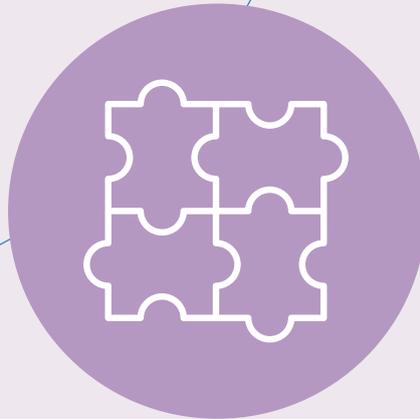
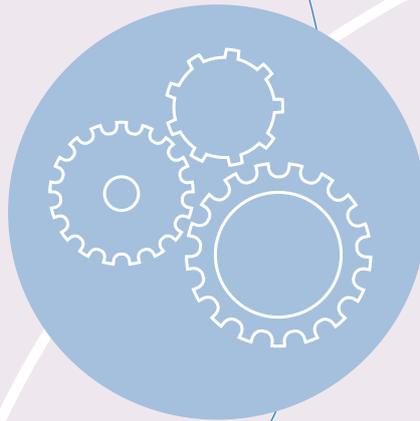




**STANDARDS  
COMMISSION  
FOR  
SCOTLAND**

INTEGRITY IN PUBLIC LIFE



**STANDARDS  
INTEGRITY  
RESPECT**

# The Standards Commission for Scotland

**ANNUAL REPORT** 2019/20

“

**It is essential that the public have confidence that individuals are being honest and are acting with integrity and in the public interest, when making decisions on the delivery of services and communicating on other matters that have a direct bearing on people's lives.**

”

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# Executive Summary

“ I believe that the ethical standards framework helps enable the public to have trust and confidence, as it ensures that the highest standards of conduct are required and promoted, and that action is taken when there is any failure to adhere to these. ”

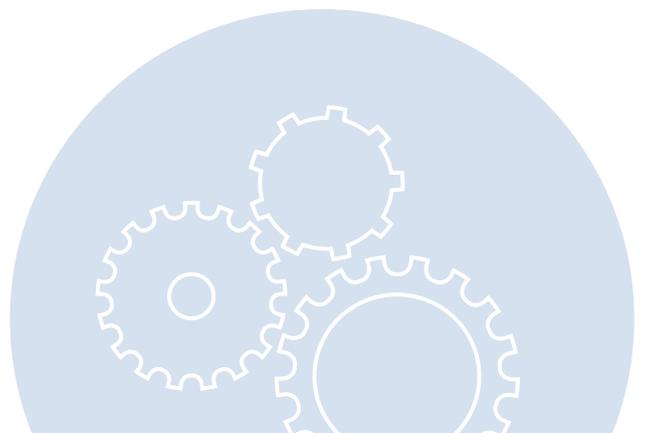
I am pleased to present the Annual Report of the Standards Commission for Scotland (‘the Standards Commission’), which covers the period from 1 April 2019 to 31 March 2020.

The Standards Commission’s objectives are outlined in our Strategic Plan 2016/20, and this Report summarises the progress we have made towards delivering and achieving the stated aims in the final year of the Plan.

The Standards Commission consulted with stakeholders in 2019/20 on a new Strategic Plan and its objectives for 2020/24. I am grateful to all those who provided feedback. The Plan has now been finalised and can be accessed on our website at: [www.standardscommissionscotland.org.uk](http://www.standardscommissionscotland.org.uk).

## Overview

When preparing this report at the end of the period covered by the Standards Commission’s Strategic Plan for 2016/20, I took the time to reflect on the organisation’s achievements over the four-year period it covered and to consider the impact of its work. At the time of writing, when restrictions due to the Covid-19 outbreak are still in place, the need for the public to have trust in elected politicians and those appointed to the boards of public bodies is more important than ever. It is essential that the public have confidence that individuals are being honest and are acting with integrity and in the public interest, when making decisions on the delivery of services and communicating on other matters that have a direct bearing on people’s lives. I believe that the ethical standards framework helps enable the public to have such trust and confidence, as it ensures that the highest standards of conduct are required and promoted, and that action is taken when there is any failure to adhere to these.



The Standards Commission has worked hard over the past four years to promote the ethical standards framework and knowledge of, and compliance with, the Codes of Conduct for councillors and members of devolved public bodies in Scotland. We have developed, published and disseminated guidance on the Councillors' Code and have produced Advice Notes on a variety of topics, such as:

- › how to identify and declare interests;
- › how to distinguish between a strategic role and any operational work;
- › bullying and harassment;
- › how to balance the requirement to behave with respect towards others, alongside the right to freedom of expression under Article 10 of the European Convention on Human Rights;
- › how to balance the different responsibilities when appointed to arms' length external organisations and to Health and Social Care Integration Joint Boards.

We have sought to assist others with how to interpret the provisions in the Codes of Conduct by hosting regional roadshows for councillors and officers in Inverness, Glasgow, Edinburgh, Perth, Airdrie, Stirling and Ayr, together with supporting training and education events for specific devolved public bodies and local authorities. In addition, we have established a social media presence and use online platforms, our website, media releases and quarterly published Standards Updates to share information about our work, ongoing issues relating to the ethical standards framework and learning points from our Hearings.

In terms of our adjudicatory role, we have concentrated in the past four years on streamlining our procedures to ensure that Hearings are managed as efficiently as possible, while still being conducted fairly

and in an open and transparent manner.

To achieve this, we have:

- › revised our Hearing Rules;
- › established an abbreviated process to use where there is no substantive dispute between the parties as to the factual circumstances behind an alleged breach of a Code of Conduct;
- › held pre-Hearings meetings to resolve procedural matters in advance of Hearings as a matter of course;
- › produced guidance on Hearings for Respondents who are not represented;
- › and published guidance for witnesses.

This work has resulted in the average time taken from receipt of a report from the Ethical Standards Commissioner (ESC) to the issuing of the written Hearing decision being reduced from 16 weeks to under 12 weeks.

The Standards Commission has also focused on increasing transparency in how it conducts its adjudicatory role. We have published a policy outlining the factors the Standards Commission will consider when making a decision on whether to hold a Hearing in respect of a report referred by the ESC.

We have also published policies on:

- › how the Standards Commission makes any decision to hold a Hearing, or part of it, in private and the procedures it will follow in doing so;
- › how decisions at Hearings are made; and the factors the Hearing Panel will consider when making a decision on the sanction to be imposed;
- › how we will decide to impose an interim suspension on a councillor or member of a devolved public body following receipt of an interim report from the ESC about an ongoing investigation.

We also produced guidance to provide clarity on the extent of the activities in which a councillor can engage while they are subject to a period of full suspension (either on the finding of a breach of the Councillors' Code of Conduct at a Hearing or as an interim measure while an investigation about their conduct is ongoing).

The Standards Commission has actively sought to work closely and engage with its stakeholders over the past four years and, in particular, to identify emerging trends, discussing and agreeing how issues concerning the ethical standards framework and the interpretation of the Codes of Conduct could be resolved. We held our annual workshop with Council Monitoring Officers and the Standards Officers of devolved public bodies and have recently taken part, along with representatives from SOLAR, SOLACE and COSLA, in a Working Group established by the Scottish Government to review the Codes of Conduct.

We surveyed those who participated and attended our Hearings on how these are managed and conducted, and used the results to improve our procedures. The Standards Commission also conducted a survey of Members and Chairs of the boards of public bodies (including national, regional, NHS boards, Health & Social Care Integration Joint Boards, further education colleges and regional transport partnerships) to determine whether the lack of complaints about members of devolved public bodies was the result of a high level of adherence to the Codes of Conduct or whether instances of poor conduct were simply going unreported. We used the results of this to inform our promotional and educational work.

The Standards Commission seeks to be as accessible as possible. To achieve this we:

- › published a revised Privacy Statement outlining how personal data will be collected and used;
- › commissioned a Braille version of the Councillors' Code and our Guidance;
- › developed and disseminated a British Sign Language video explaining our role and remit, and how a complaint about a councillor or member of a devolved public body can be made;
- › worked to ensure our website is fully compatible with the accessibility requirements specified in the Public Sector Bodies (Website and Mobile Applications) Accessibility Regulations 2018.

The Standards Commission has continued to work towards achieving best value and has developed various shared services agreements and practices. We are grateful for the support of the Scottish Parliamentary Corporate Body in this regard.

### Key Achievements 2019/20

The past year was another busy one for the Standards Commission, but I am pleased to report that we achieved all our operational objectives within our agreed budget.

In the past year the Standards Commission continued its work in promoting the highest standards of conduct and increasing awareness of, and compliance with, the ethical standards framework. We did so through the provision of five new guidance and advice notes, by supporting six education and training events and by publishing information on our website and social media platforms to assist councillors and board members of devolved public bodies to adhere to the provisions in the Codes of Conduct. The Standards Commission dealt with all queries on the ethical standards framework and how to interpret the Codes within the timescales outlined in its published Service Charter. We held a workshop with Monitoring Officers of Councils to identify potential improvements to the Councillors' Code of Conduct. We thereafter participated in the Scottish Government's Working Group established to review the Codes, to ensure that they continue to be relevant and fit for purpose.

In terms of its adjudicatory work, the Standards Commission held seven public Hearings in 2019/20 to determine whether eight Respondents had contravened the Councillors' Code of Conduct. In those cases where the Hearing Panel found that a breach of the Code had been committed, appropriate sanctions were then applied. The Standards Commission also made four decisions about whether to impose an interim suspension on four councillors, following receipt of reports from the ESC about ongoing investigations on complaints about their conduct. Further details on the adjudicatory work undertaken in the past year can be found in Sections 4 and 5 of this Report.

## Looking Forward

The Standards Commission's Strategic Plan for 2020/24 identifies the following four key aims:

- 1 To have a positive impact on ethical standards in public life.**
- 2 To pursue continuous improvement in the ethical standards framework and the way we do our work.**
- 3 To pursue and develop strong relationships with our stakeholders.**
- 4 To ensure all stakeholders have easy access to high quality information about the organisation, its work and any initiatives.**

The Standards Commission's Business Plan for 2020/21 outlines its objectives for the forthcoming year that will contribute to the achievement of these aims. In particular, the Standards Commission intends to support these aims by obtaining and undertaking detailed analysis of qualitative and quantitative evidence on its work to promote the Codes of Conduct so that it can evaluate its impact in a meaningful way.

The Standards Commission anticipates continuing to work with the Scottish Government and other stakeholders on the content and format of the Codes of Conduct to ensure they remain fit for purpose and are as accessible and user-friendly as possible. We also propose to review and revise all our Guidance, Advice Notes and other educational material to ensure they continue to add value and assist councillors and members to adhere to the provisions in the Codes, when amended versions of these are issued.

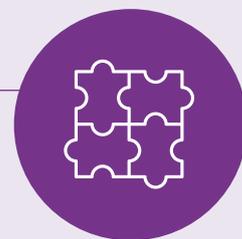
In doing so, the Standards Commission will actively seek feedback from stakeholders and will collaborate with other regulators and partner bodies across the UK to share experiences and inform best practice. In addition, we aim to make the best use of digital technology to ensure all educational material and information about good practice and Hearings are published and disseminated as widely as possible.

We will also explore the possibility of holding online Hearings in certain types of case.

The Standards Commission is always seeking to improve and promote the ethical standards framework and, as such, we welcome any suggestions and ideas for promoting adherence to the Codes of Conduct and for streamlining the adjudication process. We look forward to continuing to work closely with stakeholders with a view to achieving our strategic aims in the forthcoming year.



**Professor Kevin Dunion OBE**  
Convener



## Principles of Public Life

In 1995, the Committee on Standards in Public Life (the Nolan Committee) identified seven principles of conduct underpinning public life and recommended that public bodies should draw up Codes of Conduct incorporating these principles.

The seven Nolan Principles were:

- **Selflessness**
- **Integrity**
- **Leadership**
- **Objectivity**
- **Accountability**
- **Openness**
- **Honesty**

The then Scottish Executive took the Nolan Committee recommendations one step further with the introduction of the Ethical Standards Act, which brought in statutory Codes of Conduct for Councillors and Members of Devolved Public Bodies.

The Scottish Executive also identified nine key principles underpinning public life in Scotland, which incorporated the seven Nolan principles and introduced two further principles, which are:

- **Duty (Public Service)**
- **Respect**

The Codes of Conduct are based on the nine key principles of public life.

## Councillors

The Councillors' Code of Conduct applies to all the elected members of every Council in Scotland.

Following a review of the original Councillors' Code of Conduct that was led by the Scottish Government and a consultation exercise, a revised Councillors' Code of Conduct was approved by the Scottish Parliament and introduced with effect from July 2018. It is available online at:

**[www.gov.scot/Publications/2010/12/10145144/0](http://www.gov.scot/Publications/2010/12/10145144/0)**

The Standards Commission provides guidance to Councillors on the revised Code of Conduct.

The latest version of this was published and issued to Councillors and Councils in December 2018.

The Standards Commission's Guidance on the Councillors' Code of Conduct is available online at:

**[www.standardcommissionscotland.org.uk/guidance/guidance-notes](http://www.standardcommissionscotland.org.uk/guidance/guidance-notes)**

The Scottish Government is due to consult on a proposed new version of the Councillors' Code of Conduct in 2020/21

## Members of Devolved Public Body Boards

Each Devolved Public Body covered by the framework is required to have its own Code that is based on the Model Code of Conduct approved by the Scottish Parliament. These individual Codes are also approved by Scottish Ministers.

The Devolved Public Bodies covered by the framework are listed in Schedule 3 to the 2000 Act.

Details of all those covered by the Codes of Conduct can be found on the Scottish Government's website at: **[www.gov.scot/publications/public-bodies-covered-by-the-ethical-standards-framework/](http://www.gov.scot/publications/public-bodies-covered-by-the-ethical-standards-framework/)**

The list of Devolved Public Bodies is under constant revision as bodies are created, abolished and merged.

Following a review of the original Model Code of Conduct that was led by the Scottish Government and a consultation exercise, a revised Model Code of Conduct was approved by the Scottish Parliament and introduced with effect from 3 February 2014. It is available online at:

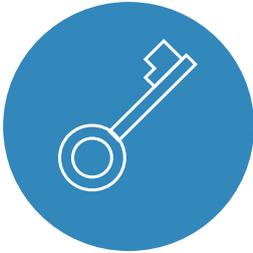
**[www.scotland.gov.uk/Publications/2014/02/4841](http://www.scotland.gov.uk/Publications/2014/02/4841)**

The Standards Commission also provides guidance to Members of Devolved Public Bodies. The Standards Commission's Guidance on the Model Code for Devolved Public Bodies was issued in December 2014 and is available online at: **[www.standardcommissionscotland.org.uk/guidance/guidance-notes](http://www.standardcommissionscotland.org.uk/guidance/guidance-notes)**

The Scottish Government is due to consult on a proposed new version of the Model Code of Conduct for Members of Devolved Public Bodies in 2020/21.

## Key Principles

The Ethical Standards in Public Life etc. (Scotland) Act 2000 ('the Ethical Standards Act') required Scottish Ministers to issue a Code of Conduct for councillors and a Model Code of Conduct for members of devolved public bodies. The Codes as issued are based around nine key principles, which underpin the standards expected of those in public life.



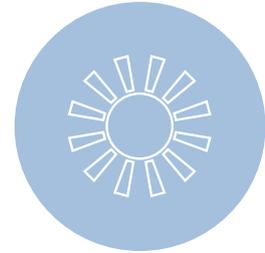
### Duty

Holders of public office should uphold the law and act in accordance with the law and the public trust placed in them. They should act in the interests of the Council or Public Body.



### Selflessness

Holders of public office have a duty to act solely in terms of the public interest. They must not act in order to gain financial or other material benefit for themselves, family or friends.



### Integrity

Holders of public office must not place themselves under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence them in the performance of their duties.



### Objectivity

Holders of public office must make decisions solely on merit when carrying out public business.



### Accountability & Stewardship

Holders of public office are accountable for their decisions and actions to the public. They have a duty to consider issues on their merits, taking account of the views of others and must ensure that the Council or Body uses its resources prudently and in accordance with the law.



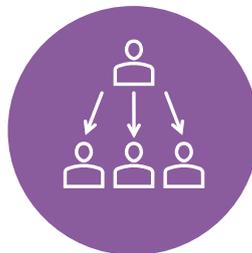
### Openness

Holders of public office have a duty to be as open as possible about decisions and actions they take, giving reasons for their decisions and restricting information only when the wider public interest clearly demands.



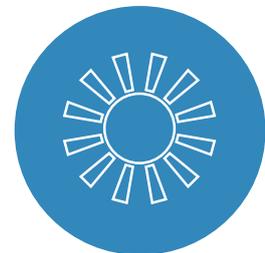
### Honesty

Holders of public office have a duty to act honestly. They must declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.



### Leadership

Holders of public office have a duty to promote and support these principles by leadership and example, to maintain and strengthen the public's trust and confidence in the integrity of the council and its councillors or the public body and its members in conducting public business.



### Respect

Holders of public office must respect all other holders of public office and employees of the Council or Public Body and the role they play, treating them with courtesy at all times.



## Who we are

The Standards Commission is an independent body separate from both the Scottish Government and the Scottish Parliament. Our purpose is to encourage high ethical standards in public life through the promotion and enforcement of Codes of Conduct for Councillors and those appointed to the Boards of Devolved Public Bodies.

The Commission consists of a Convener and four Commission Members who are appointed by the Scottish Parliamentary Corporate Body, with the agreement of the Scottish Parliament, and supported by a team of three staff.



Kevin Dunion OBE  
Convener



Ashleigh Dunn



Michael McCormick



Tricia Stewart



Paul Walker



## Why we exist

We are a statutory body established under The Ethical Standards in Public Life etc. (Scotland) Act 2000 ('the Ethical Standards Act').

This legislation provides a framework to encourage and, where necessary, enforce high ethical standards in public life.

The Ethical Standards Act created a framework whereby Councillors and Members of Devolved Public Bodies are required to comply with Codes of Conduct. It provides that complaints about breaches of these Codes are to be investigated by the Commissioner for Ethical Standards in Public Life in Scotland (ESC) and adjudicated upon by the Standards Commission.



## What we do

We have two key strands of work:

- > A proactive role in developing and promoting the ethical standards framework, including producing Guidance and Advice Notes to help Councillors and Members of Devolved Public Bodies comply with their respective Codes of Conduct: and
- > An adjudicatory role in determining whether there has been a contravention of a Code of Conduct, and where a breach is found, to then determine the appropriate sanction.



## What we do not do

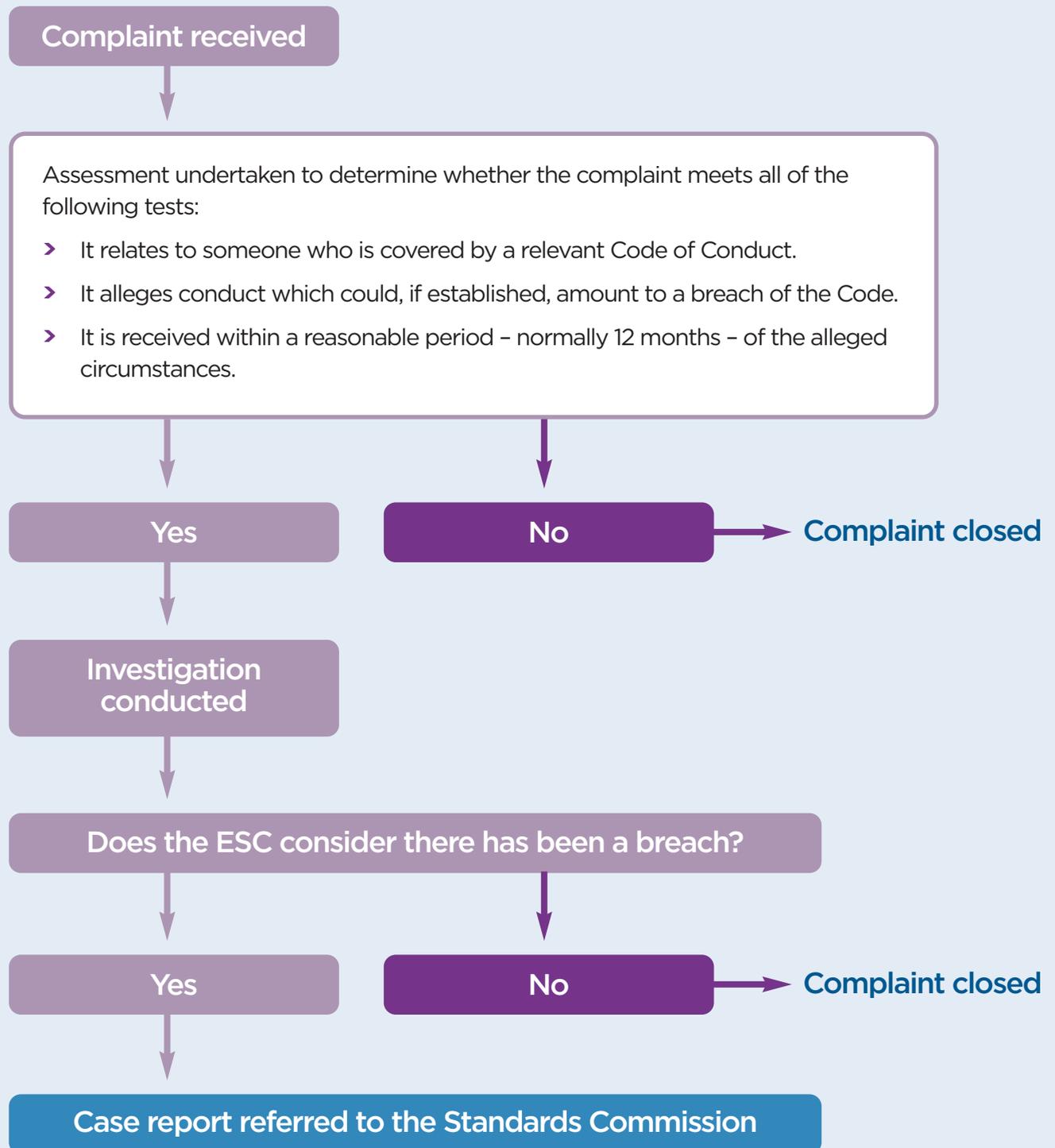
We do not investigate complaints. Complaints must first be investigated by the ESC, which is a separate organisation.

A breakdown of the separate roles undertaken by the ESC and Standards Commission is provided on the following page.

We do not determine, or deal with, complaints about Members of Parliament, Members of the Scottish Parliament or officers of Councils and Devolved Public Bodies. We also do not determine, or deal with, complaints about Councils and Devolved Public Bodies as entities.

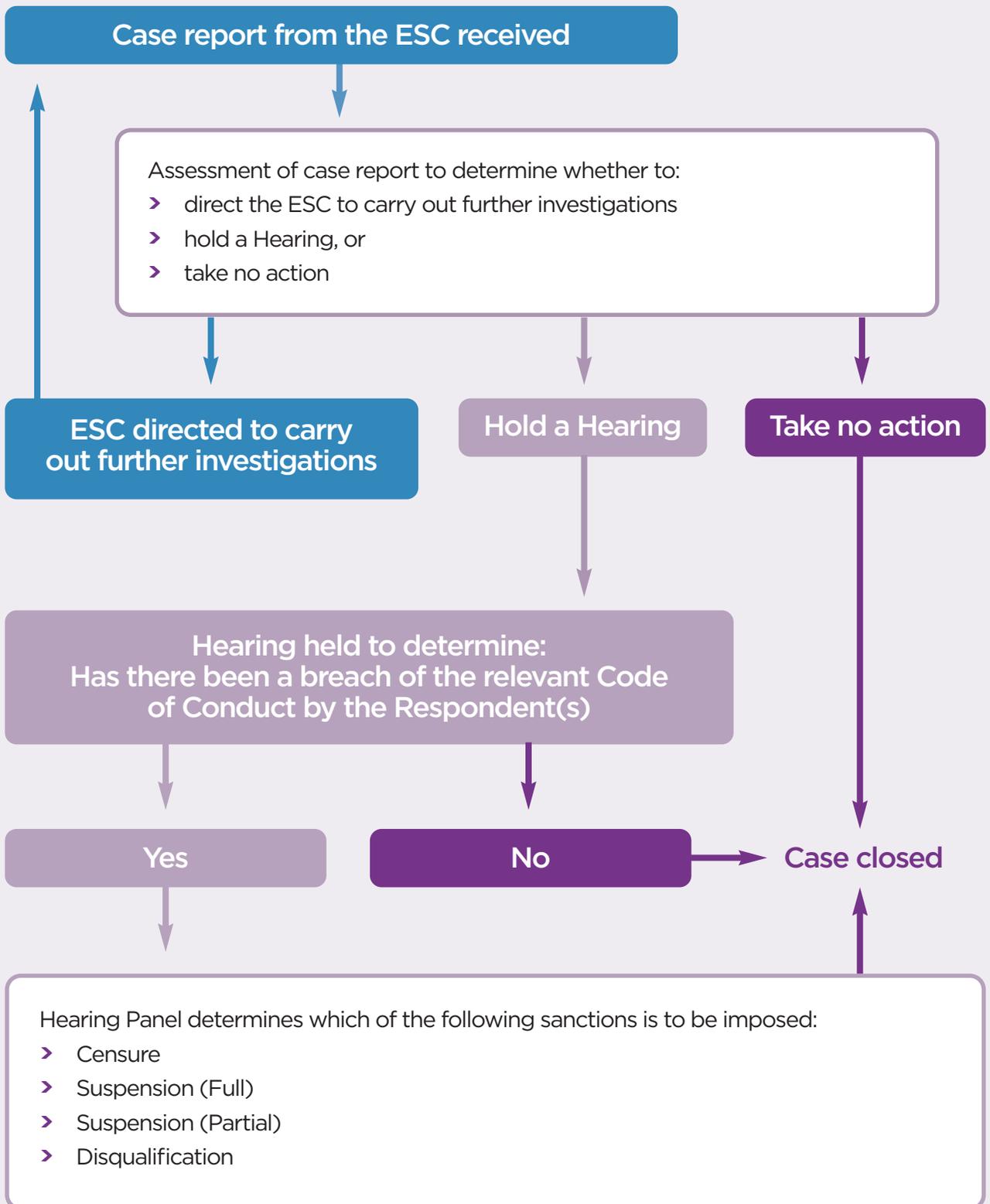
# Overview of Complaints Investigation and Hearing Processes

## Commissioner for Ethical Standards in Public Life in Scotland (ESC). Overview of Complaint Investigation Process

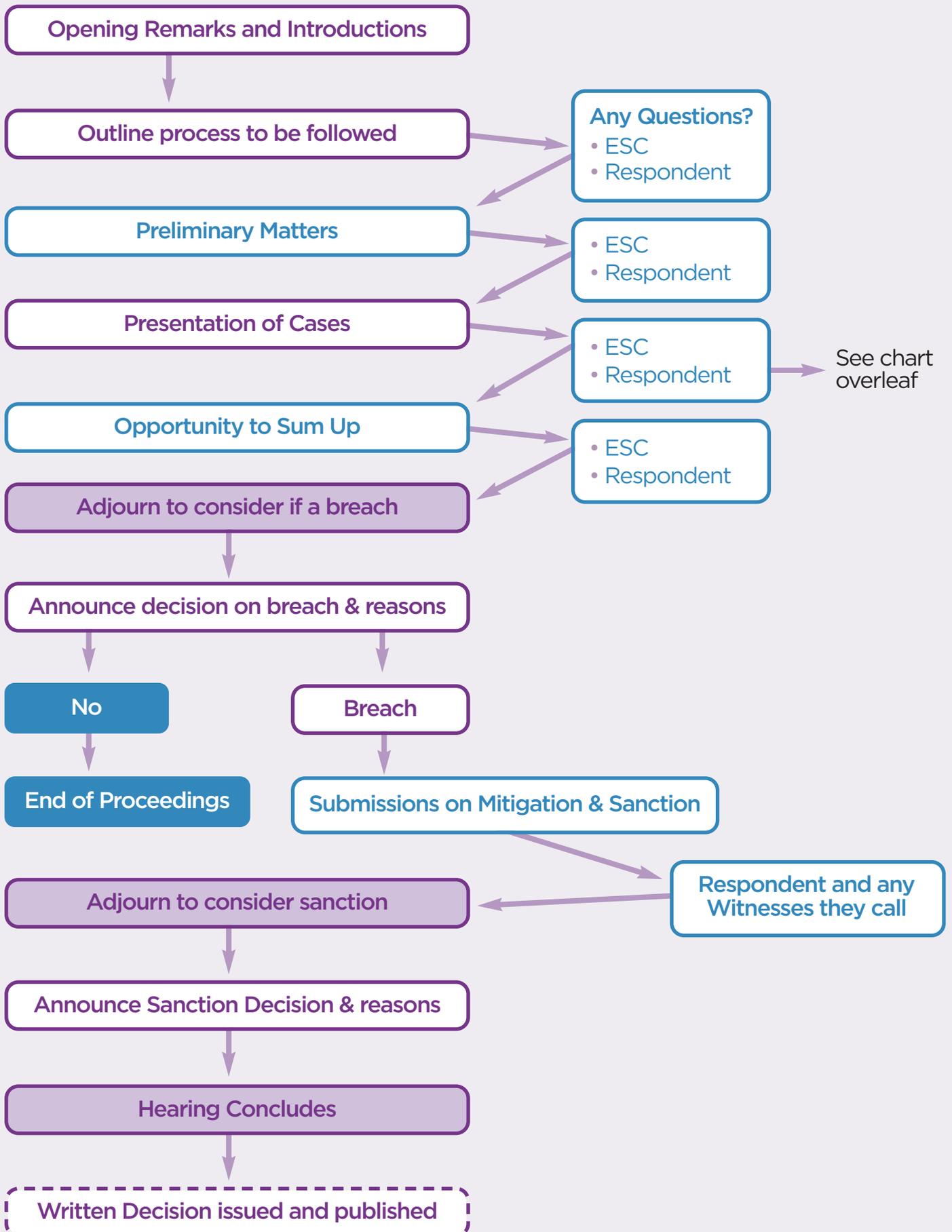


# Standards Commission for Scotland

## Overview of process following referral of report by ESC



## Hearing Process



**Presentation of Cases**

**ESC:**

Outline background

Lead any witnesses

Opportunity to cross examine witnesses  
by Respondent/Respondent's representative

Opportunity to re-examine by ESC

Any questions from Hearing Panel

Submissions as to whether there was a breach of the Code

**Respondent:**

Outline background

Lead any witnesses

Opportunity to cross examine witnesses by ESC

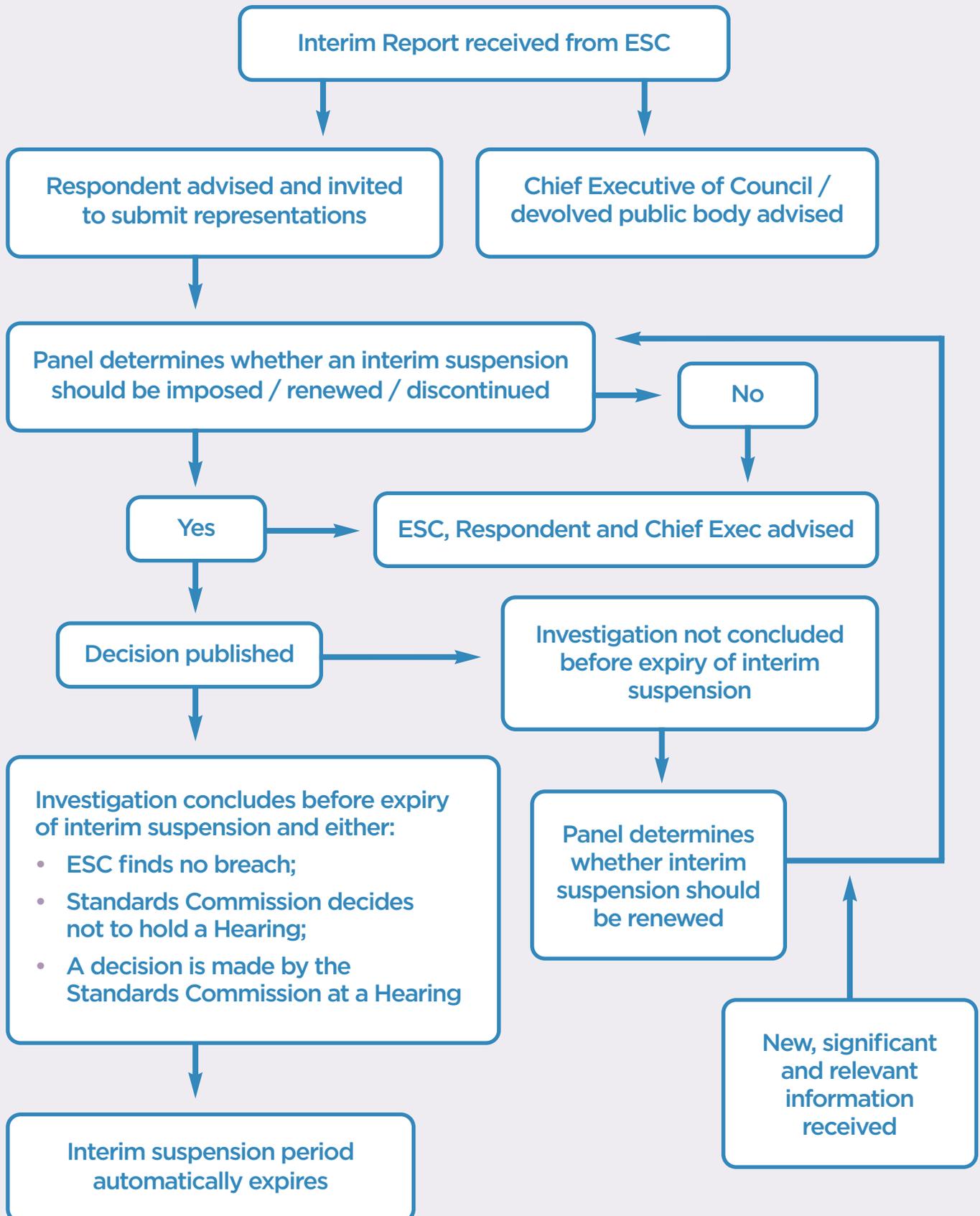
Opportunity to re-examine by Respondent/Respondent's  
representative

Any questions from Hearing Panel

Submissions as to whether there was a breach of the Code



## Interim Suspension Process



# Performance Summary

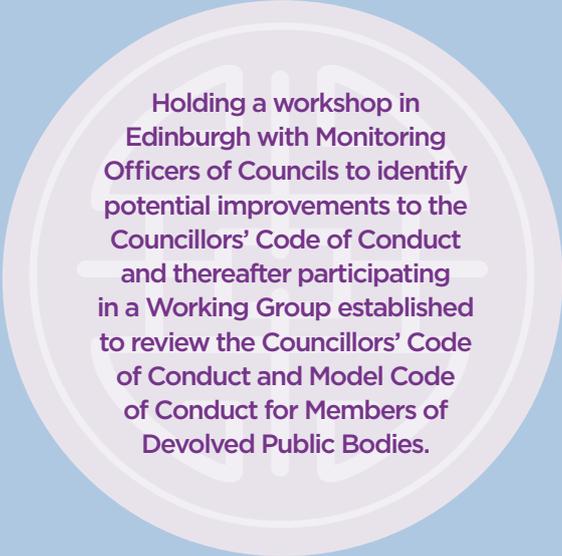
This section highlights the work undertaken in 2019/20 towards our strategic objectives, as outlined in our Strategic Plan for 2016/20.



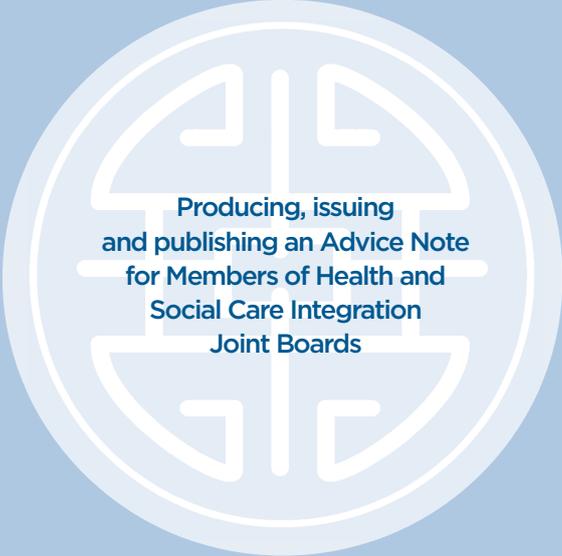
Holding and concluding seven Hearings to determine whether eight Respondents had contravened the Councillors' Code of Conduct. In those cases where the Hearing Panel found that a breach of the Code had been committed, appropriate sanctions were then applied.



Making four decisions about whether to impose an interim suspension on four councillors, under Section 21 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, following receipt of interim reports from the ESC about ongoing investigations on complaints about their conduct.



Holding a workshop in Edinburgh with Monitoring Officers of Councils to identify potential improvements to the Councillors' Code of Conduct and thereafter participating in a Working Group established to review the Councillors' Code of Conduct and Model Code of Conduct for Members of Devolved Public Bodies.



Producing, issuing and publishing an Advice Note for Members of Health and Social Care Integration Joint Boards



Monitoring and managing expenditure to ensure the Standards Commission met its statutory functions and agreed objectives within its approved funding budget

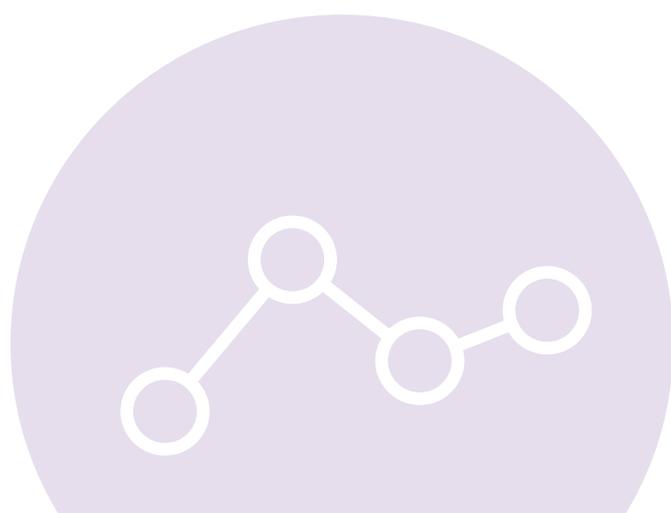
## Strategic Objective 1

To provide guidance and support to assist councillors and members of devolved public bodies to act in accordance with the Codes of Conduct.

The Standards Commission identified that actions to achieve this objective would include producing, issuing and promoting relevant, accessible and comprehensive guidance and educational materials for councillors and members of devolved public bodies on the Codes of Conduct and the standards expected of them. It also included providing advice on the interpretation of the Codes to members of the public and stakeholders, including officers of councils and staff of devolved public bodies.

In working to meet this objective in the past year, we:

- consulted with the Scottish Government before producing, issuing and publishing an Advice Note for Members of Health and Social Care Integration Joint Boards, which provided an overview of their responsibilities under the ethical standards framework. The Advice Note also sought to assist members in recognising and dealing with potential conflicts of interest in order to minimise the risk that such conflicts could erode effective governance and scrutiny arrangements.
- held regional roadshows, in Stirling and Ayr, for elected members and senior officers, on the Councillors' Code of Conduct.
- held a training event for Midlothian councillors on the Councillors' Code of Conduct.
- responded to enquiries received from councillors, members of devolved public bodies, the media, the public and officers of councils and devolved public bodies on the ethical standards framework and how the Codes of Conduct should be interpreted. We provided a substantive response to all enquiries within the timescales outlined in our Service Charter.
- produced, issued and published a flowchart for members of devolved public bodies on identifying and making declarations of interest.
- disseminated information about the outcome of an unsuccessful appeal to a Sheriff Principal against a decision of a Hearing Panel, which supported the approach taken by the Standards Commission when dealing with cases concerning allegations of disrespect and applying the right to freedom of expression under Article 10 of the European Convention on Human Rights.



## Strategic Objective 2

To promote the Ethical Standards Framework and recognition and understanding of the Standards Commission's role among the public and stakeholders.

Actions to achieve this objective were identified as promoting the role of the Codes of Conduct in public life, including proactively engaging with the media about the role of the Standards Commission. The Standards Commission further noted that it would engage and consult with councils, devolved public bodies, the ESC and other stakeholders to identify trends and emerging issues to ensure guidance and training materials continued to be fit for purpose.

Our promotional work in 2019/20 included:

- publishing and issuing quarterly Standards Updates, which included news about the work of the Standards Commission and future events, along with information about decisions made at Hearings.
- holding a workshop in Edinburgh with Monitoring Officers of Councils to identify potential improvements to the Councillors' Code of Conduct. We thereafter participated in a Working Group established to review the Councillors' Code of Conduct and Model Code of Conduct for Members of Devolved Public Bodies and, in particular, led on the drafting of the amended version of the general conduct section and annexes to the Codes. We assisted the Scottish Government in preparing the documents for the forthcoming public consultation on the revised Codes by drafting explanatory notes outlining the key changes and the reasons for them.
- producing, publishing and issuing guidance for councils on the extent to which a councillor should engage in activities which are, or could be perceived to be, the activities of a councillor during a period of full suspension that has been imposed either on the finding of a breach of the Councillors' Code of Conduct at a Hearing or as an interim measure while the ESC's investigation into their conduct is ongoing.
- creating a new press release template. Issuing media and press releases in respect of all Hearings held and interim suspensions imposed. Liaising with any members of the press in attendance at Hearings.
- using our social media platforms to promote awareness of the ethical standards framework, the provisions in the Codes of Conduct and the Standards Commission's role, remit and work (including forthcoming events and decisions made at Hearings). We increased our followers on Twitter by over 30%.
- attending liaison meetings with SOLAR to discuss opportunities for improvement in respect of raising awareness of the provisions in the Codes of Conduct in light of emerging trends and issues.
- liaising with Police Scotland and the Scottish Government to raise awareness amongst councillors and members of devolved public bodies about the risks associated with accepting gifts and hospitality in terms of facilitating serious organised crime. We circulated Guidance on Serious Organised Crime and Business Exploitation to Monitoring Officers on behalf of Police Scotland for onward transmission to elected members.
- creating and issuing to all MSPs a fact sheet on the ethical standards framework and the work of the Standards Commission.
- undertaking work to ensure our website is fully compatible with the accessibility requirements specified in the Public Sector Bodies (Website and Mobile Applications) Accessibility Regulations 2018.
- Our Convener presented a session on current trends and issues regarding behaviours in public life at the annual SOLAR conference.

## Strategic Objective 3

To enforce the Codes of Conduct in a fair, impartial and efficient manner.

The Standards Commission noted that, in order to meet this strategic aim and undertake its statutory adjudication role in relation to alleged breaches of the Codes of Conduct, it would need to make consistent, fair, impartial and transparent decisions in relation to: whether to hold Hearings; whether a breach of the Codes of Conduct had been established and, if so, the sanction to be applied. The Standards Commission determined that it would require to obtain feedback and undertake regular reviews of the Hearings Process Guide and Rules to ensure Hearings were run efficiently and were transparent, accessible and fair. It agreed that it would need to share learning, experience and knowledge gained from enforcement activities to positively influence future behaviours and conduct.

Our work to achieve this objective in the past year included:

- holding and concluding seven Hearings to determine whether eight Respondents had contravened the Councillors' Code of Conduct. In all those cases where the Hearing Panel found that a breach of the Code had been committed, appropriate sanctions were then applied. Further details can be found in Sections 4 and 5 of this Report.
- holding all Hearings in accordance with the legislative requirements and the Standard Commission's Hearing Rules.
- issuing and publishing written decisions of all Hearings, which included the reasons why a breach had or had not been found and, if applicable, why a specific sanction had been applied, within three working days of the conclusion of the Hearing.
- conducting all but two cases within an average of 12 weeks from receipt of a report from the ESC to the issuing of the written Hearing decision. The two cases in question took slightly longer after requests for postponements from either or both parties were agreed.
- making four decisions about whether to impose an interim suspension on four councillors, under Section 21 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, following receipt of interim reports from the ESC about ongoing investigations on complaints about their conduct.
- continuing to conduct surveys of participants and attendees on how Hearings are organised, run and managed. We used any suggestions made, any other feedback obtained, to improve processes and decision-making procedures. This included making revisions to the Hearing Rules and our public information literature, to ensure that they all continued to be accessible and fit for purpose.
- undertaking a full internal annual review of the management of Hearings and decisions made. Updating the format of written decisions in light of this, to ensure the section on how sanctions are determined refers to all key and material matters considered.
- continuing to hold pre-Hearing meetings when appropriate and proportionate to do so, in order to resolve any procedural issues in advance of Hearings. This helped to ensure that the focus of the Hearings remained on the production and analysis of relevant evidence and that they were conducted in as fair, impartial and efficient a manner as possible.
- revising, amending and publishing our Hearing Rules, Policy on the Application of Sanctions, and Interim Suspension Pending Completion of Investigation Policy.
- creating and publishing a flowchart summarising the Hearings process, which was then included as an annex to the Hearing Rules and issued to parties as part of the notification of Hearing correspondence.
- publishing and issuing an Advice Note outlining the factors that a Hearing Panel will consider when imposing a suspension and thereafter deciding whether to make a direction that any remuneration or allowance a member of a devolved public body would normally receive be reduced or not paid. The Advice Note also outlines the procedures the Standards Commission will follow should a Panel decide to do so.

# Strategic Objective 4

To operate in accordance with the principles of good governance and best value.

The Standards Commission identified that actions to achieve this objective included developing the skills and competencies of Members and staff; identifying and taking forward opportunities to work jointly or in partnership with other public bodies; and making good use of resources and striving for operational efficiency, best value and continuous improvement.

In meeting this objective in 2019/20, we:

- monitored and managed expenditure to ensure the Standards Commission met its statutory functions and agreed objectives within its approved funding budget of £267,000. The Standards Commission was able to surrender to the Scottish Parliamentary Corporate Body (SPCB) the sum of £10,871 received in respect of the recovery of expenses from an appeal against a Hearing Panel decision.
- held a strategy and development day to review how the Standards Commission’s aims and work could support the revised National Performance Framework. Following a consultation with our key stakeholders, we thereafter drafted, published and laid a Strategic Plan for 2020/24.
- continued to work on shared services agreements and approaches with the SPCB in respect of accommodation, human resources, information technology and internal audit services. We also agreed the terms of a number of framework documents with the SPCB, which included a Finance Manual and Budget Process Memorandum of Understanding.
- responded to all Freedom of Information requests within 2 days of receipt. We attended data protection and FOISA network meetings with other Officeholders to discuss and share best practice.
- ensured compliance with the Scottish Government’s best practice requirements on cyber resilience.
- revised our Service Charter to ensure it fully incorporated and reflected the Standards Commission’s values.
- undertook a key-person dependency risk analysis and identified actions to be taken to mitigate these, which included drafting of written desk instructions on procurement, finance and salary processing arrangements.
- created a Finance and Procurement Policy and Procedure document that amalgamated existing best practice guidelines, the financial scheme of delegation, procurement and our expenditure authorisation processes.
- assisted in the completion of a range of audits (both internal and external), which gave assurance on the effective governance and efficient running of the organisation. We updated our authorisation processes for expenses in line with a recommendation in the internal audit report.
- completed a review of our Records Management Plan, which was subsequently approved, following assessment, by the National Records of Scotland as being fully compliant with statutory requirements.
- undertook a review of, and updated, our Scheme of Delegation, Business Continuity Plan, Risk Management Policy, Fraud Prevention and Whistleblowing Policy and the Terms of Reference for our Human Resources and Audit and Risk Committees.
- trained staff on the Microsoft SharePoint document management system so that all online filing could be migrated to it, following a streamlining process.



# Case Statistics

## Introduction

Complaints that a councillor or a member of a devolved public body (the Respondent) has contravened their Code of Conduct are made to, and considered by, the Commissioner for Ethical Standards in Public Life in Scotland (the ESC). If the ESC concludes at the end of her investigation there has not been a breach of the Code, she will advise the Respondent and complainer accordingly. The Standards Commission does not have the power to challenge or ask the ESC to review any finding that there has not been a breach of a Code.

If, following an investigation, the ESC concludes there may have been a breach of a Code, she will refer the matter to the Standards Commission. On receipt of the case report, the Standards Commission has three options, under Section 16 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the Ethical Standards Act), which are:

- > to direct the ESC to carry out further investigations;
- > to hold a Hearing; or
- > to do neither (take no action).

The Standards Commission has published a policy outlining the factors it will consider when making such a decision on a report referred by the ESC. This can be found on the Standards Commission's website at [www.standardscommissionscotland.org.uk/cases](http://www.standardscommissionscotland.org.uk/cases).

The Standards Commission will write to the Respondent, the ESC, the Chief Executive of the relevant council or devolved public body (copied to the Monitoring Officer or Standards Officer), and the individual or individuals who made the complaint to advise them of its decision in respect of the report.

## Decisions on Case Reports

The ESC referred four reports to the Standards Commission between 1 April 2019 and 31 March 2020 where she determined that a breach of a Code of Conduct may have occurred. The Standards Commission determined that Hearings were to be held in respect of each of these reports.

The table below shows the decisions initially taken by the Standards Commission in respect of reports referred by the ESC.

**TABLE 1: Decisions taken by Standards Commission on Reports received between 1 April 2019 and 31 March 2020**

Decision	No. of Reports	No. of Councillors or Members involved in the Reports	
		Councillors	Members
Hold a Hearing	4	4	0
Direct the ESC to carry out further investigations	0	0	0
Do neither	0	0	0
<b>TOTAL</b>	<b>4</b>	<b>4</b>	<b>0</b>

## Hearings held in 2019/20

The Standards Commission was initially due to hold seven Hearings between 1 April 2019 and 31 March 2020. This comprised:

- Three Hearings about three of the four reports referred to the Standards Commission in 2019/20 (see table one). A Hearing in respect of the fourth report has been scheduled to be held in 2020/21 as the report was only received on 25 March 2020.
- Four hearings about six councillors where the report had been received, and the decision to hold a Hearing had been made before 1 April 2019.

Where the ESC's report concerns two or more Respondents but relates to the same or related events, the Standards Commission may consider the matter at one Hearing in order to make the best use of its resources, and to avoid any unnecessary costs or inconvenience to witnesses.

One case report, received from the ESC before 1 April 2019, concerned similar allegations about three Respondents from Midlothian Council. The Standards Commission initially decided to hold one Hearing on the report. The Hearing overran, however, and it was decided on the day that a separate Hearing about one of the councillors would be held on a later date (it was also held in 2019/20).

A Hearing about a Comhairle nan Eilean Siar councillor scheduled to take place in March 2020 was postponed due to the impact of the Covid-19 virus outbreak. For the reasons outlined in Section 5 of this Report, the Hearing Panel referred the case back to the Standards Commission to review its Section 16 decision. Following this review, the Standards Commission decided to take no further action in respect of the ESC's report.

As a result, a total of seven Hearings were held in 2019/20. These Hearing concerned eight councillors.

**TABLE 2: Hearings held by the Standards Commission between 1 April 2019 and 31 March 2020**

Decision	No. of Hearings	No. of Respondents	
		Councillors	Members
Hearings held before 31 March 2020 where the associated report was referred to the Standards Commission before 1 April 2019	5	6	0
Hearings held before 31 March 2020 where the associated report was referred to the Standards Commission after 1 April 2019	2	2	0
<b>Total number of Hearings held in 2019/20 (between 1 April 2019 and 31 March 2020)</b>	<b>7</b>	<b>8</b>	<b>0</b>
Reports referred to the Standards Commission after 1 April 2019 where Hearing was cancelled and no further action taken after review of Section 16 decision.	1	1	0
Reports referred to the Standards Commission before 31 March 2020 where Hearings have been scheduled to be held after 1 April 2020	1	1	0

Hearings are held in public, unless the Members of the Standards Commission determine that it is appropriate for them to be held in private. All seven Hearings held and concluded in 2019/20 were held in public.

## Decisions made at Hearings

Table 3 outlines the decisions made at the seven Hearings held in 2019/20.

**TABLE 3: Outcomes of Hearings conducted and concluded by the Standards Commission between 1 April 2019 and 31 March 2020**

Decision	No. of Hearings	No. of Respondents involved in cases
Finding of breach	6	7
Finding of no breach	1	1
<b>Total</b>	<b>7</b>	<b>8</b>

## Sanctions Imposed at Hearings

The sanctions available to the Standards Commission if it determines, at a Hearing, that a breach of a Code of Conduct has occurred are:

- > Censure;
- > Suspension; and
- > Disqualification

Having found a breach, the Standards Commission is obliged, under Section 19 of the Ethical Standards Act, to impose a sanction. The Standards Commission has published a policy outlining the factors it will consider when deciding the sanction to be imposed. A copy of the policy can be found on the Standards Commission's website at: [www.standardscommissionscotland.org.uk/cases/hearing-rules](http://www.standardscommissionscotland.org.uk/cases/hearing-rules).

A **censure** means the Standards Commission recognises the Respondent has breached the Code and formally records the Standards Commission's severe and public disapproval of the Respondent's conduct.

A **suspension** can be full or partial, and can be for a period of up to one year. A full suspension means that the Respondent is not entitled to attend any meetings of the council or devolved public body. This includes any committees and sub-committees and also any meetings of any other body of which he/she is a representative or nominee of the council or devolved public body. In 2019/20, the Standards Commission produced guidance to provide clarity on the extent of the activities in which a councillor can engage while they are subject to a period of full suspension (either on the finding of a breach of the Councillors' Code of Conduct at a Hearing or as an interim measure while an investigation about their conduct is ongoing). This guidance can be found on the Standards Commission's website at:

[www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings](http://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings).

A partial suspension means that the Respondent is not entitled to attend certain specified meetings or committee of the council or devolved public body. For example, they may be suspended from meetings of a council's licensing committee for a period of three months.

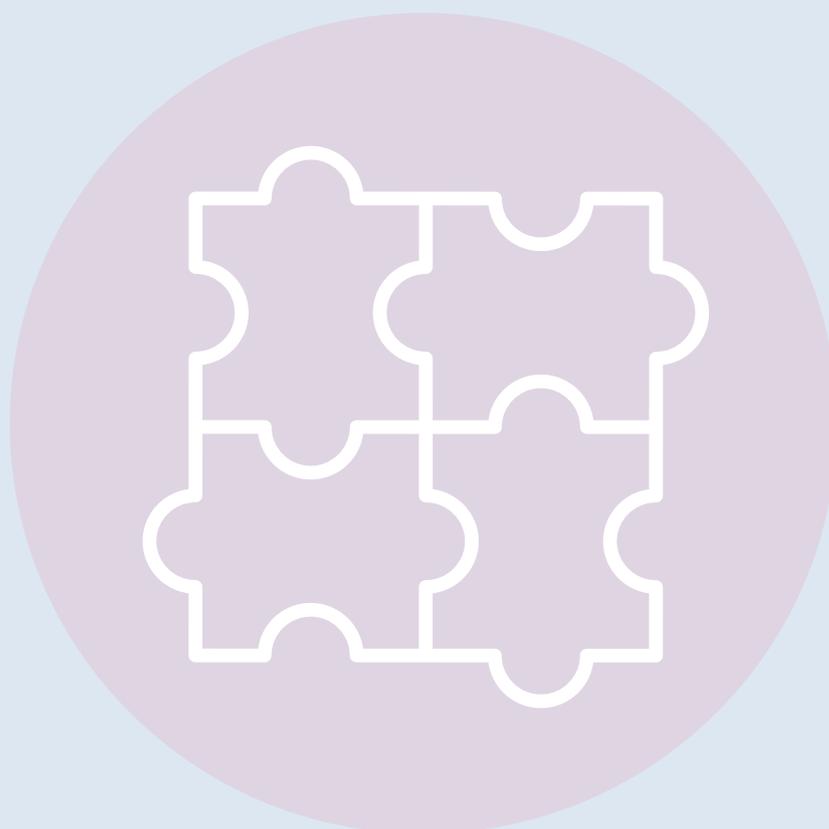
**Disqualification** means that the Respondent, if a councillor, is prohibited, for a period not exceeding five years, from being a councillor and from being nominated for election or being elected, as a councillor. This has the effect of vacating that councillor's office.

In cases where the Respondent is a member of a devolved public body, disqualification means they are removed from membership of the body and are prohibited from being a member of the body for a period not exceeding five years. The Standards Commission, on removing and disqualifying a member from one specific devolved public body, can also direct that the individual is removed and disqualified from any other devolved public body of which they are a member.

The table below outlines the sanctions imposed by the Standards Commission at the Hearings held between 1 April 2019 and 31 March 2020.

**TABLE 4: Sanction decisions made at Hearings between 1 April 2019 and 31 March 2020**

Sanction	No. of Hearings	No. of Respondents involved in cases
Censure	2	2
Suspension – full	2	2
Suspension – partial	2	3
Disqualification	0	0
<b>Total</b>	<b>6</b>	<b>7</b>



## Decisions on Interim Reports and Interim Suspensions

Section 21 of the Ethical Standards Act provides the Standards Commission with the power to impose an interim suspension on a councillor or member of a devolved public body following receipt of an interim report from the ESC about an ongoing investigation.

In determining whether to impose an interim suspension, a Panel of the Standards Commission will consider the following:

- whether the allegations being investigated by the ESC could potentially amount, if established, to a breach of the applicable Code of Conduct; and
- whether the further conduct of the ESC's investigation is likely to be prejudiced if such an action is not taken; or
- that it is otherwise in the public interest to take such a measure.

Any decision by the Standards Commission to impose an interim suspension is not, and should not be seen as, a finding on the merits of any complaint or the validity of any allegations against a councillor or member of a devolved public body, nor should it be viewed as a disciplinary measure. Information about any decisions, made under Section 21 of the Act and the policy outlining how the Standards Commission makes any decision under this section can be found on the Standards Commission website at:

<https://www.standardscommissionscotland.org.uk/cases/details-of-alleged-breach>

Any period of interim suspension imposed will automatically end if:

- the ESC decides, following investigation, that there has not been a breach of the Code;
- the Standards Commission receives an investigation report but decides not to hold a Hearing; or
- the Standards Commission receives an investigation report and holds a Hearing (and either finds a breach and imposes a sanction or finds no breach has occurred).

A Panel of the Standards Commission can choose to discontinue an interim suspension at any time on receipt of any new and relevant information, if it is no longer satisfied that it is proportionate and in the public interest for it to be in place.

The Standards Commission received four interim reports about four councillors from the ESC in 2019/20. The Standards Commission imposed interim suspensions on two of the councillors concerned.

The table below shows the decisions taken by the Standards Commission in respect of interim reports referred by the ESC.

Interim Reports & Interim Suspensions 1 April 2019 – 31 March 2020	No. of Reports	No. of Councillors or Members involved in the Reports	
		Councillors	Members
Total number of interim reports received from the ESC	4	4	0
Standards Commission Decision			
No interim suspension imposed	2	2	0
Interim suspension initially imposed but discontinued following review of new and material information	1	1	0
Interim suspension ongoing as at 31/03/2020	1	1	
<b>TOTAL</b>	<b>4</b>	<b>4</b>	<b>0</b>

## Appeals

Appeals can be made, under Section 21 of the Ethical Standards Act, to the sheriff principal of the sheriffdom in which the relevant council or devolved public body has its principal office against any decision by the Standards Commission to:

- find a breach of a Code of Conduct;
- to impose a suspension or disqualification, as a result of the finding of breach; and
- to impose an interim suspension.

No appeals were made in 2019/20. The Sheriff Principal of Tayside, Central and Fife issued a determination in 2019/20, however, about an appeal lodged in 2018/19 in respect of a finding by the Standards Commission that a Fife councillor had breached the Councillors' Code of Conduct and its decision to impose a partial suspension on him. The Sheriff Principal refused the appeal in entirety and made no criticisms of the Panel's decision or reasoning in respect of both breach and sanction. The Sheriff Principal was satisfied that the Hearing Panel had applied correctly the right to freedom of expression under Article 10 of the European Convention on Human Rights and that it had "carried out a thorough and independent assessment of the evidence". The Sheriff Principal found the appellant liable for the Standards Commission's expenses in respect of the appeal.

## Timescales

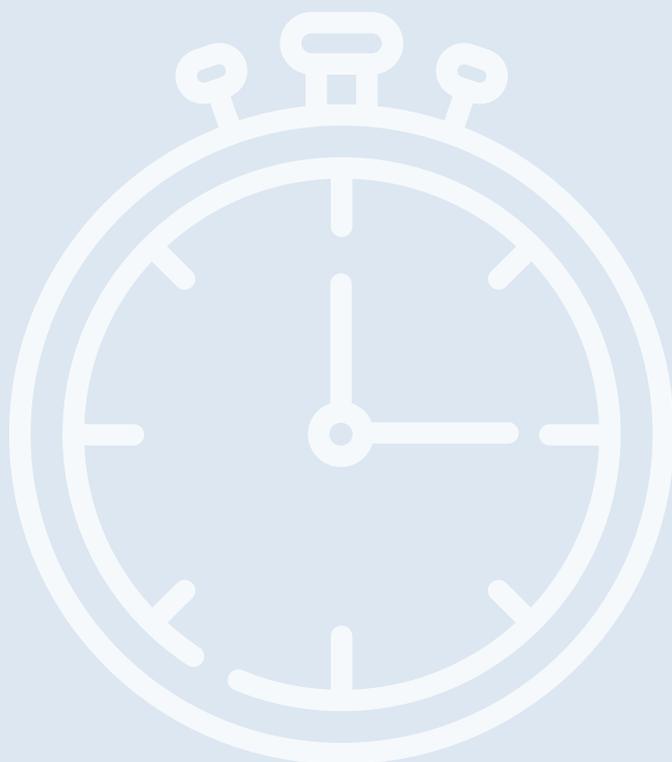
The Standards Commission aims to hold Hearings no earlier than six weeks and no later than 12 weeks after the date on which the decision to hold a Hearing is made. This allows the parties time to prepare, but also ensures that cases are concluded expeditiously.

When scheduling cases, the Standards Commission takes into account the availability of Hearing Panel Members, the parties and potential witnesses. In order to avoid unnecessary costs, the Standards Commission endeavours to hold Hearings within the premises of the relevant council or devolved public body.

This also means that members of the public and press in the local area are able to attend. The availability of a suitable venue is, therefore, another factor the Standards Commission must consider when determining the date of a Hearing.

A Hearing Panel may, at its own discretion or on the application of any of the parties, postpone or adjourn a Hearing. Before any postponement or adjournment is granted, the Hearing Panel will consider the public interest in the expeditious disposal of the case and whether there is any inconvenience or prejudice to the parties and / or any witnesses that were due to appear. Hearing Panels agreed to postpone a number of scheduled Hearings in 2019/20 following requests from ESC and/or Respondent to do so.

As noted above, a Hearing about a Comhairle nan Eilean Siar councillor scheduled to take place in March 2020 was cancelled.



The table below shows the timescales taken by the Standards Commission in respect of Hearings.

**TABLE 5: Standards Commission's Timescales 2019/20**

Report reference(s)	Date report received from ESC	Date Standards Commission made decision about whether to hold a Hearing	Hearing Date		Time between date of decision to hold a Hearing and the start of the Hearing (in weeks)	Date of written Decision	Time taken by Standards Commission (in weeks) From date report received by Standards Commission to date of written decision
			Scheduled Date	Actual Hearing Date			
LA/SL/2153	31/01/19	04/02/19	04/04/19	04/04/19	9	09/04/19	10
LA/Mi/2166 & LA/Mi/2169 Respondent 1	31/01/19	01/02/19	28/03/19	09/05/19 moved following request from both Respondent and ESC	14	14/05/19	15
LA/Mi/2166 & LA/Mi/2169 Respondent 2		01/02/19	28/03/19	09/05/19 moved following request from other Respondent and ESC	14	14/05/19	15
LA/D/2158	25/02/19	01/03/19	15/05/19	15/05/19	11	17/05/19	12
LA/Fi/2176	08/02/19	12/02/19	30/04/19	25/06/19 moved following request from both Respondent and ESC	19	28/06/19	20
LA/Mi/2166 & LA/Mi/2169 Respondent 3	31/01/19	01/02/19	09/05/19 moved from 28/03/19 as above	Adjourned on 09/05/19 as insufficient time and held on 10/07/19	23	15/07/19	24
LA/SB/2219	05/09/19	09/09/19	06/11/19	06/11/19	8	11/11/19	10
LA/WL/2213	03/09/19	05/09/19	20/11/19	20/11/19	11	26/11/19	12
LA/CES/2214	16/01/20	20/01/20	18/03/20	n/a	n/a	23/03/20	10
LA/Fi/2268	25/03/20	30/03/20	To take place 2020/21	n/a	n/a	n/a	n/a

#### KEY

Report received on or before 31 March 2019

Report received after 1 April 2019

Report received on or before 31 March 2020 but Hearing scheduled to take place in 2020/21.

# Summary of Cases

## HEARINGS

Summaries of all Hearings conducted by the Standards Commission in 2019/20 can be found below. The full written decisions are published online at:

**[www.standardscommissionscotland.org.uk/cases/case-list](http://www.standardscommissionscotland.org.uk/cases/case-list)**

Issues concerning the application of Article 10 of the European Convention on Human Rights (ECHR) and the right to freedom of expression arose in four of the cases referred to below. The Standards Commission has produced Advice Notes for Councillors and Members of Devolved Public Bodies on the Application of Article 10 of the ECHR and the approach Hearing Panels will take when issues that concern the right to freedom of expression arise. These can be found at:

**[www.standardscommissionscotland.org.uk/education-and-resources/advice-notes](http://www.standardscommissionscotland.org.uk/education-and-resources/advice-notes)**



## Case LA/SL/2153 South Lanarkshire Council

### Date of Hearing 4 April 2019

#### Complaint

The complaint alleged that the Respondent had been disrespectful during a meeting of the Council's Executive Committee by uttering the words "seig heil" as the Chair of the meeting concluded the debate on an item of business.

#### Decision

- 1 The Hearing Panel noted that it was not in dispute that the Respondent uttered the words "seig heil" at a meeting of the Council's Executive Committee and was thereafter quoted in various national newspapers as having stated that he did so out of frustration.
- 2 The Panel noted that it was further not in dispute that the Respondent uttered the words when the Chair of the meeting had, fairly abruptly, drawn a debate on an amendment the Respondent had supported under discussion to a close. The Panel noted it was accepted that the debate on the item was politically charged and that the Chair had not been supportive of the amendment.
- 3 The Panel accepted the Respondent may not have shouted the words, although it was nevertheless satisfied he had said them loudly enough for others present to hear. In the absence of any other plausible explanation, the Panel determined, on the balance of probabilities, that the Respondent had uttered the comment as a result of frustration at the way the Chair had handled the proceedings and curtailed the debate and, as such, it was reasonable for those present to conclude that the comment had been directed at the Chair. The Panel was satisfied that the evidence of witnesses who had been present at the meeting supported this conclusion.
- 4 The Panel was further 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 concluded that the making of such a comment, in the circumstances, was offensive and gratuitous and amounted to a personal and political attack on the Chair. The Panel was satisfied, therefore, that the Respondent had failed to observe the rules of good conduct by behaving in a disrespectful manner towards the Chair.
- 5 The Panel concluded that the Respondent had breached paragraphs 3.1 and 3.2 of the Councillors' Code of Conduct.

#### Sanction

The Panel censured the Respondent. In reaching its decision, the Panel:

- 1 Noted the Respondent had co-operated fully with the investigative and Hearing processes. The Panel further noted the contribution the Respondent had made to public life in his 23 years as a councillor.

However, the Panel:

- 2 Found that the Respondent had failed to conduct himself in a respectful manner and had, instead, engaged in personal and politically offensive abuse in the context of a formal Executive Committee meeting attended by councillors from across the political spectrum and Council officers. The Panel emphasised it was a councillor's personal responsibility to be aware of the provisions in the Code and to ensure that he or she complied with them. The Respondent had been negligent in this regard.
- 3 The Panel was nevertheless of the view that the Respondent's conduct did not warrant a more severe sanction. This was because there was no evidence or suggestion it had formed part of a course of conduct or that the making of the comment had been pre-meditated. The Panel also accepted that the Respondent had immediately retracted the comment and had subsequently apologised. The Panel was satisfied that the Respondent fully recognised that his comment was entirely inappropriate.

## Case LA/Mi/2166 & 2169 Midlothian Council

### Date of Hearing 9 May 2019

#### Complaint

The complaint concerned two Respondents and alleged that they had failed to comply with the provisions in the Code that require councillors not only to act fairly, but to ensure they are seen to be acting fairly when making quasi-judicial or regulatory decisions.

#### Decision

##### Respondent 1

- 1 The Hearing Panel noted that it was not in dispute that the Respondent had called-in a planning application from the local Tennis Club for the erection of screen netting, on the grounds that the views of the objectors should be considered by the Planning Committee. The Panel further noted that it was not in dispute that, before the meeting the Respondent undertook an unaccompanied site visit to the objectors' property, lasting around 30-40 minutes, and discussed the potential impact of the netting with one of them.
- 2 The Panel noted that the Respondent admitted that she had not made any corresponding visit to the applicants' premises, nor had she discussed the planning proposal with them. While the Panel accepted that the Respondent considered she was aware of the applicants' position, it noted that this was only in respect of the dark green netting that was being sought. The Panel noted that the applicants may well have had views on the suitability of the lighter green netting that the Respondent proposed be used, following her site visit to the objectors' property.
- 3 The Panel noted that, at the Planning Committee, the Respondent had made comments on the proposal and the potentially adverse impact on the objectors' property (in the course of which she informed the Committee that she had visited the site) and seconded a motion proposing that permission should be granted, but only on the basis of the lighter green netting being installed.
- 4 The Panel determined that it would be reasonable for a member of the public to consider that by: failing to seek advice from officers before contacting the objectors directly and undertaking an unaccompanied site visit, despite it being best practice for elected members to ask officers to accompany them on such a visit; making a relatively lengthy visit to the objectors' property and discussing the proposal with one of them; failing to make any corresponding visit to the applicant's property or any effort to discuss the proposal, or any changes to it with them; calling-in the application so that objectors' concerns could be considered by the Committee; seconding a motion to change the proposal without having explored the applicant's views on it; the Respondent gave an appearance of unfairness and bias towards one of the parties.
- 5 The Panel concluded that the Respondent had breached paragraph 7.3 of the Code.

## Case LA/Mi/2166 & 2169 Midlothian Council

### Date of Hearing 9 May 2019

#### Decision Respondent 2

- 1 The Hearing Panel noted that it was not in dispute that, before the Planning Committee meeting where an application from the local Tennis Club for the erection of screen netting was to be considered, the Respondent undertook an unaccompanied site visit to the objectors' property. The visit lasted around 15 to 20 minutes and, during it, the Respondent discussed the potential impact of the netting with one of the objectors.
- 2 The Panel further noted that the Respondent admitted that he had not made any corresponding visit to the applicants' premises, nor had he discussed the planning proposal with them. While the Panel accepted that the Respondent considered he was aware of the applicants' position, it noted that this was only in respect of the dark green netting that was being sought.
- 3 The Panel noted that at the Planning Committee, the Respondent had actively contributed to the discussions that gave rise to the amended planning consent's approval.
- 4 The Panel determined that it would be reasonable for a member of the public to consider that by: failing to seek advice from officers before contacting the objectors directly and undertaking an unaccompanied site visit, despite it being best practice for elected members to ask officers to accompany them on such visits; making a visit to the objectors' property and discussing the proposal with one of them; failing to make any corresponding visit to the applicants' property or any effort to discuss the proposal, or any potential changes to it, with them; actively contributing to the discussions that gave rise to the amended planning consent's approval; the Respondent gave an appearance of unfairness and bias towards one of the parties.
- 5 The Panel concluded that the Respondent had breached paragraph 7.3 of the Code.

#### Sanction Respondent 1

The Panel suspended the Respondent from the Planning Committee for one month. In reaching its decision, the Panel:

- 1 Noted that the Respondent had co-operated fully with the investigative and Hearing processes. The Panel further noted the evidence of the substantial contribution the Respondent had made to public life and her community in her 20 years as a councillor.
- 2 The Panel was satisfied that there was no personal gain to the Respondent and that she had now demonstrated insight and understanding of the importance of compliance with the Code.

However, the Panel:

- 3 Emphasised that the duty on councillors to act fairly and to be seen to be acting fairly when taking quasi-judicial and regulatory decisions is a fundamental requirement of the Councillors' Code of Conduct.
- 4 The Panel noted that a breach of these provisions had the potential to erode public confidence and trust in how such decisions were being made and in local government itself. The Panel was concerned that the Respondent had failed to ensure that she complied with the Code in this regard and agreed that the sanction should reflect this.
- 5 The Panel was nevertheless of the view that the Respondent's conduct did not warrant a longer suspension. This was because the incident had been a one-off and there was no suggestion or evidence that there had been any deliberate intent to breach the Code. The Panel also accepted that the Respondent had not acted dishonestly or made any attempt to conceal her visit to the objectors' property.



Case **LA/Mi/2166 & 2169** Midlothian Council  
Date of Hearing **9 May 2019**

**Sanction**

**Respondent 2**

The Panel suspended the Respondent from the Planning Committee for one month. In reaching its decision, the Panel:

- 1** Noted that the Respondent had co-operated fully with the investigative and Hearing processes. The Panel further noted the Respondent's commitment to working hard for his constituents and the wider community.
- 2** The Panel heard that the Respondent deeply regretted the impact his conduct may have had on the applicants and that he intended to apologise to them. The Panel was pleased to note that the Respondent also intended to work to regain any trust he may have lost as a result of his actions.

However, the Panel:

- 3** Emphasised that the duty on councillors to act fairly and to be seen to be acting fairly when taking quasi-judicial and regulatory decisions is a fundamental requirement of the Councillors' Code of Conduct. The Panel noted that a breach of these provisions had the potential to erode public confidence and trust in how such decisions were being made and in local government itself. The Panel was concerned that the Respondent had failed to ensure that he complied with the Code in this regard and agreed that the sanction should reflect this.
- 4** The Panel was nevertheless of the view that the Respondent's conduct did not warrant a longer suspension. This was because it accepted the incident had been a one-off and there was no suggestion or evidence that there had been any deliberate intent to breach the Code. The Panel also accepted that the Respondent had not acted dishonestly or made any attempt to conceal his visit to the objectors' property.

## Case LA/D/2158 Dundee City Council

### Date of Hearing 15 May 2019

#### Complaint

The complaint alleged that the Respondent had been disrespectful and used inappropriate language on social media.

The Respondent identifies as non-binary so the pronouns they/them have been used when any reference to them is made.

#### Decision

- 1 The Hearing Panel noted that it was not in dispute that the Respondent had posted tweets concerning an email exchange between the complainer and a council officer. The Panel heard that the Respondent referred to the complainer as being a 'TERF' (being an acronym for Trans Exclusionary Radical Feminist) in three tweets.
- 2 The Panel considered 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 a descriptor. The Panel was of the view, however, that it was evident from the Respondent's public description, over an extended period of time, of 'TERFS' as being 'scum' and 'hateful and vile', that the Respondent intended it to be an expression of abuse. The Panel further considered that the Respondent's use of it in the context of their reply to the effect that it was deserved, when the complainer had indicated that the use of the term was abusive, demonstrated that the Respondent was aware that the term could reasonably be taken to be offensive. The Panel was further satisfied that the Respondent had directed the term at the complainer as an individual and that it was about her as a person, rather than simply being a descriptor of her alleged views.
- 3 The Panel considered that the reference to the complainer as a 'TERF', in the circumstances, amounted to a personal attack on her. The Panel was therefore satisfied that the Respondent failed to observe the rules of good conduct by behaving in a respectful manner towards the complainer.
- 4 The Panel further found that the Respondent had used the 'c' word in a tweet. The Panel considered that the use of the word in a public forum, such as a tweet, was highly offensive and inappropriate, regardless of whether it had been directed at any individual or identifiable group of individuals.
- 5 The Panel found, therefore, that the Respondent's behaviour amounted to a contravention of paragraphs 3.1 and 3.2 of the Councillors' Code of Conduct.

#### Sanction

The Panel suspended the Respondent for a period of two months. In reaching its decision, the Panel:

- 1 Noted that the Respondent had co-operated fully with the investigative and Hearing processes and that they had recognised that their use of the 'c' word in a public tweet was inappropriate and they had resigned from their position as the Council's Equalities Opportunities Spokesperson as a result.
- 2 Recognised that the Respondent's actions had been taken in the wider context of them being the subject of a great deal of unwarranted anti-trans abuse. The Panel further recognised that the Respondent's personal circumstances may also have had an impact on their judgement. The Panel also noted that the Respondent had asked the complainer to desist from using the incorrect pronoun for them and that the Respondent may have been frustrated by her failure to do so.

Continues overleaf



Case **LA/D/2158** Dundee City Council  
Date of Hearing **15 May 2019**

**Sanction**

However, the Panel:

- 3 Noted that the requirement for councillors to behave in a respectful manner is an important part of the Code as it prevents a Council and role of a councillor from being brought into disrepute, and ensures public confidence in both are not adversely affected. In this case, the Panel considered that the Respondent had failed to behave in a respectful manner and had, instead, engaged in personal abuse and had posted a gratuitously offensive online comment. The Panel emphasised it was a councillor's personal responsibility to be aware of the provisions in the Code and to ensure that they complied with them. The Respondent had been negligent in this regard.
- 4 The Panel was concerned that the Respondent had singularly failed to provide an apology to the complainer. The Panel was further concerned that the Respondent had failed to demonstrate any insight into the impact their behaviour may have had on the complainer and her ability to raise issues with the Council, or on the public's view of councillors in general. The Panel also noted that the conduct related to a number of postings and was not, therefore, simply a one-off incident.

Case **LA/Fi/2176** Fife Council  
Date of Hearing **25 June 2019**

**Complaint**

The complaint alleged that the Respondent had failed to register a non-financial interest in a lobbying organisation and had also failed to declare the interest at a meeting of the Council's North East Planning Committee.

**Decision**

- 1 The Hearing Panel noted that the Respondent had been a spokesperson for Scotland Against Spin (SAS) before resigning from the organisation, some six months before she had been elected. The Panel further noted that the Respondent accepted that she had remained an administrator for SAS's Facebook page.
- 2 The Panel noted that the Respondent had further accepted that the 'Scotsman' newspaper had published a letter she submitted, in which she had designated herself as a councillor and indicated strong views about issues relating to wind farms.
- 3 The Panel noted that paragraphs 4.1 and 4.23 of the Councillors' Code of Conduct oblige elected members to register any significant non-financial interests, such as membership or holding office in an organisation or body, where members of the public might reasonably think the interest could influence their actions, speeches or votes in the Council. The register should cover all relevant interests that existed in the period commencing 12 months before the current term of office and any interests that exist during the term of office.



## Case LA/Fi/2176 Fife Council

### Date of Hearing 25 June 2019

#### Decision

- 4 The Panel was satisfied, on the balance of probabilities, that the Respondent was still actively involved with, and a member of, SAS within the 12-month period prior to her election as a councillor. The Panel concluded, therefore that the Respondent's failure to register the interest in SAS amounted to a contravention of paragraphs 4.1 and 4.23 of the Code.
- 5 The Panel further found that the Respondent had failed to declare her interest in SAS at the Council's North East Planning Committee meeting when an application for the renewal of planning consent for an individual wind turbine was being considered.
- 6 The Panel noted that while the Respondent may have believed that she was able to consider the application in question on its own merits, it determined that, having applied the objective test before consideration of the item commenced, she 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.
- 7 The Panel determined, therefore, that the Respondent's failure to declare the interest in SAS amounted to a contravention of paragraphs 5.3, 5.7 (ii) and 5.9 of the Code.

#### Sanction

The Panel suspended the Respondent for a period of two months. In reaching its decision the Panel:

- 1 Noted that the Respondent had co-operated fully with the investigative and Hearing processes and had offered an apology in respect of the failure to register the interest.
- 2 Further noted the Respondent's representative's submissions that the Respondent was a hard-working and committed local councillor and that her failure to comply with the Code was inadvertent.

However, the Panel:

- 3 Emphasised that the requirement for councillors to register and declare certain interests is a fundamental requirement of the Code. A failure to do so removes the opportunity for openness and transparency in a councillor's role and denies members of the public the opportunity to consider whether a councillor's interests may or may not influence their discussion and decision-making.
- 4 The Panel further emphasised it was a councillor's personal responsibility to be aware of the provisions in the Code and to ensure that he or she complied with them. The Respondent had been negligent in this regard.



## Case LA/Mi/2166 & 2169 Midlothian Council

### Date of Hearing 10 July 2019

**Complaint** The complaint alleged that the Respondent had failed to apply the objective test at a meeting of the Council's Planning Committee.

### Decision

- 1 The Hearing Panel accepted that the Respondent had purported to declare an interest, by virtue of knowing the objectors, at the Planning Committee meeting where an application from the local Tennis Club for the erection of screen netting was being considered. The Panel did not accept, however, that this statement amounted to a formal declaration under the Code as, if it had been such, the Respondent would be aware that he was required to leave the room and take no part in the discussion or decision-making on the matter, or to explain why the interest was not sufficiently clear and substantial.
- 2 The Panel found that, in this instance, the Respondent had not withdrawn from the room and, instead, had taken part in the discussion and decision-making on the application. The Panel noted that the Respondent's contribution had been to question how the impact of the netting had been assessed.
- 3 The Panel noted that the Respondent had a relationship with the tennis club in that he had, in the past, been a member of the tennis club and had sat on its Committee; had undertaken work for the club in terms of renewing the fencing; had lent equipment to the club; still had friends who were members of it; and had been to the objectors' property to move material at the request of the club. The Panel further noted that the Respondent had previously put up and taken down the netting between the tennis club and the objectors' property, and had also become familiar with the objectors while undertaking the work to move material and through their joint membership of community groups.
- 4 The Panel, having taken the Respondent's relationship with the tennis club and the objectors into account, considered that a member of the public, with knowledge of these relevant facts could reasonably have concluded that he had an interest in the matter before the Planning Committee that was sufficiently significant as to be likely to influence his discussion or decision-making. The Panel considered that the Respondent's admission that he had been trying to find a solution that would be acceptable to both sides, was evidence that he may have been so influenced.
- 5 The Panel was not satisfied, therefore, that the Respondent had complied with the objective test under paragraph 5.3 of the Code and that he had given it sufficient consideration. As such, the Panel concluded that the Respondent had breached paragraph 5.3 of the Code.

### Sanction

The Panel censured the Respondent. In reaching its decision the Panel:

- 1 Noted that the Respondent had cooperated fully with the investigative and Hearing processes.
- 2 Further noted the letters of support lodged on behalf of the Respondent and accepted that they testified to him being a hardworking and diligent local councillor.

However, the Panel:

- 3 Considered that the requirement to apply the objective test is an integral part of the Councillors' Code as it ensures transparency in decision-making. This is because it ensures that councillors do not just consider whether their interests could affect their discussions and decision-making, but also requires them to think about how a member of the public, with knowledge of the relevant facts, could reasonably perceive any such interest.
- 4 Emphasised that it was a councillor's personal responsibility to be aware of the provisions in the Code, to ensure that he or she complied with them and, noted that, in this respect, the Respondent had been negligent.

## Case LA/SB/2219 Scottish Borders Council

### Date of Hearing 6 November 2019

#### Complaint

The complaint alleged that the Respondent behaved in a disruptive and disrespectful manner at a meeting of Eyemouth Community Council.

#### Decision

- 1 Having heard evidence from five witnesses, including the Respondent, and having noted the two further witness statements, the Hearing Panel considered that the meeting of the community council had become quite heated when matters relating to a Berwickshire Housing Association development were discussed.
- 2 The Panel noted that members of the community council had repeatedly directed a number of questions towards the Respondent, who was a board member of the Housing Association, and, in particular, had raised issues regarding repairs to properties within the development. When members of the community council had made it clear they did not accept the Respondent's response, the meeting had become even more hostile with those present talking over each other.
- 3 The Panel found that the Respondent had banged on the table with his fist at least two or three times during the discussion, and had made a comment to the effect that at least one of the members present was 'moaning'.
- 4 While the Panel was of the view that banging on a table was poor behaviour, it did not consider, in the particular context of the meeting and in light of the evidence that those present were talking over each and demanding answers, that it was an action that amounted to a breach of the respect provision in the Code.
- 5 The Panel was satisfied that while the Respondent may have directed his comment about moaning towards one of the members, it was not satisfied that there was sufficient evidence to conclude that the remark was a personal attack on her (as opposed to his opinion of her conduct at the meeting). While the Panel considered the comment was unhelpful, it did not consider the making of the comment in the context of the heated discussion amounted to a breach of the Code.
- 6 The Panel was not satisfied, therefore, that the Respondent had breached paragraphs 3.1 and 3.2 of the Councillors' Code of Conduct.

#### Sanction

Not applicable.



## Case LA/WL/2213 West Lothian Council

### Date of Hearing 20 November 2019

**Complaint** The complaint alleged that the Respondent had behaved in a disrespectful manner towards a member of the public by sharing, and commenting on, an antisemitic article from a third-party blog.

### Decision

- 1 The Hearing Panel noted that it was not in dispute that the Respondent had shared an article that was critical of an individual as a member of the GMB Union and, in particular, as the organiser of a two-day equal pay strike in Glasgow. The article included a photograph of the individual and contained references to 'Mein Kampf' and to Adolf Hitler having accused "The Jew" of gradually assuming leadership of the trade union movement. The Panel noted that this was followed by a paragraph that specifically referred to the individual and speculated as to whether she was aware of Hitler's views.
- 2 The Panel was satisfied that the article perpetuated negative stereotypes and was in no doubt that it was antisemitic in nature, in line with the International Holocaust Memorial Alliance's published definitions. The Panel noted that the article's author was suspended by the SNP after writing it and was subsequently expelled from the party.
- 3 The Panel noted that the Respondent's position was that while he knew the individual referred to in the article was a Labour party activist, an organiser for the GMB and had been a candidate in a previous election, he had not been aware that she was Jewish. The Respondent advised that while he had not read the article properly at the time, he now accepted it could be perceived as antisemitic. The Panel noted, however, that the Respondent had initially defended the article by his comments published in the 'The National' on 30 October 2018, where he was quoted as stating that he did not accept it was antisemitic. The Panel accepted that the Respondent had subsequently sent the individual an email, on the same day, in which he had apologised for sharing it.
- 4 The Panel found that the Respondent's behaviour amounted to a contravention of paragraphs 3.1 and 3.2 of the Councillors' Code of Conduct.

### Sanction

The Panel suspended the Respondent for a period of three months. In reaching its decision the Panel:

- 1 Noted that the Respondent had co-operated fully with the investigative and Hearing processes.
- 2 Accepted the Respondent had not written the article in question himself and confirmed that the sanction would have been much more severe had he done so.
- 3 Noted the Respondent's position was that he had not fully understood the nature of the content or appreciated that the individual mentioned in the article was Jewish before sharing and encouraging others to read it.

However, the Panel:

- 4 Found that the Respondent failed to conduct himself in a respectful manner and, instead, had shared and subsequently defended an article that was, in the Panel's view, clearly antisemitic, offensive and would have caused the individual in question a great deal of distress.
- 5 Emphasised it was a councillor's personal responsibility to be aware of the provisions in the Code and to ensure that he or she complied with them. It noted that the Respondent had been negligent in this regard.

## Case LA/CES/2214 Comhairle nan Eilean Siar Date of Hearing 18 March 2020

### Complaint

The complaint alleged that the Respondent failed to declare an interest at a full Council meeting in October 2017 when a report from the Council's Sustainable Development Committee, recommending that the Council authorised its Chief Executive to conclude the financial arrangements to implement the sale or lease amendments for a property, in which relatives of the Respondent had an interest, was considered. While the Respondent was a member of the Committee, he had not been present at the meeting when the recommendation was made. The Respondent had declared an interest and left the room while an item concerning the property was considered by the Council's Policy and Resources Committee in October 2018. The ESC reported that the Respondent had also then declared an interest (for the same reason) at a full Council meeting the same day, when the Policy and Resources Committee's recommendation that a decision on matters concerning the tenancy be deferred, was considered and approved. The ESC advised, however, that the Respondent had not withdrawn from the room.

The complaint further alleged that the Respondent had failed to register a shareholding in a company, albeit he had registered that he was a director of it.

### Decision

The Standards Commission decided, on 20 January 2020, to hold a Hearing. The Hearing was scheduled to take place on 18 March 2020 at the Council Headquarters in Stornoway. The Hearing Panel determined on 17 March 2020, however, that it was unable to proceed with the Hearing due to the restrictions on travelling and meeting with others arising from the Coronavirus outbreak.

The Standards Commission noted that there was public interest in the matter and, in particular, in the determination of the question of whether a councillor should have to declare an interest and leave the room, at full Council, when the Council was only being asked to approve a report from a Committee without debate, but which included a matter on which the councillor had declared an interest.

The Standards Commission therefore would normally reschedule any Hearing that it had not been able to convene (for example, if a Panel Member or party had been unable to attend due to ill health).

The Standards Commission recognised, however, that rescheduling the Hearing in the current circumstances would give rise to issues of fairness and proportionality. This was because it was unlikely that one could be convened before July 2020, at the earliest, due to the current guidance against travel and public gatherings associated with the ongoing Coronavirus epidemic and the requirement for the Standards Commission to give the parties proper and sufficient notice of any Hearing date. Furthermore, the Standards Commission was concerned that the ongoing issues arising from the Coronavirus outbreak could easily result in further delays, particularly given the uncertainty of the situation and the real risk that any convened Hearing may have to be cancelled again.



Case **LA/CES/2214** Comhairle nan Eilean Siar  
Date of Hearing **18 March 2020**

**Decision**

The Standards Commission noted that the complaint had been made to the ESC in October 2018 and the Respondent had been informed that the investigation had been completed in early Autumn 2019. The Standards Commission noted, however, that the ESC's final report had not been issued and sent to the Standards Commission until 16 January 2020, meaning that the matter had been outstanding against the Respondent for some 17 months. The Standards Commission noted the submissions from the Respondent and the Chief Executive concerning the stress this had caused the Respondent. The Standards Commission noted that the alleged breaches of the Code were of a technical nature (as to when and to what extent an interest had to be declared). There was no suggestion in the ESC report that the Respondent had been attempting to conceal the interest nor any suggestion of any adverse consequences as a result.

The Standards Commission also noted the information from the Local Authority to the effect that the Respondent's actions in relation to declaring interests at full Council were in keeping with the Council's Standing Orders.

In the circumstances, the Standards Commission considered that it was no longer fair, proportionate and in the public interest to proceed with a Hearing. The Standards Commission determined, therefore, to take no further action on the referral.

**Sanction**

Not applicable.



## INTERIM SUSPENSIONS

Section 21 of the Ethical Standards Act provides the Standards Commission with the power to impose an interim suspension on a councillor or member of a devolved public body on receipt of an interim report from the ESC about an ongoing investigation. The full written decisions in respect of any interim suspensions in place are published online at:

**[www.standardscommissionscotland.org.uk/cases/details-of-alleged-breach](http://www.standardscommissionscotland.org.uk/cases/details-of-alleged-breach)**

The decision to impose an interim suspension is not, and should not be seen as, a finding on the merits of any complaint or the validity of any allegations against a councillor or member of a devolved public body, nor should it be viewed as a disciplinary measure.

Any period of interim suspension imposed will automatically end in any of the following circumstances:

- if the ESC decides, following investigation, that there has not been a breach of the Code;
- if the Standards Commission receives an investigation report but decides not to hold a Hearing; or
- if the Standards Commission receives an investigation report, holds a Hearing and imposes a sanction.



Organisation	<b>Perth and Kinross Council</b>
Date	<b>8 October 2019 to 7 January 2020</b> <b>Renewed for a further 3 months on 6 January 2020</b> <b>Discontinued 12 March 2020</b>
Background	The ESC reported that she was investigating a number of complaints concerning allegations of bullying and intimidating behaviour on the part of a Perth & Kinross councillor towards a number of individuals, including Council officers, over a period of time.
Decision	<p>The Panel was satisfied, initially, that there was a <i>prima facie</i> case that there may have been a pattern of bullying and intimidating behaviour by the councillor towards a number of individuals over a period of months.</p> <p>The Panel considered that, given the seriousness and extent of the allegations against the councillor and the variety of individuals affected by his alleged conduct, there was a significant risk of harm to others and a risk of disruption to the normal operations of both the Council and to Perth and Kinross Health and Social Care Partnership. The Panel considered that the potential consequences to other individuals and to both the organisations, outweighed the risk of reputational damage to the councillor, or any known predictable impact to his well-being.</p> <p>The Panel concluded that it was satisfied that it was both proportionate and in public interest for it to impose an interim suspension.</p> <p>The Panel discontinued the interim suspension on 12 March 2020 following receipt of reports from the ESC in which she stated that, following the conclusion of her investigation into some of the complaints, she had not found a contravention of the Code. The cumulative effect of the ESC's decisions meant that the Panel was no longer satisfied that there remained a <i>prima facie</i> case that there may have been a pattern of bullying and intimidating behaviour on the part of the councillor towards a number of individuals over a period of months. The Panel noted that it could no longer be satisfied that the potential consequences to other individuals and to the organisations in question outweighed the risk of reputational, financial or other damage to the councillor's well-being as a result of the continuation of the interim suspension.</p> <p>The Panel concluded that it was not satisfied that there were sufficient reasons to keep the interim suspension in place and determined, therefore, that it should be discontinued.</p>

Organisation **Perth and Kinross Council**

Date **7 October 2019**

**Background** The ESC reported that she was investigating a number of complaints concerning allegations of bullying and intimidating behaviour on the part of a second Perth & Kinross councillor towards a number of individuals, including Council officers, over a period of time.

**Decision** The Panel noted that the main crux of the complaints about the second councillor concerned one key event, being a meeting of the Perth and Kinross Health and Social Care Partnership. The Panel further noted that there was some conflicting information about the extent of the alleged behaviour and that some of the concerns raised lacked specificity. Given the limited extent of the complaints, and given that the ESC had been unable to conclude with any certainty that the complaints were so serious that, if established, they would result in suspension or disqualification, the Panel was not satisfied that it would be proportionate for it to impose an interim suspension.

The Panel recognised that there was a risk of harm to all parties, and that there could be some disruption to the normal operation of the Council and the Health and Social Care Partnership as a result of the ongoing breakdown in some relationships. The Panel was not satisfied, however, that the alleged behaviour was so serious that any potential harm and disruption could not be managed.

The Panel concluded, therefore, that it was not satisfied that the potential consequences of not imposing an interim suspension were so serious that the public interest required one to be imposed.

Organisation **Aberdeen City Council**

Date **4 March 2020**

**Background** A report received from the ESC related to a councillor being convicted for a sexual assault that took place while he was attending an event in his capacity as a councillor.

**Decision** The Panel noted that it appeared that the conduct complained of had taken place while the councillor attended an event in his capacity as a councillor and that it had resulted in him being convicted for a sexual assault and placed on the sex offenders register (being a further ground of complaint).

The Panel was satisfied that there was *prima facie* evidence of a serious contravention of the Councillors' Code, which, if upheld, was likely to attract a more severe sanction than a censure.

The Panel considered that public confidence in the ethical standards framework would be adversely affected if the councillor was allowed to continue to act while complaints of such a serious nature, involving criminal conduct, were outstanding against him. The Panel further considered that the Council's reputation could be adversely affected if an interim suspension was not imposed. The Panel noted that there could also be a risk to others if the conduct that was the subject of the conviction was repeated.

The Panel concluded, therefore, that it was satisfied that it was both proportionate and in public interest for it to impose an interim suspension. An interim suspension of three months was imposed.

Organisation	<b>City of Edinburgh Council</b>
Date	<b>5 March 2020</b>
Background	A report received from the ESC concerned the alleged conduct of a councillor towards a number of individuals over a period of time.
Decision	<p>The Panel noted that while the allegations had not yet been fully investigated and, as such, were unsubstantiated, there was <i>prima facie</i> evidence that some of them were of a serious nature. The Panel noted, however, that the Councillors' Code only applied to situations where councillors were acting as such, or could be perceived as acting as such. The Panel was not satisfied that the ESC had demonstrated that there was <i>prima facie</i> evidence of the Code's applicability in respect of the alleged conduct and, in particular, the more serious elements.</p> <p>The Panel noted that the matters that were the subject of the complaint had occurred some two years previously, and that there was no evidence or suggestion that further complaints or concerns had been made or raised since then. In addition, the Panel accepted that the imposition of an interim suspension could have a detrimental impact on the councillor's health and financial well-being and there was insufficient evidence of a risk of harm to others that could outweigh this.</p> <p>The Panel determined that, on balance, it was not satisfied that it was proportionate or in the public interest for an interim suspension to be imposed.</p>



# Governance & Financial Overview 2019/20



# Governance & Financial Overview

**This section provides an overview of the Standards Commission's governance arrangements in 2019/20 and also its financial performance.**

## External Audit

In 2019/20, Audit Scotland reported on its review of the Standards Commission's governance arrangements and audit of the Standards Commission's 2018/19 annual report and accounts. Audit Scotland's main findings were that the Standards Commission had appropriate and effective financial planning arrangements in place, which aligned with its strategic plan. It further found that the Standards Commission had sound budget monitoring arrangements and that the information in the annual governance statement 2018/19 was consistent with the financial statements and complied with the guidance issued by the Scottish Minister.

In 2018/19, Audit Scotland's review identified the two key audit risks, which required specific audit testing. The first was the consideration of the risk of management override of controls in order to change the position disclosed in the financial statements. The second was the risk of fraud over expenditure, which applied to the Standards Commission as the small number of staff employed meant that there was a low degree of segregation of duties. The Audit Report confirmed that the audit procedures did not uncover evidence of management override of controls or of fraud of expenditure.

The 2018/19 Audit Report will be incorporated in the Standards Commission's audited Annual Accounts, which require to be laid before the Scottish Parliament no later than 31 December 2020.

## Internal Audit

In 2019/20 the Standards Commission's internal auditor, the SPCB's Head of Internal Audit, reviewed the Standards Commission's payroll and pension processing service arrangements. The overall aim of the review was to provide assurance to the Executive Director (as the Accountable Officer) and the Standards Commission, via its Audit & Risk Committee, that the systems, processes and internal control arrangements were robust and operating effectively, thereby ensuring any associated risk was maintained at an acceptable level.

The Internal Auditor provided a report to the Standards Commission's Audit & Risk Committee confirming that, based on detailed testing, he was satisfied he could provide a substantial level of assurance that there were systems, controls and process in place to demonstrate the payroll and pension service arrangements were robust and operating effectively.

## Risk Management

The Standards Commission identifies and proactively manages risks that could impact on its ability to meet its strategic and business objectives. The Standards Commission's Risk Management Policy provides details of the organisation's approach to the management of risk and notes that the aim of the risk management framework is to:

- Provide the Standards Commission and others with assurance that threats are constrained and managed and that opportunities are appropriately exploited to the benefit of the organisation;
- Give confidence to those who scrutinise the Standards Commission about the robustness of its corporate governance arrangements; and
- Enable the Standards Commission to make informed decisions across its functions.

The Standards Commission agreed its Risk Register at the start of the operational year to ensure that risks to the implementation of the strategic and operational objectives were identified going forward. The Risk Register contained a score for each risk, which reflected the likelihood of it occurring and the impact should it occur, in light of the controls in place and actions taken.

The Standards Commission's Audit & Risk Committee reviewed the Risk Register, including the rating value for each risk and the risk tolerance level at each of its three meetings in 2019/20. A report of the review was thereafter provided for consideration by Members at the next available meeting of the Standards Commission.

During 2019/20, the Standards Commission identified the principle risks and uncertainties for the organisation as being:

- A failure on the part of the Standards Commission to take advantage of opportunities to promote awareness and understanding of the ethical standards framework in Scotland and to contribute to, or influence, any public debate in relation to standards of behaviour in public life; and
- A loss of confidence that the Codes of Conduct will be enforced in an efficient manner as a result of any delays.

Work the Standards Commission undertook to mitigate the first of these risks included issuing quarterly Standards Update briefings highlighting work being undertaken, learning points from any Hearings held and seeking responses on any ongoing consultations. It also included publishing standalone news items in respect of any high-profile or potentially controversial Hearings or appeal decisions, and actively and regularly promoting issues concerning the ethical standards framework on the website and via social media.

The Standards Commission recognised that some aspects of the second risk were outwith its control as investigations are undertaken by the Ethical Standards Commissioner (ESC), being a separate and independent officeholder. The Standards Commission nevertheless had a part to play in the overall time taken to dispose of the cases referred to it for adjudication where the ESC had concluded there may have been a breach of a Code of Conduct. The Standards Commission sought to deal with such cases within the timescales published in its Hearing Rules and Service Charter. The Standards Commission also sought to work with the ESC to reduce the overall time taken.

The Standards Commission further recognised that the size of the organisation meant that there remained an ongoing risk that the organisation would not be able to deliver its business effectively if Members or staff were unavailable for any reason (including as a result of having a conflict of interest), or if there was an influx of cases referred to it at any time and timely Hearing Panels could not be convened for all due to Members only working for the Standards Commission on a part-time basis. The Standards Commission determined, however, that its existing resources and staffing levels were commensurate to the size of its organisation and its workload, and agreed that it was satisfied with the controls in place and actions taken to mitigate the risk areas. It acknowledged that the size of the organisation meant that there would always be an ongoing risk of disruption to business due to unplanned absences and staff turnover. The Standards Commission further recognised that its own timescales may have to be adjusted if fluctuations in the number of cases being referred to the Standards Commission at any time meant that it was unable to convene Hearing Panels as quickly as normal. As such, and in light of the duty to manage expenditure and achieve best value, the Standards Commission determined that the overall risk scores for these risk areas were at a tolerable level. Controls in place and specific actions taken to mitigate these risks included:

- Checking availability before scheduling any Hearing to ensure a Panel could be convened;
- Liaising closely with the SPCB about the recruitment of new Members and ensuring an induction and training plan was in place to support them when they commenced in post;
- Monitoring planned absences to ensure staffing support could meet operational requirements; and

- Updating written procedures / instructions to ensure that if any temporary or replacement staff were required, they would be able to understand what was expected of them.

The number of complaints made and the consequent number of cases referred to the Standards Commission by the ESC is outwith the control of the Standards Commission; however the volume of referrals by the ESC impacts on the resources required to enable the Standards Commission to undertake its statutory functions. While the Standards Commission puts in place controls and identifies actions to mitigate the risks associated with this, it acknowledges that this will always have the potential to impact on its operational effectiveness and its ability to predict the operating budget.

In terms of its own governance arrangements, the Standards Commission also identified a failure to take adequate steps to ensure compliance with the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 and cybersecurity best practice requirements under the Scottish Government's Public Sector Resilience Framework as a risk. The Standards Commission identified changes to be made to the format and content of its website and undertook work to ensure it was fully compliant with the Accessibility Regulations. It also met its cybersecurity reporting requirements by ensuring that evidence of best practice compliance was sent to the Scottish Government within the timescales for doing so.

The Audit & Risk Committee was, therefore, able to assure the Standards Commission that all risks had been effectively managed.

## Financial Performance

The financial information provided is a summary extracted from the Standards Commission for Scotland's Annual Accounts 2019/20. For further information about the Standards Commission's financial position, a full copy of the Annual Accounts 2019/20 can be found on its website at <http://www.standardscommissionscotland.org.uk/corporate-info>.

The Standards Commission's net expenditure on operating activities for the year ending 31 March 2020 amounted to £248,000 (2018/19, £259,000). The expenditure was divided between staff costs of £229,000 (2018/19, £206,000) and other administrative costs of £30,000 (2018/19, £53,000). The sum of £10,871 was recovered by the Standards Commission in respect of expenses incurred in relation to an unsuccessful appeal against a decision of a Hearing Panel made in 2018.

Staff costs include all remuneration paid to both staff and Members. Movement up the incremental paycales and increased employer pension contributions meant staff costs increased by £23,000 (compared to 2018/19).

Additional funding of £6,000 was provided by the Scottish Government in respect of the unanticipated further costs arising from an increase to the employer pension contribution rate. However, the Standards Commission advised the SPCB that it could meet the additional costs from the agreed budget and, as such, this sum was not required.

In addition, £10,871 was recovered in respect of expenses from an unsuccessful appeal against a Hearing Panel's decision on case LA/Fi/2050 (made in 2018/19). This funding was also not required and, as such, was retained by the SPCB.

The underspend of £6,526 against the agreed budget of £267,000 was largely the result of the Standards Commission having based its budget submission on a projected total of ten Hearings being held in the year. However, no cases were referred to the Standards Commission between 26 February 2019 and 3 September 2019. This meant that only seven Hearings were actually held in 2019/20, with only three of these concerning reports referred to the Standards Commission after 1 April 2019 (i.e. the other Hearings concerned reports that had been referred before 31 March 2019). A further Hearing which was due to be held during March 2020 was cancelled due to the impact of the Covid-19 virus outbreak. While some sums spent on travel could not be recovered, other costs associated with it were not incurred as a result of the decision not to proceed with the Hearing.

Statement of Comprehensive Net Expenditure	2019/20 £'000	2018/19 £'000
<b>Administration Costs</b>		
Staff costs	229	206
Other Administration costs	30	53
<b>Gross Administration costs</b>	<b>259</b>	<b>259</b>
<b>Operating Income</b>	(11)	0
<b>Net Operating Costs</b>	<b>248</b>	<b>259</b>

All amounts relate to continuing activities. There have been no gains or losses other than those recognised in the Statement of Comprehensive Net Expenditure.

	2019/20 £'000	2018/19 £'000
<b>Other Administration Costs</b>		
Fees for legal advice and representation	0	23
Audit Fee	3	3
Hearing costs accommodation	1	1
Information technology costs	2	1
Printing and promotion costs	8	12
General administration costs	4	3
Members' travel and expenses	6	8
Staff travel and expenses, and staff and members' training costs'	6	2
	<b>30</b>	<b>53</b>





**The ethical standards framework helps enable the public to have trust and confidence in elected politicians and those appointed to the boards of public bodies, as it ensures that the highest standards of conduct are required and promoted, and that action is taken when there is any failure to adhere to these.**





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