reduced. We have published a policy outlining the factors that a Hearing Panel of the Standards Commission will consider when deciding whether or not to make a direction under Section 19(6), which can be found [here](#). The procedures the Standards Commission will follow should a Panel decide to do so are also outlined in the policy.



Flowchart on Declaring Interests for Members of Devolved Public Bodies

The Standards Commission has produced a flowchart for members of devolved public bodies, aimed at helping them identify when a declaration of interest should be made and whether they can remain in the room and participate in the discussion and decision-making / voting on the item in question. The flowchart includes wording to be used, depending on the circumstances. The Flowchart can be found on the 'Education and Resources' page of the website, [here](#).

Standards Officers' Workshop

The Standards Commission held a workshop on 25 March 2019 with Standards Officers of devolved public bodies. Discussions took place on the Model Code of Conduct and Standards Commission Guidance and what improvements could be made to both. The Standards Commission will aim to take forward some of the suggestions made as part of its annual business plan, a copy of which can be found [here](#). Thank you to all those who attended - we hope you found the event as useful and interesting as we did.



SAVE THE DATE - Monitoring Officers' Workshop will take place on Monday 4 November 2019. The programme, venue and timings have not yet been finalised so any / all suggestions welcome.

Cases Overview

Since the last briefing in March 2019, no cases have been referred to the Standards Commission by the Commissioner for Ethical Standards in Public Life in Scotland (ESC). Part of a Hearing involving a councillor from Midlothian Council was adjourned and will now be held in July. The Standards Commission held Hearings in four cases involving councillors from South Lanarkshire, Midlothian, Dundee and Fife Councils. The outcomes of the Hearings are outlined below.

South Lanarkshire - LA/SL/2153

The Hearing Panel found that the Respondent, Councillor Gerry Convery of **South Lanarkshire Council**, had been disrespectful at a meeting of South Lanarkshire's Executive Committee. Councillor Convery said the words "seig heil" as the Chair of the meeting concluded a debate on setting the level of the school uniform clothing grant. The Panel was satisfied that the words "seig heil" are synonymous with the former fascist Nazi regime in Germany and are directly associated with obedience to an oppressive dictatorship. The Panel considered Councillor Convery's use of them could only be taken as an unacceptable way of protesting about how the Chair had conducted the meeting in respect of the item under consideration. The Panel determined that the comment amounted to a personal and political attack on the Chair in respect of the way he had conducted himself and the business of the meeting. The Panel censured Councillor Convery.



Details of the outcome of cases, including full written decisions and information about scheduled Hearings, can be found in the [Our Cases](#) section of our website.

Cases Overview cont.

Midlothian - LA/Mi/2166 & 2169

The Hearing Panel found that two of the Respondents, Councillors Margot Russell and John Hackett of **Midlothian Council** had failed to comply with the requirement to be seen to be acting fairly at a Planning Committee meeting, at which a planning application by Dalkeith Lawn Tennis Club for the erection of screen netting was considered. While objections to the proposal had been submitted by the proprietors of a property adjacent to the tennis club, who were concerned about potential light depletion, the planners' recommendation was that planning consent should nevertheless be granted.



The Panel determined that it would be reasonable for a member of the public to consider the fact that Councillor Russell: failed to seek advice from officers before contacting the objectors directly and undertaking an unaccompanied site visit; made a relatively lengthy visit to the objectors' property and discussed the proposal with one of them; made no corresponding visit to the applicants' property or any effort to discuss the proposal with them; called-in the application so that the objectors' concerns could be considered by the Committee; and seconded a motion to change the proposal; gave an appearance of unfairness and bias towards one of the parties.

The Panel determined that it would be reasonable for a member of the public to consider the fact that Councillor Hackett: failed to seek advice from officers before contacting the objectors directly and undertaking an unaccompanied site visit; made a visit to the objectors' property and discussed the proposal with one of them; made no corresponding visit to the applicants' property or any effort to discuss the proposal or any potential changes to it with them; and actively contributed to the discussions that gave rise to the amended planning consent's approval gave an appearance of unfairness and bias towards one of the parties. The Panel suspended both councillors from the Planning Committee for a period of one month.

Dundee - LA/D/2158

The Hearing Panel found that the Respondent, Councillor Gregor Murray of **Dundee City Council**, had failed to observe the rules of good conduct by behaving in a disrespectful manner towards a member of the public. In tweets concerning an email exchange between the complainer and Dundee City Council's Equality and Diversity Co-ordinator, Councillor Murray referred to the complainer as being a 'TERF' (being an acronym for Trans Exclusionary Radical Feminist). The Panel noted that while the term 'TERF' was apt to be controversial and could be seen as one of abuse, it could also be used or perceived as simply as descriptor. The Panel was of the view, however, that it was evident from the Councillor Murray's description, over an extended period of time, of 'TERFs' as being 'scum' and 'hateful and vile', that they intended it to be an expression of abuse. The Panel considered that the reference to the complainer as a 'TERF', in context, amounted to a personal attack on her. The Panel also found that Councillor Murray had used an inappropriate, offensive expletive in an unrelated, publicly available, tweet while using an account in which they had stated they were a councillor. The Panel suspended Councillor Murray for a period of two months.



Fife - LA/Fi/2176



The Hearing Panel found that Councillor Linda Holt of **Fife Council**, had failed to register her interest in a lobbying organisation, Scotland Against Spin (SAS), which was current within the period of 12 months before her election. The Panel noted that two of the publicly stated aims of SAS were to raise public awareness of what was wrong with wind energy and to help start-up groups fight turbine proposals. The Panel was of the view that a fair minded member of the public with knowledge of the relevant facts being the Respondent's: known prior involvement with such a lobbying organisation; continuing association with it through her role as an administrator of its Facebook page; and own publicly stated views on wind energy and the proliferation of wind farms in the press in the 12 months prior to the planning committee; would reasonably consider that her discussion or decision-making on any matters concerning whether

permission should be granted for further wind turbines could be affected. The Panel determined that, having applied the objective test before consideration of the item commenced (as she was required to do under paragraph 5.3), the Respondent should have concluded that a member of the public would reasonably regard the interest as so significant as being likely to prejudice her discussion and decision-making. The Panel concluded, therefore, that the councillor should have declared an interest in the item under consideration and should not have taken part in the discussion and decision-making on it. The Panel suspended Councillor Holt, for two months, from all committees and sub-committees that made decisions on quasi-judicial or regulatory matters.

Appeal on LA/Fi/2050

An appeal lodged by the Respondent against both the Standards Commission's decision of 6 March 2018 to find him in breach of the Councillors' Code and its decision to suspend him, for two months, from **Fife Council's** Regulation and Licensing Committee was heard by the Sheriff Principal of Perth Sheriff Court on 13 August 2018. We have been advised that the decision will not be issued until August 2019 at the earliest.

For further information on the support we can offer councillors and members of devolved public bodies, please either speak to your Monitoring Officer or Standards Officer or look out for information on our website. Alternatively, please contact us:

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