



**STANDARDS
COMMISSION
FOR
SCOTLAND**

INTEGRITY IN PUBLIC LIFE



The Standards Commission for Scotland

ANNUAL REPORT 2022/23



CONTENTS

SECTION 1: INTRODUCTION	2
Overview	2
Annual Report 2022/23	2
Key Achievements	3
Looking Forward	4
SECTION 2: ABOUT US	5
Key Principles.....	6
SECTION 3: IMPACT	7
Promotional and Educational Work.....	7
Use of Statutory Powers of Oversight.....	8
SECTION 4: IMPROVEMENT	10
Feedback from Stakeholders.....	10
Key Performance Indicators	12
Training	12
Internal Reviews	12
SECTION 5: STAKEHOLDERS	13
Workshops and Meetings.....	13
Other Engagement	14
SECTION 6: CLARITY	15
Case Related Procedures.....	15
Publishing Decisions	18
Decisions made by the Standards Commission in 2022/23.....	19
Timescales	22
SECTION 7: GOVERNANCE & FINANCIAL OVERVIEW 2022/23	24
External Audit.....	24
Internal Audit.....	24
Risk Management	24
Key Performance Indicators	25
Financial Performance.....	25
APPENDIX A: SUMMARY OF CASES	27
Hearings	27
No Action Cases	42
Section 24 Referrals	73
Interim Suspensions	74
APPENDIX B: PERFORMANCE AGAINST KEY PERFORMANCE INDICATORS 2022/23	75

SECTION 1: INTRODUCTION

Overview

The Standards Commission's vision is for Scotland to have confidence that its councillors and members of devolved public bodies uphold the highest standards in their behaviour, conduct and decision-making.

The Standards Commission continued to make progress throughout the year towards achieving this vision and the aims outlined in its Strategic Plan for 2020-2024, by working hard to promote the key principles of public life and ensure adherence to the Codes of Conduct in place for all councillors and members of devolved public bodies in Scotland. The Standards Commission sought to increase awareness and understanding of the Codes to help prevent the occurrence of inadvertent breaches. The Standards Commission strived to ensure that it undertook its adjudicatory role, in respect of alleged breaches of the Codes, in a fair, proportionate and timely manner.

The Standards Commission welcomed a new member, Anne-Marie O'Hara, in March 2023. Anne-Marie brought valuable knowledge and experience to the role, having worked in various property, charity and grant-giving roles. She was Head of the Capital Team at The BIG Lottery Fund and led the Property Planning, Projects and European Funding Team at the National Trust for Scotland. Anne-Marie retired recently from her post as Chief Executive of an Edinburgh-based charity and social enterprise, providing affordable space for the third sector. Anne-Marie is on the Board of The Ethical Property Company and chairs its Governance & Human Resources Committee. She is also a non-executive Director of Eala Impacts CIC and Chair of the charity Co-Housing for Independent Living.

I would like to take this opportunity to thank the Standards Commission's outgoing Members, Mike McCormick and Tricia Stewart for their commitment, hard work and support and to wish them the best for the future.

I look forward to continuing to work effectively with fellow Standards Commission Members, staff and stakeholders to promote the Codes of Conduct and key principles, in order to increase public confidence in those in public life and the organisations they represent.



Annual Report 2022/23

I am pleased to present the Annual Report of the Standards Commission for Scotland ('the Standards Commission'), which covers the period from 1 April 2022 to 31 March 2023.

The Standards Commission's Strategic Plan for 2020/24 identifies the following four key objectives, which are to:

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

The full Strategic Plan for 2020-24 can be found at:

www.standardscommissionscotland.org.uk/corporate-info/strategic-and-business-plans

This report summarises the progress the Standards Commission has made towards delivering and achieving the stated aims in the third year of the Plan.

Key Achievements

Key achievements in the year included supporting councillors and members of devolved public bodies to meet the standards expected of them by continuing to promote awareness and understanding of the revised Codes of Conduct issued by Scottish Ministers in December 2021. The Standards Commission did so by promoting the revised Codes, and the associated Guidance and Advice Notes, through news articles and blogs on its website, social media posts and in its engagement with stakeholders.

The Standards Commission supported councillors and members in respect of meeting the standards expected of them by holding training events on the Codes of Conduct. Training workshops were held for elected members of two councils and for boards members of nine public bodies.

The Standards Commission produced, published and disseminated new Advice Notes on conduct during online meetings for councillors and members of devolved public bodies. It also produced a Card for Councillors Attending Community Councils, which aims to help councillors manage expectations by explaining what they can and cannot do, under the Councillors' Code, when attending community council meetings.

In order to aid understanding of certain key aspects of the Codes of Conduct, the Standards Commission published interactive training modules on a new E-Learning Modules page on its website. Some new animated videos for the public on key aspects of the ethical standards framework were also produced and published on the website.

In April 2022, the Standards Commission issued surveys to all Standards Officers and members of devolved public bodies, respectively, asking about their experiences with the ethical standards framework and, in particular, members' compliance with, and awareness of, the provisions in the Model Code of Conduct. The Standards Commission produced and published documents containing analysis and summaries of the responses received to each survey, along with an outline of the actions that the Standards Commission intended to take in light of the comments and suggestions made. The Standards Commission also produced a summary of the responses it received to the two surveys issued to councillors and local government Monitoring Officers in 2021/22.

The Standards Commission undertook a comprehensive review of its Hearing Rules in 2022/23. Following the review, the Rules were simplified to make them as clear and succinct as possible. In addition, a new page was created on the website for Respondents, which contains information and advice about how Hearings are managed and how to present a case.

The Standards Commission continued, throughout the year, to engage with its stakeholders, to share best practice and to discuss and resolve any issues affecting the ethical standards framework. In 2022/23, the Standards Commission produced and published, on its website, a list of key performance indicators across a range of its activities. These include timescales for making and publishing decisions on complaints referred by the ESC, on dealing with enquiries and correspondence, and on sharing information. Standards Commission Members formally review performance against these indicators on a quarterly basis, with an update on progress being included in annual reports from this year.

Looking Forward

The Standards Commission's Business Plan for 2023/24 outlines the 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:

- ▶ Developing and publishing further interactive E-Learning material on specific aspects of the Codes of Conduct and ethical standards framework.
- ▶ Actively engaging and collaborating with stakeholders to identify any trends arising from complaints and Hearings, and on best practice; and continuing to develop, consult on, publish other training material, videos, and Advice Notes in light of any emerging issues or feedback.
- ▶ Undertaking a review of the social media platforms it uses, and the content posted, to ensure it is taking advantage, when appropriate, of all opportunities afforded to promote the ethical standards framework as well as the Standards Commission's role and remit.

A copy of the Business Plan for 2023/24 can be found at: <https://www.standardscommissionscotland.org.uk/corporate-info/strategic-and-business-plans>

Another new Standards Commission Member, Helen Donaldson, has been appointed by the Scottish Parliamentary Corporate Body, with effect from 1 April 2023. Helen enjoyed a long career in education, working locally and nationally, initially as an English teacher in Stirling and in Angus. Thereafter she moved to more strategic roles firstly as a literacy development officer before taking on leadership responsibilities in Aberdeenshire as a Quality Improvement Officer, then Acting Head of Early Years. Helen continued in local authority work as Head of Education and Inclusion in Aberdeen City with wide ranging responsibilities, working closely with local councillors, outside agencies and officers from across the Council. Other roles have included working on the National Improvement Framework with Education Scotland and the Scottish Government's Learning Directory. I am sure that Helen will make a valuable contribution to the Standards Commission and my colleagues and I look forward to working with her in the new year.



Paul Walker, Convener

SECTION 2: ABOUT US

The role of the Standards Commission is to:

- ▶ encourage high ethical standards in public life including the promotion and enforcement of the Codes of Conduct;
- ▶ to issue guidance to councils and devolved public bodies; and
- ▶ adjudicate on alleged breaches of the Codes of Conduct, and where a breach is found, to apply a sanction.

The Standards Commission's vision is as follows:

For Scotland to have confidence that its councillors and members of devolved public bodies uphold the highest standards in their behaviour, conduct and decision-making.

In pursuing its vision, the Standards Commission will demonstrate the following values:



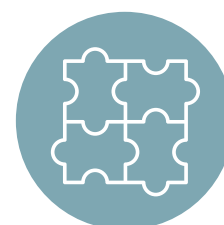
FAIR

we are objective, transparent, consistent and proportionate



APPROACHABLE

we are collaborative, considerate, respectful and helpful



PROACTIVE

we will initiate, promote, deliver and learn

SECTION 2: KEY PRINCIPLES

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.



1 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.



2 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.



3 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.



4 OBJECTIVITY

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



5 ACCOUNTABILITY AND 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 public body uses its resources prudently and in accordance with the law.



6 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.



7 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.



8 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.



9 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.

SECTION 3: IMPACT

The Standards Commission’s Strategic Plan for 2020-24 states that it will have a positive impact on ethical standards in public life by:

- ▶ collaborating with others who seek to ensure integrity in public life;
- ▶ taking all opportunities to be a strong and consistent voice for the importance of the ethical standards framework and compliance with the Codes of Conduct; and
- ▶ obtaining and undertaking detailed analysis of qualitative and quantitative evidence on our work to promote the Codes of Conduct so that we evaluate our impact in a meaningful way.

In 2022/23, the Standards Commission had a positive impact on ethical standards in public life by producing, publishing and promoting educational material and by facilitating training events on the Codes of Conduct. Further information about how the Standards Commission measures its impact is outlined in Section 4 and Appendix B of this report.

Promotional and Educational Work

The Standards Commission continued its work, throughout the year, to increase awareness and understanding of the provisions in the revised Codes of Conduct for councillors and members of devolved public bodies that were issued by the Scottish Ministers in 2021/22.

The Standards Commission promoted the revised Codes and its associated Guidance and Advice Notes through news articles and blogs on its website, social media posts and in its engagement with stakeholders. The Standards Commission continued to disseminate and publish its quarterly ‘Standards Update’, which is a briefing note that contains information about work the Standards Commission is undertaking, events it is holding and general matters concerning the ethical standards framework, along with information about cases referred to the Standards Commission, including the outcome and any learning points from all Hearings that are held.

News articles and monthly blogs published by the Standards Commission on its website in 2022/23 covered a range of topics, such as avoiding the pitfalls of social media, leadership and culture, lobbying, effective relationships, duty, and quasi-judicial and regulatory decision-making.

The Standards Commission conducted a review of the enquiries it had received in writing, by telephone and via its website and social media sites throughout the year, with the resulting analysis being used to inform content in its educational and promotional material. The Standards Commission issued at least four social media posts a week and increased its followers on Twitter by a further 15%.

The Standards Commission supported councillors and members to meet the standards expected of them by holding training events on the Codes of Conduct. Online training workshops were held in May 2022 for elected members of Stirling Council and in June 2022 for elected members of Aberdeen City Council.

The Standards Commission also presented training events on the revised Model Code of Conduct for the boards of Children’s Hearings Scotland, City of Glasgow College, the Crofting Commission, Crown Estate Scotland, Highlands and Islands Enterprise, NHS Forth Valley, Public Health Scotland, the Scottish Environment Protection Agency and NHS Tayside. Positive feedback indicated that these training events were well received.

The Standards Commission produced, published and disseminated new Advice Notes for councillors and members of devolved public bodies on conduct at online meetings. These Advice Notes are intended to assist councillors and members in complying with the provisions of their respective Codes of Conduct when attending meetings or other events online (such as training seminars or conferences).

Having received feedback that its Advice Notes for councillors and members on Article 10 of the European Convention on Human Rights (the right to freedom of expression) were complicated and lengthy, the Standards Commission produced and published alternative versions that provide concise and accessible summaries of the key points. It also produced a Card for Councillors Attending Community Councils. The aim of the Card is to help elected members manage the expectations of community councillors by explaining what they can and cannot do, under the Councillors' Code, when attending community council meetings.

In order to aid understanding of certain key aspects of the Codes of Conduct, the Standards Commission intends to publish a series of interactive training modules. The first two of these modules were published in 2022/23 on a new E-Learning Modules page of the website and covered:

- ▶ when the Codes apply; and
- ▶ the three-stage test for identifying and declaring interests.

Information on how to access the E-Learning modules was included in the Standards Updates. Some new animated videos for the public on key aspects of the ethical standards framework were also produced and published on the website.

Other work undertaken by the Standards Commission to ensure its educational material was user-friendly and accessible included producing and publishing versions of its Guidance by Section of the Codes (with the relevant provisions from the Codes embedded). The Standards Commission also reviewed, updated and published its standard training presentations on the Codes. Video versions of these presentations were also filmed and uploaded to the website.

The Standards Commission signed up to the Scottish Community Development Centre Social Impact Pledge in 2022/23. The Standards Commission pledged that it would:

- ▶ challenge itself to increase the positive impact it made on its local community; and
- ▶ undertake two activities in the following twelve months that it did not currently undertake, in order to improve its social impact.

The first activity identified is for staff to work together to give back to the community by offering a day's work each to a local charity. The second activity is to offer a short work experience placement to a school pupil or student to allow them to gain office and work experience and also an understanding of the work of the Standards Commission and the ethical standards framework in Scotland.

Use of Statutory Powers of Oversight

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 Ethical Standards Commissioner (the ESC).

While the ESC's office is independent, the Standards Commission can issue statutory directions under the Ethical Standards in Public Life etc. (Scotland) Act 2000 to provide it with assurance that the ESC's office is acquitting its functions, in accordance with the governing legislation.

Directions were issued by the Standards Commission for the first time in 2020/21. These required the ESC to:

1. submit progress reports where an investigation was to take more than three months to conclude (the Progress of Investigations Direction);
2. send reports on all complaints that had been investigated to the Standards Commission for it to make a final decision, regardless of whether or not the ESC considers there has

been a breach of the Code (the Outcome of Investigations Direction). The Direction requires the ESC to advise the parties that the Standards Commission would determine the complaint; and

3. undertake an investigation into every complaint about a councillor and member of a devolved public body unless:
 - the Respondent had passed away or was an incapable adult within the meaning of the Adults with Incapacity (Scotland) Act 2000;
 - on the face of it, the complaint could not, if established to have occurred, constitute a contravention of the relevant Code (regardless of whether any protection could be afforded by Article 10); or
 - the complaint was made more than 12 months after the conduct being complained of occurred (or in the case of a course of conduct, the conduct ended) (the Eligibility Direction).

As the Directions were due to expire, the Standards Commission consulted with the ESC and other stakeholders, including the Scottish Parliament's Local Government, Housing & Planning and Standards and Procedures & Public Appointments Committees, SOLAR, SOLACE and COSLA before reviewing all three Directions in 2022/23.

The Standards Commission was satisfied that the Acting ESC, appointed on 20 April 2021, had complied fully with the Directions since commencing in post. The Standards Commission nevertheless decided to renew all three Directions for a further two years, for the following reasons:

1. The information received as a result of the Progress of Investigations Direction was helpful as it allows the Standards Commission to understand the timescales involved in dealing with complaints and provides assurance that the parties are being kept updated on progress.
2. The Outcome of Investigations Direction ensures there is a clear separation of investigative and adjudicatory functions between the ESC and the Standards Commission. This approach ensures any concerns about fairness of process or inconsistencies between the two organisations

as to how the Codes of Conduct should be interpreted are addressed. In addition:

- It allows any disputed evidence or representations on how the provisions of the Codes should be interpreted to be tested fully at a Hearing, if appropriate, where evidence is taken on oath or affirmation, and where the participants and Hearing Panel can question and respond to submissions made.
 - The Standards Commission publishes both its 'no action' and Hearing decisions, meaning that information is made publicly accessible on all complaints investigated. This allows those who are subject to the Codes, council or public body officers / employees and members of the public to understand how the Codes are being interpreted and what the threshold for a breach may be.
 - It ensures there is an independent review of all complaints where the ESC has recommended that no breach has occurred. This is considered important, given there is no right of appeal by a Complainer in respect of a 'no breach' decision by the ESC.
 - It makes the procedures for the adjudication of complaints about councillors and members of devolved public bodies more consistent with the approach taken in respect of complaints about MSPs.
3. The Eligibility Direction ensures that all complaints about councillors and members of devolved public bodies that could potentially amount to a breach of a Code, which are made timeously, are investigated. The Standards Commission considered the Eligibility Direction provides transparency and gives those who are subject to the Codes, and members of the public, confidence that there is consistency in approach in respect of how complaints are assessed.

SECTION 4: IMPROVEMENT

The Standards Commission’s Strategic Plan for 2020-24 states that it will pursue continuous improvement in the ethical standards framework and the way it does its work by:

- ▶ Helping to identify, resolve, or mitigate, any tensions in the ethical standards framework and governing legislation so that breaches of the Codes of Conduct are dealt with in the most effective and proportionate manner;
- ▶ Working with others to ensure there is consistency in terms of the standards expected of all individuals in public life; and
- ▶ Influencing 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.

As part of its drive to pursue continuous improvement in the ethical standards framework and the way it undertook its work in 2022/23, the Standards Commission sought and acted upon feedback from stakeholders and service users. This included updating educational material and amending how information about its adjudicatory work is presented.

Feedback from Stakeholders

In 2022/23, the Standards Commission continued to seek feedback from its stakeholders and service users on all aspects of its role and work, in order to inform future plans and to identify and make any improvements, as appropriate.

Training and Educational Material: Having evaluated feedback and information gathered at, or after, Hearings, training events, workshops and via enquiries, the Standards Commission made changes to how it presents information on cases in its template correspondence and quarterly Standards Updates, and on its website. This included creating a new page on the website for Respondents, which contains information and advice about how Hearings are managed and how to present a case; and amending the ‘Cases’ page to make it easier to find information about specific types of decision.

In April 2022, the Standards Commission issued surveys to all Standards Officers and members of devolved public bodies, respectively, asking about their experiences with the ethical standards framework and in particular Members’ compliance with, and awareness of, the provisions in the Model Code of Conduct. The Standards Commission advised Standards Officers and members that it intended to use the information gathered to:

- ▶ inform any future training events;
- ▶ identify the need for any further educational material or guidance; and
- ▶ see if improvements could be made in respect of the handling of enquiries and its Hearings and adjudicatory processes.

The Standards Commission produced and published documents that contained an analysis and summary of the responses received to each survey, along with an outline of the actions that the Standards Commission intended to take in light of the comments and suggestions made.

Actions undertaken throughout the remainder of the year, in view of the responses to the surveys, included incorporating more examples and scenarios from Hearings in the Standards Commission’s training presentations, to ensure they focused on the practical issues that arose and were as tailored, as possible, to the needs

of the stakeholder audiences. As noted in the previous section of this report, the Standards Commission also published a video presentation on the provisions in the Model Code to supplement any internal induction and training sessions being organised by devolved public bodies.

The Standards Commission publishes Guidance and Advice Notes that are intended to assist councillors and members in interpreting the provisions in the Codes. The Guidance and Advice Notes contain case illustrations (some of which are based on cases from Scotland, Northern Ireland and Wales, and some of which are hypothetical) to help councillors and members apply the Code to the situations they may find themselves in, along with examples of factors they may wish to consider when applying the requirements of the Codes.

As a result of feedback from the surveys, the Standards Commission included information in its existing Guidance on the Model Code and Advice Note for Members on Bullying and Harassment about the importance of diversity of thought and how this improves decision-making and governance, and enables public bodies to meet the needs of the communities they serve. It was also noted in the Guidance and Advice Notes on Bullying and Harassment that while it is the impact of any behaviour, rather than the intent, that is the key, any decision as to whether conduct could amount to a breach of the discourtesy, disrespect, bullying or harassment provisions in the Codes will involve an objective assessment.

In 2022/23, the Standards Commission also produced a summary of the responses it received to the two surveys it had issued to councillors and local government Monitoring Officers, respectively, in early 2022. Actions identified from the responses, and undertaken in 2022/23, included creating new advice notes and adding information and examples to existing ones. The Standards Commission also highlighted in its educational and promotional material that while anyone could make a formal complaint to the ESC, there was no requirement for any individual to do so. The Standards Commission noted that asking council officers to submit complaints about elected members can place them in a difficult position given they have a duty to support the whole council and must remain politically neutral.

In addition, the Standards Commission amended its Guidance on both Codes and its Advice Notes for councillors and members on Distinguishing between Operational and Strategic Matters, following discussions at its annual Standards Officers' workshop and at a meeting with the Monitoring Officers' liaison group.

Adjudication Policies and Processes: The Standards Commission also used feedback sought and obtained in 2022/23 to improve the way it handles cases referred by the ESC about complaints alleging breaches of the Codes by councillors and members of devolved public bodies. This included identifying learning points from a successful appeal to the Court of Session against one of its decisions in 2021/22, to improve its policies on how it makes decisions on case referrals and on what sanction to impose should a breach be found at a Hearing. The policies were amended to ensure they reflected accurately the way the Standards Commission applies the right to freedom of expression, under Article 10 of the European Convention on Human Rights, when considering complaints alleging disrespect, bullying and harassment.

Following a review of the appeal, the Standards Commission also produced and published a pre-election case referral document, which outlines how the Standards Commission will normally proceed when it receives a report from the ESC about a complaint about a councillor immediately before, and during, a local government pre-election period.

In 2022/23, the Standards Commission produced and published a policy outlining how it will normally proceed on receipt of a referral, under Section 24 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act), of a report from the ESC about an investigation into a complaint about an employee or ex officio member (being member of a body who is on the board of their public body as a result of their status or another position they hold).

The Standards Commission undertook a comprehensive review of its Hearing Rules in 2022/23. Following a consultation with the ESC, the Rules were simplified to make them as clear and succinct as possible. All content that was

considered to be guidance only was removed and published on the 'Information for Respondents' page on the website. As a result, the Rules now only outline the procedures to be followed, and directions about what steps or actions the parties and Panel are to take.

The Standards Commission continued to seek feedback from those participating in, and observing, Hearings held in 2022/23. The Standards Commission made some amendments to its written decisions of Hearings in light of feedback received and suggestions made, to make these as clear as possible, and to ensure that the extent, nature and reasons behind any sanctions imposed are easily understood.

The Standards Commission also continued to engage with organisations with similar roles and remits, including analogous organisations in Northern Ireland, Wales and Ireland, in order to learn from others and inform best practice. Following discussions with Standards in Public Office Commission in Ireland, the Standards Commission decided to amend its procedures to allow some of the written productions referred to at Hearings (such as any joint statement of facts) to be included as annexes to written decisions (where appropriate), to help provide clarity and ensure that the substantive parts of the decisions are as concise as possible.

Key Performance Indicators

In 2022/23, the Standards Commission produced and published, on its website, a list of key performance indicators across a range of its activities. These include timescales for making and publishing decisions on complaints referred by the ESC, on dealing with enquiries and correspondence, and on sharing information. Standards Commission Members formally review performance against these indicators, along with the Standards Commission's Service Standards on a quarterly basis, with reports on progress being included in its annual reports. A summary of performance in 2022/23 is provided in Appendix B.

Training

The Standards Commission is also committed to pursuing improvement in terms of the performance of its Members and staff. All Members and staff attended equality, diversity, inclusion and unconscious bias training in 2022/23. Members were also provided with refresher training on the revised Codes of Conduct and on the applicability of Article 10 of the ECHR.

Internal Reviews

The Standards Commission also committed to pursue continuous improvement by undertaking reviews of its work. In 2022/23, the Standards Commission undertook reviews of all decisions made under Section 16 of the 2000 Act on case referrals from the ESC, and all decisions made at Hearings during the year. In addition, the Standards Commission undertook a review of how cases are managed before and at Hearings. The reviews were conducted with a view to:

- ▶ ensuring fairness and consistency in decision-making;
- ▶ identify trends; and
- ▶ improving efficiency.

As a result of the reviews, the Standards Commission created a template response document and flowchart to assist its Members with their decision-making on case referrals. A process document that supports how the Standards Commission makes decisions on cases referred to it by the ESC and ensures transparency (by identifying the various scenarios that could arise and by outlining the steps that will be taken by the Standards Commission in its decision-making process), was then amended and published. The Standards Commission also made amendments to its case referrals policy. These amendments make it clear that advance notice of the potential issues the Panel will wish to explore at the Hearing will be provided to the parties in cases where the ESC has concluded that there may not have been a breach of the applicable Code, but where the Standards Commission has decided, nevertheless, that it is both proportionate and in the public interest to hold a Hearing.

SECTION 5: STAKEHOLDERS

The Standards Commission’s Strategic Plan for 2020-24 states that it will pursue and develop strong relationships with its stakeholders by:

- ▶ Identifying and seeking ways of working with all individuals and organisations who are potentially affected by the ethical standards framework;
- ▶ Improving our engagement with devolved public bodies to help them to increase awareness amongst their members of the provisions in the Codes of Conduct and how to complain about any failure to adhere to these;
- ▶ Working with chairs and conveners of devolved public bodies and local authority committees to try to prevent issues and breaches of the Codes from arising at meetings; and
- ▶ Actively seeking feedback on our educational material, policies and procedures and collaborating with other regulators and partner bodies across the UK to share experiences and inform best practice

In 2022/23, the Standards Commission pursued and developed strong relationships by hosting meetings and workshops, providing training, and engaging with its stakeholders at other events. In addition, the Standards Commission worked effectively with its stakeholders by engaging in discussions, and by providing input and responses, on matters concerning the ethical standards framework.

Workshops and Meetings

The Standards Commission held its annual workshop for council Monitoring Officers both online and in person, on 24 October 2022. Attendees identified issues and trends, and discussed whether there were any difficulties in understanding and interpreting the revised Councillors’ Code (which was effective from December 2021) and, in particular, the provisions concerning the receipt of hospitality and identifying declarable interests.

The Standards Commission held its annual workshop for Standards Officers on 21 March 2023. Matters discussed included whether there were any issues arising in terms of how members of devolved public bodies behave towards employees, service users, stakeholders and their colleagues; and in terms of them becoming inappropriately involved in operational matters. In addition,

attendees shared their experiences of providing induction and training on the Codes of Conduct that are based on the revised Model Code (which was also introduced in December 2021).

The Standards Commission’s Executive Director presented on the role of the Standards Commission and the revised Model Code at induction workshops for Ministerial appointees run by the Scottish Government in May and September 2022. The Executive Director also presented a joint session, with the ESC, on the Councillor’s Code and ongoing issues and work, at the SOLAR annual conference. In addition, the Executive Director gave evidence before the Scottish Parliament’s Local Government, Housing and Planning Committee on a variety of matters, which included how the Standards Commission measured its impact and whether problematic behaviour online can be a barrier in terms of whether individuals decide to stand for local election.

The Executive Director and Case Manager presented a session on the Councillors’ Code and how this could impact upon an elected member’s work and their relationships with local community councils at a Community Council Liaison Officers Working Group meeting. In addition, the Standards Commission held a meeting with local journalists to explain the remit of the organisation and its role in the ethical standards framework.

The Standards Commission continued, throughout the year, to engage with its stakeholders, to share best practice and to discuss and resolve any issues affecting the ethical standards framework. This included engaging and holding meetings with the Scottish Government, the Improvement Service, SOLAR, Audit Scotland, the College Development Network, the Standards in Public Life Commission (Ireland) and the Northern Ireland Public Services Ombudsman.

Other Engagement

The Standards Commission worked closely with the ESC to improve the process for the investigation and adjudication of complaints about councillors and members of devolved public bodies, in terms of efficiency, transparency and consistency in decision-making. Regular meetings were held with the ESC and his team to discuss potential suggestions in this regard, and also to identify and try to resolve issues arising in respect of the interpretation of the Codes. The Standards Commission engaged with the ESC on any proposed changes to policy documents and its Hearing Rules, and provided informal input and a formal response to the ESC's consultation on a publicly available investigations manual.

The Standards Commission supplied content to the Scottish Government on the Model Code of Conduct and ethical standards framework provided for inclusion in the latest version of its "On Board" Guidance for new board members of public bodies. The Standards Commission also provided a formal response to the Government's consultation on electoral reform and, specifically, on:

- ▶ whether anyone found guilty of an offence involving the harassment or intimidation of politicians, candidates or campaigners should be subject to an additional sanction of losing the right to stand for election as a councillor; and
- ▶ how a candidate's location is shown on the ballot paper.

Work undertaken to ensure the Standards Commission was accessible to stakeholders included producing and publishing an 'Easy read' guide explaining its role, and a glossary of the abbreviations and key terms it uses, with an explanation of what each means. The Standards Commission provided all staff with British Sign Language (BSL) awareness training and updated its BSL Plan, which outlines the actions the Standards Commission will take to improve access to information and services for BSL users.

SECTION 6: CLARITY

We will ensure that all stakeholders, including members of the public, have easy access to high quality information about the organisation, its work and any initiatives it is undertaking by:

- ▶ ensuring all case related decisions are clearly explained and well-reasoned; and
- ▶ using digital technology to ensure all educational material and information about good practice and Hearings are published and disseminated as widely as possible.

Work undertaken by the Standards Commission in 2022/23 to ensure that stakeholders and service users had access to clear, accurate and timely information about its work and, in particular, how it undertook its adjudicatory role is outlined in this section, along with information about the number of cases referred, the decisions made and the timescales involved in the decision-making.

The Standards Commission undertook an annual review of all decisions made in respect of case referrals and Hearings in order to ensure that these were well-reasoned, consistent and clear. Following the review, a template response document and flowchart was created, to assist with decision-making and ensure that all relevant and material factors considered were recorded in respect of case referrals. A process document that aims to provide transparency, by identifying the various scenarios that could arise in respect of case referrals and by outlining the steps that will be taken by the Standards Commission in its decision-making process in respect of each one, was also revised and published.

Case Related Procedures

Case Referrals

On receipt of the case report from the ESC, following the conclusion of an investigation into any complaint about a councillor or a member of a devolved public body (the Respondent), the Standards Commission has three options, under Section 16 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act). These are to:

- ▶ direct the ESC to carry out further investigations;

- ▶ hold a Hearing; or
- ▶ do neither (i.e. to 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. The Standards Commission will hold a Hearing to adjudicate on the case if it considers it is in the public interest and proportionate to do so.

The Standards Commission will direct the ESC to carry out further investigation if it considers:

- ▶ it is unclear from the report as to what the ESC's findings or conclusions are, including which sections of the Code the ESC considers may have been breached and why; or
- ▶ the Standards Commission considers there are material facts that have not been sufficiently explored or that insufficient attempts have been made to obtain and analyse evidence that may have a direct bearing on the question of whether there has been a breach; or
- ▶ the Standards Commission is not satisfied that all aspects of the complaint that could amount to a breach of the Code have been investigated and covered in the report.

The Standards Commission will 'do neither' (i.e. it will decide not to hold a Hearing or direct further investigation be undertaken), following receipt of a report from the ESC, if it concludes that further investigation is not required and that it may not be in the public interest or proportionate to hold a Hearing.

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 referral.

Section 24 of the 2000 Act provides that the Standards Commission, on receiving a report from the ESC about an investigation into a complaint about an employee or ex officio member of a devolved public body, shall send that report to the devolved public body. An ex officio member is one who is a member of a devolved public body by virtue of them holding an office in another organisation. The Standards Commission has published a policy outlining how it will normally proceed on receipt of such a report. Essentially, the Standards Commission will prepare and publish, on its website, an anonymised summary of the complaint and the ESC's findings, along with any advice for members of devolved public bodies as it deems appropriate. The Standards Commission will send copies of its summary to the Respondent, Complainer, and ESC and will advise them that the ESC's report has been sent to the Chief Executive of the devolved public body.

Copies of the case related policies, referred to in this section, can be found on the Standards Commission's website at:

www.standardscommissionscotland.org.uk/cases

Hearings

The Standards Commission holds Hearings to determine whether a councillor or member (known as the Respondent) has breached their respective Code of Conduct and, if so, to determine the sanction to be applied. Hearings are usually held in public, at the headquarters of the Respondent's council or public body. The Standards Commission may decide to hold the Hearing online, for example in cases where it appears there is little dispute between the parties and no witnesses (other than the Respondent) are to be called. The Standards Commission livestreams, on its website, any Hearings that are held online.

Sanctions

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 2000 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

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, any of its committees and sub-committees, and also any meetings of any other body of which the Respondent is a representative or nominee of the council or devolved public body. The Standards Commission has 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

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.

Article 10 of the European Convention on Human Rights

An individual's right to freedom of expression is protected by Article 10 of the European Convention on Human Rights, which is enshrined in UK law. Freedom of expression is a general term covering a person's right to hold opinions, or to receive or share information or ideas. The right to freedom of expression under Article 10 is, however, qualified. Article 10(2) notes that public authorities, such as the Standards Commission, may restrict this right if they can show that their action is lawful, necessary and proportionate in certain circumstances. These include:

- ▶ to protect the rights and reputations of other people (it may be necessary, for example, to protect employees from offensive and abusive verbal attacks that prevent them from performing their duties);
- ▶ to prevent the disclosure of confidential information; and
- ▶ if the views expressed encourage racial or religious hatred.

The Standards Commission will consider whether Article 10 might afford protection when deciding whether it is in the public interest and proportionate to hold a Hearing, in respect of any cases alleging a breach of the respect, courtesy, bullying and harassment or confidentiality provisions in the Code.

In determining at Hearings whether there has been a breach of the Code in such cases, the Standards Commission will take a three-stage approach and consider:

1. Whether, on the face of it, the Code has been breached.
2. If so, whether such a finding, and the imposition of a sanction, could be a breach of the Respondent's right to freedom of expression under Article 10.
3. If so, whether the restriction involved by the finding is justified by Article 10(2). It should be noted that a restriction may still be justified, even if the Respondent enjoys the enhanced right to freedom of expression afforded to those engaged in political speech or in debates on matters of public interest.

Appeals

Appeals can be made, under Section 22 of the 2000 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.

Interim Suspensions

Section 21 of the 2000 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 2000 Act and the policy outlining how the Standards Commission makes any decision under that section can be found on the Standards Commission website at:

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

Dispensations

Both the Councillors' and Model Codes of Conduct outline the circumstances in which a councillor or member of a devolved public body would be required to declare a financial or non-financial interest and withdraw from any discussion and voting in respect of any matter to which that interest relates.

In some very limited circumstances dispensations may be granted by the Standards Commission in relation to the existence of financial and non-financial interests which in terms of the Codes would otherwise prohibit participation in discussion and voting. Such a dispensation would allow the councillor or member concerned to continue discussing and voting on the matter, provided the relevant interest has been declared, where it is deemed to be in the public interest that they be allowed to do so. Information about decisions made on dispensation requests received in 2022/23 is outlined in the 'Decisions made by the Standards Commission in 2022/23' section below.

Publishing Decisions

The Standards Commission seeks to ensure that all stakeholders, including members of the public, have easy access to high quality information about the organisation and its adjudicatory work.

The Standards Commission publishes information on its website about its adjudication procedures and how it makes decisions on cases that have been referred by the ESC. Information that is published includes the Hearing Rules and all case-related policy and procedure documents.

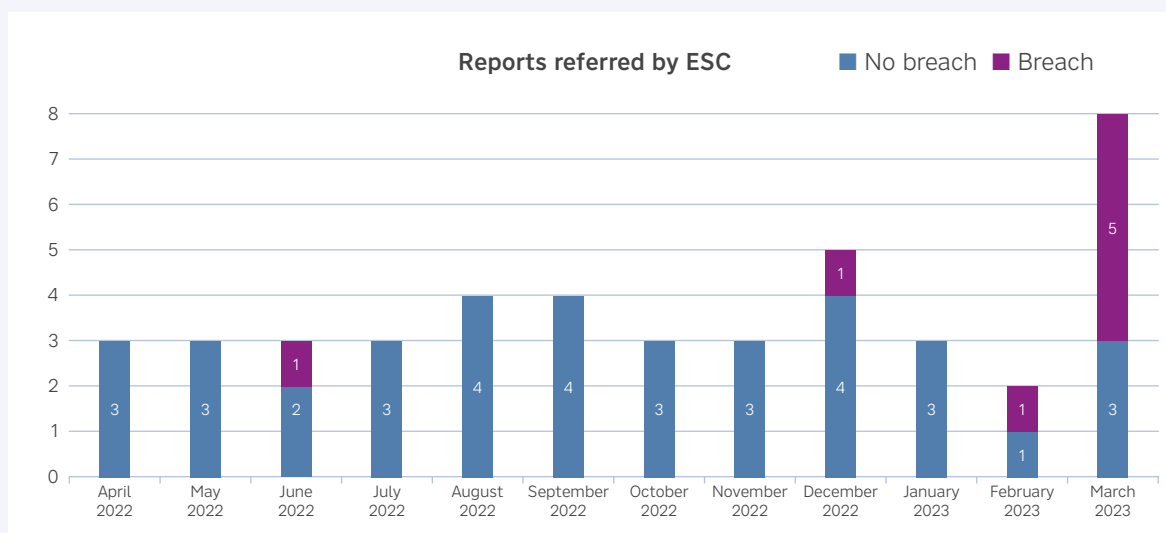
The Standards Commission publishes:

- ▶ written records of the decision and reasons for the decision on 'do neither' cases;
- ▶ information about forthcoming Hearings, including the name of the Respondent, the name of the Respondent's Council or public body, and the Hearing date, time and venue;
- ▶ written records of the decision and reasons for the decision made at each Hearing in respect of the breach and, if applicable, the sanction applied;
- ▶ press releases about decisions made at Hearings;
- ▶ a link to the livestream of the Hearing if it is to be held online;
- ▶ written records of the decision and reasons for the decision made in respect of any interim reports received from the ESC (which are anonymised in instances where it was decided not to impose an interim suspension); and
- ▶ written records of the decision and reasons for the decision made in respect of any requests for dispensations made by councillors or members, which are anonymised in instances where the decision is taken not to grant a dispensation.

Decisions made by the Standards Commission in 2022/23

Referrals

The ESC referred 44 cases to the Standards Commission between 1 April 2022 and 31 March 2023. The number and timings of referrals made by the ESC, by month, are outlined in the graph below.



The table below shows the 42 final decisions taken by the Standards Commission on the 44 cases referred to it between 1 April 2022 and 31 March 2023. In the two remaining cases, the Standards Commission:

1. directed the ESC to carry out further investigation on a referral dated 28 February

2023. The further investigation had not concluded by 31 March 2023, meaning the final decision on the referral was not made in 2022/23 and, instead, was made in 2023/24; and

2. had not yet made a decision on a referral made on 23 March 2023, the final decision being made in 2023/24.

Decision	No. of cases resulting in a decision	No. of respondents involved in the cases	
		Councillors	Members
Hold a Hearing	9	9	0
Do neither	32	29	4
Report referred to devolved public body	1	0	0
TOTAL	42	38	4
Direct the ESC to carry out further investigations with subsequent decision to Hold a Hearing (included in total above)	1	1	0
Direct the ESC to carry out further investigations with subsequent decision to 'do neither (included in total above)	1	1	0
Direct the ESC to carry out further investigations with investigation ongoing by year end (excluded from total above)	1	1	0

In addition, one case was referred to the Standards Commission about an ex officio member of a devolved public body. After considering the terms of the ESC's report, the Standards Commission sent the report to the relevant integrated joint board, in accordance with Section 24 of the Act,

Hearings

The Standards Commission held a total of six Hearings between 1 April 2022 and 31 March 2023. Of these, three Hearings were held in respect of

cases referred by the ESC before 1 April 2022. Five Hearings on case referrals made on or before 31 March 2023 are scheduled to be held in 2023/24.

Of the six Hearings held in 2022/23, one was held online and livestreamed on the Standards Commission's website, and five were held in person.

The table below outlines the decisions made at the six Hearings held in 2022/23.

Hearing Decisions

Decisions	No. of Hearings	No. of Respondents involved in Hearing(s)
Finding of breach	3	4
Finding that, on the face of it, the Respondent's conduct amounted to a breach of the applicable Code, but that a breach finding and imposition of a sanction was not proportionate and justified in light of the Respondent's right to freedom of expression under Article 10 of the ECHR	2	2
Finding of no breach	1	1
TOTAL	6	7

Sanction decisions

The table below outlines the sanctions imposed by the Standards Commission at the Hearings held between 1 April 2022 and 31 March 2023.

Sanction	No. of Hearings	No. of respondents involved in Hearings
Censure	2	3
Suspension – full	0	0
Suspension – partial	1	1
Disqualification	0	0
No breach and, therefore, no sanction	3	3
TOTAL	6	7

Interim Suspension Decisions

The Standards Commission received an interim report from the Acting ESC, dated 18 January 2023, concerning a complaint he had received on 22 September 2022 about the conduct of an elected member of Midlothian Council. The Standards Commission noted that the crux of the complaint was that the Respondent had failed to comply with the respect, bullying and harassment provisions in the Councillors' Code in relation to an alleged verbal exchange with the Complainer.

The Standards Commission was satisfied that there was no evidence or suggestion that the further conduct of the ESC's investigation was likely to be prejudiced, or that any individual's cooperation would be inhibited, if an interim suspension was not imposed.

The Standards Commission noted that while the imposition of an interim suspension was not a finding on the merits of the complaint, nor a disciplinary measure, the 2000 Act nevertheless referred to an interim suspension as being a 'sanction'. The Panel noted that this meant that the imposition of an interim suspension could be reasonably perceived by the public as being a ban or punishment. The Panel considered, therefore, that it would only be proportionate and in the public interest to impose an interim suspension in this case if it was likely that there would be a risk of further harm to the Complainer, a possibility of repeat behaviour or risk of significant disruption to the Council.

The Standards Commission was satisfied that arrangements the Council had put in place mitigated the risks present in the case. The Standards Commission noted that despite the period of time that had elapsed between the complaint being made to the Acting ESC on 22 September 2022 and the interim report being received by the Standards Commission on 18 January 2023, no evidence had been provided to support a contention that the measures were insufficient in this regard.

The Standards Commission was further of the view that the imposition of an interim suspension would have a significant impact on the Respondent both reputationally, and on their and their family's health and wellbeing.

Having carefully weighed the various considerations outlined above, the Standards Commission determined, on balance, that it was neither proportionate nor in the public interest to impose an interim suspension.

Appeals

No appeals against decisions of the Standards Commission were made in 2022/23.

Dispensation Decisions

Two dispensation requests were received in 2022/23; one from a councillor and one from member of a devolved public body.

The Standards Commission determined not to grant the dispensation requested by the councillor to take part in all decisions and discussions relating to regulation and policy towards the generality of the private rented sector, despite being a private tenant, on the basis that it was too general and unspecific. The Standards Commission noted that a subject or category that may apply to a large proportion of the general public would not generally be considered to give rise to a connection for the purposes of the Councillors' Code. In this case, the Standards Commission noted that the councillor was entitled to consider that their status as a private tenant was a category that may apply to a large proportion of the general public and, as such, that it did not automatically amount to a connection in terms of the Code. The Standards Commission noted that the Code requires councillors to consider the specific matter they are to become involved in (which would include discussing and voting), when assessing whether they had a connection. This requirement to consider the specific matter in question is also reiterated in the objective test, which councillors are required to apply to determine whether they have a declarable interest, in circumstances where they consider they have (or may have) a connection.

The Standards Commission also decided not to grant the dispensation requested by the member of the devolved public body. Having considered the request carefully, the Standards Commission advised the member that it considered that his connection to the matter being discussed did not appear to amount to a declarable interest and,

as such, was neither necessary nor appropriate to grant the dispensation. The Standards Commission noted, however, that the Member wished to be transparent about the connection, in order to ensure confidence in the public body was not adversely affected. The Standards Commission advised the member to consider making a transparency statement, so that the reasons why

they did not consider the connection amounted to a declarable interest, in terms of the Code, were recorded and publicly available. The Standards Commission noted that making such a statement can be a useful way of allaying any fears that a member could be taking decisions for personal reasons, and not in the best interests of the public and their public body.

Timescales

Do Neither

Where the Standards Commission made the decision to ‘do neither’ on reports referred by the ESC, the average time between receipt of those reports and the issuing of the Standards Commission’s written decisions was **4 days**.

For the purposes of calculating the average timescale, in cases where the Standards

Commission directed further investigation, the date of receipt of the report was deemed to be the date on which the report on the further investigation was referred.

Direct Further Investigation

The table below outlines the timescales involved in making decisions to direct further investigation on reports referred by the ESC.

Further investigation timescales

Report Reference	Date first report received from ESC	Date of written decision to direct further investigation	Time taken between report received and direction issued	Date second report received	Date ‘No Action’ Written Decision issued
LA/AN/3546	20/04/2022	27/04/2022	6	03/08/2022	N/A – Hearing held
LA/SL/3587	26/07/2022	01/08/2022	6	26/08/2022	01/09/2022
LA/H/3755	28/02/2023	08/03/2023	8	31/03/2023	N/A – Hearing scheduled

The average time between a report being received from the ESC and the Standards Commission issuing a written decision to direct further investigation was **7 days**.

Hearings

The Standards Commission usually 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 timescale allows sufficient notice to be given to the parties (being the ESC and the Respondent) and anyone else who wishes to attend or observe the Hearing (including the media and members of the public). It also allows the parties time to prepare, which includes submitting any relevant and material evidence, and asking witnesses to appear.

The Standards Commission has to consider, and balance, a number of factors when scheduling Hearings. These include the availability of its part-time Members (who form the Hearing Panels), the parties and suitable premises (if the Hearing is to be held in person). In addition, as the Standards Commission only employs four members of staff (full-time equivalent 3.1), it has to allow a sufficient gap between Hearings in order for the team to prepare fully for each.

The Rules provide that a 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 Panel will consider both the public interest in the expeditious disposal of the case; and any inconvenience or prejudice to the parties and to

witnesses. In making such a decision, the Panel will also be mindful of the fact that delays to Hearings can lead to the quality of available evidence being eroded, as memories can fade with time. A policy outlining how the Standards Commission deals with adjournment requests and the factors it will consider in deciding whether the request should be granted can be found on the Standards Commission website at:

<https://www.standardscommissionscotland.org.uk/cases/hearing-rules>

Information about the timescales involved in the Hearings held in 2022/23 is outlined in the table below. In case LA/AN/3546, where further investigation was directed, the 'date referral received' column details the date the ESC's further investigation report was referred.

Report Reference(s)	Date referral received	Date of decision to hold a Hearing	Hearing Date	Time between date of decision to hold a Hearing and start of Hearing (in weeks)
LA/D/3580	21/02/2022	28/02/2022	01/06/2022	13
LA/AC/3600	15/03/2022	21/03/2022	07/06/2022	11
LA/AN/3561	16/03/2022	22/03/2022	15/06/2022	12
LA/AN/3546	03/08/2022	08/08/2022	01/11/2022	12
LA/G/3563	28/06/2022	06/07/2022	26/10/2022*	16
LA/E/3651	19/12/2022	20/12/2022	22/02/2023	9

* (original Hearing date of 13/09/2022 postponed due to the death of HM The Queen)

The average time taken between the Standards Commission making a decision to hold a Hearing and the start of Hearings was **12 weeks**.

SECTION 7: GOVERNANCE & FINANCIAL OVERVIEW 2022/23

This section provides an overview of the Standards Commission's governance arrangements in 2022/23 and its financial performance.

External Audit

Audit Scotland reported on its review of the Standards Commission's governance arrangements and audit of the Standards Commission's 2022/23 annual report and accounts. Audit Scotland's review identified one key audit risk, which required specific audit testing. This was the consideration of the risk of management override of controls in order to change the position disclosed in the financial statements.

Audit Scotland's main findings were that the Standards Commission had appropriate financial planning and monitoring arrangements in place. It further found that appropriate governance arrangements were in place supporting the scrutiny of decisions made by the Standards Commission.

The Audit Report confirmed that the audit procedures did not uncover evidence of management override of controls and that the draft financial statements and working papers were prepared to a good standard. The Audit Report further confirmed that the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework.

The 2022/23 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 2023.

Internal Audit

The Standards Commission's internal auditor, the SPCB's Head of Internal Audit, reviewed the Standards Commission's general financial control environment. The overall aim of the review was to provide assurance to the Executive Director (as Accountable Officer) and the Standards Commission via its Audit & Risk Committee that the strength and resilience of the existing financial control environment was robust and to identify any

improvements that could be made to ensure that best practice was achieved.

The internal auditor reported that based on the audit work performed, there is sufficient audit evidence in place to confirm that the Standards Commission has robust systems and key controls in place to ensure accurate, reliable and complete financial information. There are no significant risks or improvement recommendations arising from this review. The overall internal audit conclusion is that substantial assurance can be taken from the areas reviewed and the associated frameworks of governance, risk management and control.

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 2022/23. A report of the review was thereafter provided for consideration by Members at the next available meeting of the Standards Commission.

During 2022/23, the Standards Commission identified the principal risks and uncertainties for the organisation as being a loss of confidence in the overall ethical standards framework as a result of:

- ▶ any delays at the investigation stage;
- ▶ a lack of consistency between Standards Commission and ESC in their respective approaches to interpreting the Codes and dealing with complaints;
- ▶ the Standards Commission's decisions being inconsistent, unfair, poorly reasoned, disproportionate and / or unclear; and
- ▶ a failure by the Standards Commission to adhere to the timescales outlined in its Service Standards and Hearing Rules.

Work the Standards Commission undertook to mitigate these risks included inviting the ESC to quarterly meetings with Standards Commission Members to discuss workloads and the timescales for investigation and adjudication of complaints, and any apparent discrepancies in interpretation of the Codes. The Standards Commission's Executive Team also held fortnightly meetings with the ESC and his staff with to discuss issues of common concern and the progress of investigations.

The Standards Commission updated its policy on how it made decisions on case referrals and developed and implemented a standard template and flowchart for use by Members in their decision-making. The Standards Commission carried out a full review of the case decisions it had made in 2021/22, to identify trends, ensure consistency and clarity in reasoning and identify any improvements that could be made to the decision-making process. It also sought feedback on all Hearings and considered any received as part of a standard review at the Standards Commission meeting following the Hearing, so that improvements could be made to policies and procedures, as appropriate. The reviews

also included analysing what had gone well or otherwise, and what could have been done differently. The Standards Commission retained a record of the advice provided and the time taken to respond to enquiries and to make decisions on cases referred to it by the ESC, in order to check compliance with the timescales as outlined in the Service Standards and Hearing Rules.

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

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.

Key Performance Indicators

As previously mentioned in Section 4, key performance indicators (KPIs) were agreed and published in 2022/23. Performance against these KPIs is monitored on a quarterly basis and a summary of performance in the year is provided in Appendix B.

Financial Performance

The financial information provided is a summary extracted from the Standards Commission for Scotland's Annual Accounts 2022/23. For further information about the Standards Commission's financial position, a full copy of the Annual Accounts 2023/23 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 2023 amounted to £289,000 (2021/22, £320,000). The expenditure was divided between staff costs of £252,000 (2021/22, £228,000) and other administrative costs of £37,000 (2021/22, £92,000).

Staff costs include all remuneration paid to both staff and Members. Member salaries include payments for Hearings and were comparatively higher in 2022/23 than 2021/22 as a result of one more Hearing being held in the year and the Standards Commission being one member short for a number of months in the previous year.

Staff salaries increased in line with the SPCB pay award (which was higher in 2022/23 than in 2021/22). Other administration costs for 2022/23 include significantly lower fees for legal advice than the prior year.

Overall expenditure for the year was £289,000, which was £45,000 (or 13.5%) under the agreed

overall budget. The underspend was primarily driven by a lower than forecast number of Hearings being held in the year, as while a number of referrals were made towards the year-end, the Hearings will not be held until 2023/24.

It should be noted that a provision of £28,000 for the expenses to be reimbursed to the pursuer was recognised in the 2021/22 financial statements. An actual payment of £33,000 to cover the expenses was made in December 2022 from contingency funding provided by the SPCB. As a result of the provision of £28,000 having been recognised previously in the 2021/22 financial statements, only £5,000 of these expenses has been recorded in the 2022/23 financial statements.

Statement of Comprehensive Net Expenditure

	2022-23	2021-22
	£'000	£'000
Administration costs		
Staff costs	252	228
Other Administration costs	37	92
Gross Administration costs	289	320
Net Operating costs	289	320

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

Other Administration Costs

	2022-23	2021-22
	£'000	£'000
Fees for legal advice and representation	6	73
Audit Fee	4	3
Property hire costs	2	-
Information technology costs	2	1
Printing and promotion costs	9	5
General administration costs	4	4
Members' travel and expenses	3	-
Staff travel and expenses, and staff and members' training costs	7	6
	37	92

APPENDIX A: SUMMARY OF CASES

Summaries of all decisions made, and Hearings conducted, by the Standards Commission in 2022/23 can be found below. The full written decisions from Hearings held are published online at: www.standardscommissionscotland.org.uk/cases/case-list

'No Action' decisions and Section 24 referrals are published online at: <https://www.standardscommissionscotland.org.uk/cases/cases-referred-by-the-esc>

HEARINGS

Case	LA/D/3580 – Dundee City Council
Date of Referral	21 February 2022 (case referred in 2021/22)
Date of Hearing	1 June 2022
Date of Written Decision	7 June 2022
Complaint	<p>The Respondent identifies as non-binary, so the pronouns they/them are used below when reference is made to them.</p> <p>The first issue of complaint was that in a complaint email sent to the Complainer's employer, a charity law centre, the Respondent made serious accusations about the Complainer, a charity lawyer, including that he was a bigot and transphobic, and that he had bullied and intimidated trans people.</p> <p>The second issue of complaint was that the Respondent then shared the email exchange with the Complainer's employer in a Twitter post. In the post, the Respondent stated the employer was "horrendously transphobic", that its response to a complaint they made about the lawyer had been "abhorrent in the extreme" and that they feared for the rights of trans people using its service. The Respondent also stated that the law centre had used public money to defend transphobia.</p> <p>The Complainer alleged that the provisions in the Code concerning respect and courtesy, and bullying and harassment, had been breached.</p>
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The Panel noted that the Respondent had used a personal email address when sending their complaint email to the employer. The Panel further noted that the Respondent's Twitter account appeared to be a personal one, in that no mention was made of their then status as a councillor in the 'biography' section. The Panel noted, nevertheless, that the Respondent had signed off their complaint email as a councillor and that the employer, in its response, had addressed them as such.</p> <p>The Panel determined that given the circumstances outlined above, it would be reasonable for any members of the public, viewing the email and the response shared by the Respondent, to have considered them to be acting in their capacity as a councillor. The Panel was satisfied, therefore, that the Code applied to the Respondent at the time of the events in question.</p>



Case	LA/D/3580 – Dundee City Council
<p>Decision</p>	<p>The Panel noted that the Respondent was fully entitled to hold a different view to the Complainer and to challenge it, and that there was nothing in the Code that prevented them from doing so in a respectful manner. This did not mean, however, that the Respondent was entitled to make serious accusations of bullying, intimidation and misuse of public money. The Panel was of the view that the Respondent would, or should, have known that the making of such accusations had the potential to have a serious impact on the Complainer and considered that doing so, without any reasonable foundation, was disrespectful and, on the face of it, amounted to a breach of the respect provisions in the Code.</p> <p>The Panel was further of the view that the Respondent’s conduct in making serious accusations about both the conduct of the Complainer and the integrity of his employer, that lacked any reasonable basis, was entirely inappropriate and would have been both unwelcome and insulting. The Panel concluded, therefore, that, on the face of it, it amounted to a breach of the bullying and harassment provisions in the Code.</p> <p>The Panel was satisfied that Respondent, in commenting on matters of public concern, namely the conduct of a well-known charity lawyer and the law centre, would attract the enhanced protection of freedom of expression afforded to politicians, including local politicians, under Article 10 of the European Convention on Human Rights (ECHR).</p> <p>The Panel noted that it was required to undertake a balancing exercise, weighing the enhanced protection to freedom of expression enjoyed by the Respondent against any restriction imposed by the application of the Code and the imposition of any sanction. In this case, as the issues being discussed by the Respondent concerned matters of public interest or concern, the Panel noted there was limited scope under Article 10(2) for a restriction on the Respondent’s right to freedom of expression.</p> <p>The Panel accepted that the Courts have held that the less egregious the conduct in question, the harder it would be for a Panel, when undertaking its balancing exercise, to justifiably conclude that a restriction on an individual’s right to freedom of expression is required.</p> <p>The Panel was of the view that the accusations that the Complainer had bullied and intimidated trans people, and that the law centre had used public funds to defend transphobia, were offensive. The Panel nevertheless accepted that the Courts have held that, in a political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated.</p> <p>The Panel was concerned that the Respondent’s accusations could have had an impact on the reputation of both the Complainer and the law centre. The Panel noted, however, that the Complainer had chosen to engage publicly in the ongoing debate on trans rights and gender critical beliefs, in the knowledge that the debate was highly polarised. The Panel considered it was reasonable to assume the Complainer would have known that his own tweets may have provoked a reaction. The Panel further considered that as an experienced lawyer, the Complainer was capable of standing up for his rights and reputation and that of his practice.</p> <p>After full consideration of the matter, and some debate, the Panel considered that the Respondent’s comments were not sufficiently offensive and gratuitous as to justify a restriction on their right to freedom of expression. This was because the Panel was ultimately satisfied that the Respondent was attempting express their opinion about the Complainer’s views and position in a polarised debate, albeit they had done so in a particularly inappropriate manner. As such, the Panel concluded that a breach of the Code could not be found.</p>
<p>Sanction</p>	<p>Not applicable</p>



Case	LA/AC/3600 – Aberdeen City Council
Date of Referral	15 March 2022 (case referred in 2021/22)
Date of Hearing	7 June 2022
Date of Written Decision	13 June 2022
Complaint	The complaint alleged that in making certain comments in a newspaper article and accompanying video about the restoration of a historic building in Aberdeen, the Respondent failed to respect council employees and was publicly critical of their conduct and capability.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The Panel noted that the complaint related to a newspaper article about the refurbishment of the building. The Panel noted that there was no dispute that the Respondent provided the quotes that appeared in the article and, in addition, that he appeared in a short video piece that accompanied it on the newspaper’s website.</p> <p>The Panel noted that the article reported that the Council’s administration had been accused, by the Respondent, of disregarding the city’s heritage in its renovation of the building. The Panel noted that the article stated that the Respondent had claimed that some of the building’s historic brickwork had been covered over with mortar, and that he had accused the Council’s administration of showing “complete disregard” to the city’s historic buildings. The Respondent had further stated that “the attempt at a restoration” was “frankly embarrassing”.</p> <p>The Panel noted that, in the accompanying video clip, the Respondent also stated that the detail, the character and much of the history of the building had been covered over by lime mortar cement. The Respondent alleged that, over the last few years the city’s heritage had been treated with disregard and near contempt, by the Council’s administration.</p> <p>The Panel was satisfied that the Respondent had not raised any matters relating to the conduct or capability of any identifiable employee or employees in public. The Panel rejected the ESC’s assertion that the fact the identities of the employees who had undertaken the work were known to themselves, their family and friends, other employees, councillors, or were potentially named in signage meant that they were reasonably publicly identifiable. The Panel considered that, in order for council employees to be objectively considered as identifiable, ordinary members of the public in the local area would need to be able to readily understand who they were. The Panel considered that it was not reasonable to conclude that members of the public in Aberdeen would have been able to readily or easily identify any employees involved in the restoration project.</p> <p>The Panel was satisfied that the Respondent was referring to the methods used in the restoration, rather than the performance, conduct or capability of the employees undertaking the work. The Panel was satisfied that the Respondent’s comments concerned the decisions taken by the administration in respect of how the city’s historical buildings should be restored.</p> <p>The Panel accepted that, when considered in isolation, some of the Respondent’s comments could be perceived as being disparaging about the quality of the restoration work itself and, by extension, potentially critical of the employees who carried out the work. In the circumstances, however, the Panel considered it to be evident from the context, and particularly the numerous references within the article and the accompanying video to the administration, the council leadership, and the restoration methods used, that the Respondent’s criticisms were directed against the administration for its choices in that regard; rather than being about the conduct or capability of any of the employees involved in executing the work.</p>



Case	LA/AC/3600 – Aberdeen City Council
Decision	<p>The Panel noted that the ESC’s view was that it was not possible to separate the criticisms of the political administration from the workforce who carried out the restoration. The ESC advised that this was because the terms of the Respondent’s criticisms were sufficiently broad so as to extend to the workforce. The Panel disagreed with this view, however, and considered it was entirely possible to distinguish any criticisms of decisions made by the political administration from criticisms of the employees who had undertaken the restoration work in accordance with those decisions. The Panel noted that, given council employees carry out all work instructed by a Council’s administration, any criticism of the administration could, by extension, be interpreted as criticism of council employees. The Panel agreed that such an interpretation could prevent opposition councillors from criticising the administration altogether, which would prevent them from being able to undertake the important scrutiny role required by an effective democracy.</p> <p>For the reasons outlined above, the Panel was satisfied that the Respondent’s conduct in making the comments contained in the article and its accompanying video, did not amount to a breach of the Code.</p> <p>The Panel noted that while the Code sought to protect employees from unfounded public accusations, it did not, in any way, seek to restrict a councillor’s ability to properly scrutinise the council’s performance or decisions made by its administration. The Panel noted that a councillor’s right and ability to do so is a fundamental democratic requirement. The Panel noted that it was important to draw a distinction between a councillor scrutinising the decisions of an administration and a councillor embarking on public criticism of the capability of individual and identifiable council employees.</p>
Sanction	Not applicable



Case	LA/AN/3561 – Angus Council
Date of Referral	16 March 2022 (case referred in 2021/22)
Date of Hearing	15 June 2022
Date of Written Decision	20 June 2022
Complaint	Eight complaints were received, alleging that the Respondent made a number of disrespectful and discourteous comments about others, including other councillors and politicians, in posts published on an anonymous Twitter account. A number of the Complainers also stated that the comments were misogynistic and / or transphobic in nature. The Respondent had initially denied being connected to the Twitter account but later admitted operating it after he was linked to it by a local newspaper.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The Panel noted that the Respondent had disputed that he had been acting as a councillor when posting from the Twitter account. While it accepted that the Respondent had not identified himself or referred to his position as a councillor in the Twitter handle or biography, the Panel noted that there was no evidence to suggest the account was private or only concerned personal matters. The Panel further noted that, in one tweet, the Respondent posted a link to comments he had made, as an elected member, in a council press statement. The Panel was of the view, therefore, that the Respondent had identified himself as a councillor. The Panel considered that as he had done so, and as the majority of the tweets before it were political in nature, it would be reasonable for members of the public to conclude the Respondent was acting as a councillor when posting from the account. In any event, the Panel agreed that the subsequent identification of the Respondent as a councillor in the press and his admission that he operated the account, meant that members of the public would be reasonably entitled to perceive he was acting as a councillor at the time he posted content on it. The Panel determined, therefore, that the Code applied to the Respondent at the time of the events in question.</p> <p>The Panel noted that none of the Complainers had provided evidence to support the allegation that any of the content in the posts was transphobic in nature and, as the Twitter account had been deleted, the ESC's office had only been able to recover a portion of the tweets. While the Panel accepted, therefore, that it did not have access to all the posts that had been made, it did not find that that any of the content in the screenshots and transcripts of the recovered tweets were transphobic.</p> <p>The Panel noted that the ESC had indicated that he considered three of the recovered tweets posted by the Respondent to be potentially disrespectful or discourteous. The first was one posed a rhetorical question about an identifiable MSP that implied she had not done a day's work before having made an enquiry about MSP salaries. The Panel was of the view, however, that the Respondent, as an opposition politician, was seeking to make a point about whether MSPs should expect to be paid in advance and that such a comment could not be categorised as falling outwith the normal and acceptable bounds of everyday politics.</p>




Case	LA/AN/3561 – Angus Council
Decision	<p>The second tweet featured a photoshopped image of the then First Minister, showing her face on the body of a toddler going to the toilet. The Panel noted that the ESC’s position was that it could be shocking to see the juxtaposition of the First Minister’s face on such an image and, as such, the tweet that this amounted to a disrespectful, gratuitous personal attack on her. The Panel concluded, on balance, that the Respondent’s actions in sharing the photoshopped image of the First Minister was not necessarily disrespectful or discourteous. This was because the Panel considered that it was evident the image was a caricature and noted that there was no evidence or suggestion that the Respondent himself had had created it. The Panel was of the view that the Respondent was attempting to make a political point about the relationship between the First Minister’s party and the UK Government and that, again, as an opposition politician he was entitled to do so. While the Panel accepted that many would consider it puerile to share such a caricature, it was of the view, nevertheless, that it was reasonable for it to be viewed as an attempt at political satire, rather than an offensive personal attack.</p> <p>The Panel agreed with the ESC that the third tweet, in which the Respondent shared a photograph of “Yes” campaigners and commented that he had “never kissed a Yes supporter – could you blame me?”, was disrespectful and discourteous. This was because the Panel was of the view that it was evident from the comment that the Respondent was seeking to make an adverse observation about the appearance of the individuals in the photograph, regardless of whether it was a composite or photoshopped image. The Panel considered it to be disrespectful and discourteous for such a comment to have been made about the appearance of potentially identifiable members of the public.</p> <p>The Panel further found that, in another tweet the Respondent stated that it made no sense an MSP had held his seat with a significant percentage of the vote when he had previously resigned as a minister over rising deaths from drugs. The Respondent questioned whether the MSP’s increased share of the vote showed “that there is a bigger drug issue in this city than we thought”. The Panel was of the view there was a clear inference from the tweet that a proportion of the electorate of the constituency had been under the influence of drugs when voting. The Panel was of the view that there was no basis for this comment, that it was demeaning and, as such, was disrespectful to members of the public forming that electorate.</p> <p>The Panel noted that in a further post, the Respondent commented supportively in response to a remark posted by another user about the re-election of an MSP in which the user called the MSP a “nutcase”. While the Panel accepted that the Respondent had not made the initial remark about the MSP’s neurodiversity, it considered that, by posting a supportive comment, the Respondent could reasonably be perceived as endorsing it. The Panel was of the view that endorsing such a personal and offensive comment about an individual was disrespectful.</p> <p>The Panel noted that in another tweet, the Respondent questioned who a fellow elected member of Angus Council thought he was. The Respondent proceeded to question whether the other councillor was fit for office. The Panel considered that it was disrespectful and discourteous for an elected member to direct a disparaging remark towards a colleague anonymously.</p> <p>The Panel noted that the Respondent had operated the Twitter account anonymously. It concluded that the only reasonable explanation for the Respondent to have done so was so that he could indulge in commentary and conduct that he would otherwise have been prevented from engaging in, as an elected politician subject to a Code of Conduct (who was obliged to act in accordance with the key principles of public life). The Panel noted the Respondent advised that he had not intended to be, and did not consider he had been, disrespectful. The Panel was of the view, however, that the fact that the Respondent had initially denied being behind the account, and that he had subsequently deleted it, suggested otherwise.</p> <p>While the Panel noted the Respondent’s position was that he had created the account to avoid the abuse that he was normally subject to as a councillor, it was of the view that the establishment of such an account would only serve to contribute to such a hostile environment.</p>



Case	LA/AN/3561 – Angus Council
Decision	<p>The Panel was satisfied, on balance, the Respondent’s conduct in posting some of the tweets amounted, on the face of it, to a contravention of the requirement under the Code to behave with courtesy and respect towards colleagues and members of the public.</p> <p>Before coming to a final decision, the Panel considered the Respondent’s right to freedom of expression under Article 10 of the ECHR, and concluded that as it was satisfied that the Respondent’s tweets it had found to be disrespectful or discourteous in nature were political in nature, the Respondent would attract the enhanced protection to freedom of expression afforded to politicians.</p> <p>The Panel considered that the tweets could have an impact on the rights and reputation of the individuals in the campaign photo and the electorate in Dundee. The Panel noted, however, that the individuals were not readily identifiable. The Panel further noted that the Twitter account had only a limited number of followers. The Panel considered, therefore, that it was likely that any impact would be negligible. The Panel noted that the tweet about the other Angus councillor’s fitness for office could also have an impact on his reputation. The Panel noted, however, that the Standards Commission’s decision about the other councillor, to which the tweet had referred, was already in the public domain. As such, the Panel agreed that any impact would be limited.</p> <p>The Panel noted that the Respondent’s apparent endorsement of the tweet about the MSP’s neurodiversity had the potential to lower the standards of public debate. The Panel noted, however, that the comment about the MSP had been made by another user. The Panel did not consider, in the circumstances, that the Respondent’s conduct could be said to have brought the standards of public debate below a minimum level, as to render any restriction on his freedom of expression necessary.</p> <p>After full consideration of the matter, and some debate, the Panel considered that the Respondent’s comments were not sufficiently shocking, offensive and gratuitous as to justify a restriction on his right to freedom of expression. This was because the Panel was ultimately satisfied that the Respondent was attempting make political points, albeit he did so in an inappropriate manner. As such, the Panel concluded that a breach of the Code could not be found.</p>
Sanction	Not applicable





Case	LA/G/3563 – Glasgow City Council
Date of Referral	28 June 2022
Date of Hearing	26 October 2022
Date of Written Decision	1 November 2022
Complaint	The complaint related to the Respondent's conduct at an online meeting and the use of Council facilities.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The Hearing Panel noted that it was not in dispute that, at an online Council meeting, the Respondent displayed a background showing a collage of photos of overflowing bins, rubbish bags and litter, over which the words 'SNP CUTS HURT GLASGOW' were imposed.</p> <p>The Panel noted that there was also no dispute that the Respondent then posted a screenshot of the background on his Facebook account alongside the comment "WARNING! OFFENSIVE CONTENT!" The Panel noted that the meeting had been held, and the Facebook post published, during the run up to the Scottish Parliament Election in May 2021, for which the Respondent was standing as a candidate.</p> <p>The Panel noted that, before the meeting, Council officers had sent all elected members the Council's pre-election Guidance, which highlighted the heightened sensitivity around local authority publicity and communications during the pre-election period and noted that Council facilities and resources could not be used in support of a party or election candidate.</p> <p>The Panel noted that the Respondent had contended that his use of the background was no different to the wording of the amendment or motion under discussion at the time, and, therefore, should be categorised as 'business as usual', rather than being viewed as 'campaigning'. The Panel accepted the Respondent's position that the background did not contain any profanities or personal insults. The Panel considered, however, that despite the background not encouraging support or voting for any particular candidate or party, it clearly nevertheless blamed another named party for the cleansing issues in the city.</p> <p>The Panel found that it would be reasonable for anyone viewing the background, with knowledge of the forthcoming election and the Respondent's candidacy for the Scottish Parliament, to conclude its use was designed to effect support for the Respondent or his party, at expense of the other party. The Panel further considered that it would have been reasonable to view the Respondent's conduct as electioneering, with the clear intention of influencing the vote, had he printed off and distributed a similar image as, for example, a leaflet. As such, the Panel was of the view that the use of the background at the Council meeting, during the election period, amounted to campaigning, in breach of the pre-election Guidance.</p> <p>The Panel concluded that the Respondent's action in displaying the background at the meeting, and later on Facebook, was disrespectful to his fellow councillors, the meeting Chair and Council officers. This was because:</p> <ul style="list-style-type: none"> ▶ the Local Government Act 1986 (1986 Act) prohibits local authorities from publishing any material (including any communication) that could be perceived as seeking to influence public opinion or promoting a particular candidate or political party; ▶ officers had issued Guidance to all elected members before the meeting, reminding them that facilities and resources could not be used in support of a party or election candidate; ▶ the Lord Provost had reminded all attendees of the requirement to comply with the Guidance at the start of the meeting; and ▶ the Respondent was aware that the meeting was being broadcast live. <p>As such, the Panel was satisfied that, on the face of it, the Respondent's conduct amounted a breach of the respect and courtesy provisions of the Code.</p>




Case	LA/G/3563 – Glasgow City Council
<p>Decision</p>	<p>The Panel further noted that regardless of whether the Respondent had used a Council issued laptop to attend the meeting or publish the post on Facebook, it was evident that Council facilities, including officers’ services, software and webcasting were used at the meeting. The Panel concluded, therefore, that the Respondent had also used council facilities for party political or campaigning purposes in breach of the Code.</p> <p>Before coming to a final decision, the Panel considered the Respondent’s right to freedom of expression under Article 10 of the ECHR. The Panel concluded that as it was satisfied that the Respondent was expressing a view on a matter of public concern, namely the debate surrounding street cleaning and refuse collection in a city, he would attract the enhanced protection to freedom of expression afforded to politicians.</p> <p>The Panel noted, nevertheless, that the right to freedom of expression is not absolute. Article 10(2) states that restrictions can be imposed to ensure that the Council is not brought into disrepute, to allow good administration and ensure public confidence in the Council or democracy itself is not undermined.</p> <p>The Panel considered that the need to ensure that the Council complied with the 1986 Act could be a relevant and sufficient reason to interfere a councillors’ freedom of expression. In this case, the Panel considered that the restriction on conduct during meetings held in the pre-election period was proportionate and necessary to the legitimate aim being pursued, which was to help the Council comply with the 1986 Act, with the overall aim of ensuring free and fair elections.</p> <p>The Panel concluded, therefore, that it was satisfied that a finding of breach in terms of the Respondent’s conduct at the meeting, and the subsequent application of a sanction, would not contravene Article 10 of the ECHR as it was lawful, legitimate and necessary.</p> <p>The Panel noted, however, that the requirement to ensure that the Council complied with the 1986 Act did not apply to the Respondent’s use of Facebook. This was because he was using Facebook as an individual councillor outwith the context of a council meeting and was entitled to use it as a platform for campaigning activities. As such, the Panel was not able to conclude that a restriction of the Respondent’s freedom of expression in relation to the Facebook post was justified and that a breach of the Code’s respect and courtesy provisions in respect of the Facebook post could not be found.</p> <p>The Panel concluded overall, therefore, that the Respondent had breached the respect and courtesy provisions and those provisions relating to the use of council facilities in respect of his conduct at the Council meeting.</p>
<p>Sanction</p>	<p>The Panel censured the Respondent. In reaching its decision, the Panel:</p> <ol style="list-style-type: none"> 1. Noted the Respondent had co-operated fully with the investigative and Hearing processes. 2. Had no reason to doubt the Respondent’s position that he had been trying to express his views on behalf of his constituents and had not considered that using the background would breach the pre-election guidelines. 3. Noted that the impact of the Respondent’s conduct was somewhat limited given that background was removed by Council officers before the webcast of the meeting was published. <p>However, the Panel:</p> <ol style="list-style-type: none"> 4. Emphasised that the requirement for councillors to treat each other with courtesy and respect and to refrain from using council facilities for party-political or campaigning purposes are fundamental requirements of the Code, the latter having particular importance during the pre-election period. 5. Noted that a failure to comply with these provisions and with the pre-election guidance has the potential to damage the reputation of a Council and could result in a failure to comply with legislative requirements. <p>The Panel further noted that the Respondent was no longer a councillor and, as such, the option to suspend him was not available. The Panel was of the view that the Respondent’s conduct did not come close to warranting the most severe sanction, which was disqualification. This was because there was no evidence of serious aggravating factors such as dishonesty, concealment or repeated behaviour over a long period of time.</p>

Case	
LA/AN/3546 – Angus Council	
Date of Referral	3 August 2022*
Date of Hearing	1 November 2022
Date of Written Decision	7 November 2022
* The initial referral was received on 20 April 2022. The Standards Commission directed the ESC to undertake further investigation on 27 April 2022.	
Complaint	The complaint concerned the Respondent's conduct at three council / council committee meetings, where it was alleged that he acted disrespectfully and discourteously towards the Complainer (a member of the public). It was further alleged that the Respondent developed a negative bias towards, and bullied, the Complainer.
Applicable versions of Code	Councillors' Code of Conduct July 2018 Councillors' Code of Conduct December 2021
Decision	<p>The Panel found that at the first meeting in question, the Respondent put several questions to the Complainer, who was making a deputation, about how many letters and emails he had sent to senior council officers and elected members over the previous 18 months. While the Panel accepted that the Complainer had raised the issue of the correspondence he had sent at the first council meeting, it noted that the volume and timing of the correspondence was not relevant to the matter at hand, and was of the view that the Respondent's questions, and the manner in which they were posed, could only reasonably be perceived as criticism of the Complainer's conduct. This was because the Panel considered that the clear inference from the questions was that the Complainer's correspondence was manifestly excessive and inappropriate (particularly given it was sent during the pandemic).</p> <p>The Panel found that at the second meeting (of a council committee), the Complainer made a deputation objecting to an application by the Council for permission to demolish a sheltered housing complex and build affordable homes, during which he referred to a survey he had carried out to establish the public's view on the Council's plans. The Panel found that the Respondent posed questions to the Complainer, firstly querying who the Complainer was representing at the meeting, and secondly querying the nature of the Complainer's survey. While the Panel accepted that the Respondent, as an elected member, had a duty to scrutinise and explore the merits of any application before him, which would include identifying the parties and how many objections had been collated, it considered that the manner and content of the questions posed by the Respondent were disrespectful and discourteous. In particular, the Panel was of the view that the use of the term "so-called charity" was clearly intended to infer that the Complainer's company was purporting to be a charity, and further that by implying that the Complainer's survey was skewed, the Panel was of the view that it would be reasonable for those in attendance to have concluded that the Respondent was inferring that the Complainer had somehow falsified the results of the survey for his own purposes. The Panel noted that this view was supported by the fact that another councillor had interjected to question the Respondent's conduct.</p> <p>The Panel found that a reasonable interpretation of the Respondent's conduct, at the third meeting, when he made four explicit references to the Complainer and his companies, was that he was including them in his assessment of who was responsible for unduly prolonging matters and necessitating unnecessary expenditure. The Panel considered that there was a clear implication that he was criticising the Complainer's conduct given that the Respondent had identified the Complainer, immediately after his accusation that some people had unnecessarily prolonged matters for their own motives. The Panel was of the view that it would be reasonable for an objective observer to conclude that the Respondent's intent, in identifying the Complainer in the circumstances in which he did so, was to criticise and demean him. The Panel was further of the view that, regardless of whether the Respondent's views of the Complainer's alleged conduct had any merit or not, they were not relevant to the matter under discussion.</p>



Case	LA/AN/3546 – Angus Council
<p>Decision</p>	<p>As such, the Panel was satisfied that, on the face of it, the Respondent had failed to act with courtesy and respect at all three meetings.</p> <p>The Panel noted that the item under discussion at the Committee meeting, a planning application, was quasi-judicial and that therefore Section 7 of the Code would apply. The Panel found that, by acting disrespectfully towards the Complainer, the Respondent failed to comply with the requirement in the Code to act fairly and be seen to be acting fairly, and to refrain from demonstrating bias or doing anything that could be reasonably perceived as demonstrating bias when making decisions on quasi-judicial matters. The Panel considered that it would be reasonable for a member of the public watching the meeting to conclude that the Respondent’s view on the Complainer may have inhibited his ability to approach the matter with an open mind. This would particularly have been the case if the member of the public had also viewed the first meeting.</p> <p>While the Panel noted that the behaviour had taken place over three meetings and may well have left the Complainer feeling that his reputation was being questioned, having considered the matter objectively, the Panel was not satisfied that the Respondent’s conduct, considered either individually or cumulatively, was sufficiently offensive and intimidating as to amount to bullying. The Panel was therefore unable to conclude, on balance, that there had been a breach of the bullying and harassment provisions of the Code.</p> <p>Before coming to a final decision, the Panel considered the Respondent’s right to freedom of expression under Article 10 of the ECHR. The Panel concluded that as it was satisfied that the Respondent was discussing matters of public concern, namely planning matters in the local area, and a statutory consultation, he would attract the enhanced protection to freedom of expression afforded to politicians.</p> <p>While the Panel had found, on the face of it, that the Respondent had been disrespectful and discourteous towards the complainer at the meetings, it did not consider that his questions and remarks were sufficiently offensive and gratuitous as to justify a restriction on his right to freedom of expression. This was because the Panel was satisfied that the Respondent, in so questioning the Complainer, was expressing value judgements that he considered had some basis in fact. The Panel noted that the Courts had held previously that the requirement to prove the truth of a value judgement was impossible, and also that the distinction between statements of fact and value judgements was of less significance where those value judgements are made in the course of lively political debate at a local level. As such, given the circumstances outlined, the Panel was not able to conclude that a restriction of the Respondent’s freedom of expression was justified and consequently a breach of the courtesy and respect provisions in the Code could not be found.</p> <p>The Panel noted, nevertheless, that the right to freedom of expression is not absolute. Article 10(2) allows restrictions to be imposed for certain reasons, including to protect the rights and reputations of others, to allow good administration, and to ensure public confidence in local government is not undermined. This is provided that any restriction is for relevant and sufficient reasons, and is proportionate to the legitimate aim being pursued.</p>
<p>Decision</p>	<p>In this case, the Panel considered that a restriction on the Respondent’s conduct during the Committee meeting, in terms of whether he had acted fairly and approached matters with an open mind, was necessary and proportionate to the legitimate aim being pursued, which was to provide for, and secure, the high standards expected of councillors when considering quasi-judicial and regulatory matters, as set out in the Code. The Panel noted that adherence to the requirements of the Code allows the council’s administration to function properly and helps ensure the council meets its obligation to make quasi-judicial decisions fairly, without bias and on the merits alone. The Panel was of the view that such an interference was the least restrictive measure available to it, given that adherence to the Code would not have prevented the Respondent from taking part in the discussion and decision-making process at the Committee meeting and from scrutinising the merits of the planning application and any objections to it. The Code merely required the Respondent to do so in a manner that was respectful, fair and that would also be perceived as fair.</p> <p>The Panel concluded, therefore, that it was satisfied that a finding of breach of the Code, in terms of the Respondent’s conduct at the Committee meeting and the subsequent application of a sanction, would not contravene Article 10 as it was lawful, legitimate and necessary.</p>



Case	LA/AN/3546 – Angus Council
Sanction	<p>The Panel suspended the Respondent for a period of one month from all meetings of Angus Council’s Development Standards Committee. In reaching its decision, the Panel noted:</p> <ol style="list-style-type: none">1. the Respondent had co-operated fully with the investigative and Hearing processes. The Panel further noted the Respondent’s his contribution to public life and to his community.2. there was no evidence of serious aggravating factors on the part of the Respondent, such as dishonesty, personal benefit or repeated behaviour over a long period of time.3. that the Respondent had never previously been the subject of an investigation by the ESC. <p>However, the Panel:</p> <ol style="list-style-type: none">4. Emphasised that the requirement for councillors to act fairly and without bias and also to be seen to be acting fairly and without bias when determining planning applications is a fundamental requirement of the Code.5. Considered that a failure to comply with that provision can erode public confidence in elected members and damage the reputation of a council itself, potentially leaving it open to legal action. The Panel was concerned that the Respondent had not demonstrated any insight in this regard.



Case	LA/E/3651 – Edinburgh Council
Date of Referral	19 December 2022
Date of Hearing	22 February 2023
Date of Written Decision	27 February 2023
Complaint	The complaint alleged that, at a meeting of the Council’s Transport & Environment Committee, the two Respondents participated in the discussion and vote on an agenda item concerning an Experimental Traffic Regulation Order closing a road. This was despite both Respondents having declared a non-financial interest in the matter.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The Panel noted there was no dispute that both the Respondents participated in the discussion and vote on the agenda item in question at the meeting, despite both having declared a non-financial interest in the matter.</p> <p>The Panel further noted that there was no dispute that the Respondents had been sent a copy of the Council’s guidance on dealing with Traffic Regulation Orders (TROs) the day before the meeting. The Panel noted that the guidance stated that as TROs were of a quasi-judicial nature, councillors should not indicate they were in favour of, or against, a specific TRO, before any meeting at which that TRO was to be discussed. The Panel noted that the Guidance stated that if a councillor had done so, they would need to declare an interest and take no part in the decision-making on that TRO. The Panel noted that, in the cover email attaching the Guidance, the Committee Clerk advised that a named residents’ association and a named local society had asked to make deputations on the item.</p> <p>The Panel found that the first Respondent declared a non-financial interest in the agenda item on the Experimental Traffic Regulation Order and had explained at the meeting that this was because she:</p> <ul style="list-style-type: none"> ▶ was a founder and member of both the residents’ association and the local society, that had requested, but had been denied, the opportunity to make representations to the Committee about the Experimental Traffic Regulation Order; and ▶ lived in the local area. <p>The Panel noted that the second Respondent had also declared a non-financial interest in the agenda item and had stated at the meeting that this was because she lived in the local area.</p> <p>Having viewed the webcast of the meeting, the Panel noted that another councillor had questioned whether any councillors who had previously expressed a public opinion on the issue should take part in the discussion and vote. The Committee Convener noted, in response, that the Respondents had both spoken on the topic in the local community, but indicated she understood that the fact that they had both declared an interest, was sufficient to allow them to consider the item. The Panel noted that the Convener had sought clarification from the Clerk as to whether this was correct. The Panel found that while the Clerk had confirmed the matter was quasi-judicial in nature, no advice had been given to the effect that having both declared an interest, the Respondents would not be able to participate in this discussion and vote on the agenda item.</p> <p>The Panel was satisfied that an Experimental Traffic Regulation Order was a type of TRO and, therefore, that the matter, as confirmed by the Council’s own guidance, was quasi-judicial in nature.</p> <p>The Panel acknowledged that the Respondents had not received clear advice at the meeting about whether or not they could participate in the agenda item, having both declared a non-financial interest. The Panel was satisfied, nonetheless, that they had been provided with guidance the day before that made it clear that councillors would not be able to take part in the decision-making if they had a declarable interest in the matter. The Panel noted, in any event, that it is a councillor’s personal responsibility to comply with the Code, regardless of the nature of any advice provided (or, in this case, not provided).</p>


Case	LA/E/3651 – Edinburgh Council
Decision	<p>The Panel considered that, having applied the objective test, the first Respondent should have reached the view, that her non-financial interest would not be perceived as being so remote or insignificant that it could not influence her potential discussion and decision-making on the agenda item under consideration. This was because the Panel considered that a member of the public, with knowledge of the relevant facts, namely her membership of the Residents' Association and the local society, as two organisations that wished to make deputations on the matter, would reasonably regard her interest to be sufficiently significant as to be likely to prejudice her discussion and decision-making on the agenda item. The Panel agreed that, having declared her interest, the first Respondent should have withdrawn from the meeting and taken no part in the discussion and decision-making on the matter.</p> <p>The Panel noted that the second Respondent lived in close proximity to the road in question. The Panel noted that it did not have sufficient evidence before it to confirm whether the outcome of the decision on the matter would have a positive or negative impact on the second Respondent's own road. The Panel nevertheless considered that, having applied the objective test, the second Respondent should have reached the view that her non-financial interest would not be perceived by members of the public, considering the matter objectively, as being so remote or insignificant that it could not influence her potential discussion and decision-making on the agenda item under consideration. This was because it was evident that the decision would have a direct impact on her road. In addition, the Panel noted that the Convener stated, during the meeting, that she was aware that the second Respondent had been involved in local discussions about the matter with the community and that the second Respondent had not disagreed.</p> <p>In any event, the Panel noted that the second Respondent had also declared a non-financial interest in the item. As such, the Panel noted that, in terms of the Code, she should have also withdrawn from the meeting and taken no part in the discussion and decision-making on the matter.</p> <p>The Panel noted that the Code provided that if a councillor had an interest, whether financial or non-financial, in the outcome of a decision on a planning application, or on taking enforcement action, they must declare it and refrain from taking part in making the decision. The Panel concluded that, by declaring non-financial interests in the agenda item and subsequently failing to withdraw from the decision-making process, the Respondents had breached the Code.</p> <p>The Panel further considered that by failing to withdraw from the decision-making process, having declared an interest, the Respondents failed to comply with the provisions in the Code that required them to:</p> <ul style="list-style-type: none"> ▶ be seen to be acting fairly; ▶ avoid being seen to be prejudging or demonstrating bias; and ▶ avoid any occasion for suspicion and any appearance of improper conduct.



Case	LA/E/3651 – Edinburgh Council
Sanction	<p>The Panel censured the Respondents. In reaching its decision, the Panel noted that neither Respondent was still a councillor. As such, the only sanctions available to the Panel were censure and disqualification. The Panel was of the view that the Respondents' conduct did not come close to warranting a disqualification. This was because there was no evidence that either had attempted to conceal their non-financial interests in the matter.</p> <p>The Panel further noted that:</p> <ol style="list-style-type: none"> 1. while the Respondents had not attended the Hearing, they had co-operated with the investigation and adjudication processes. 2. the Respondents did not receive clear advice at the meeting as to whether they could participate and vote on the agenda item. The Panel further noted that it had no reason to doubt the Respondents' position that any breach of the Code was inadvertent and that they had acted with the best of intentions. <p>The Panel noted, however that:</p> <ol style="list-style-type: none"> 3. while the Committee's decision appeared to be based on the recommendation from council officers, the failure by the Respondents to withdraw from the decision-making meant that the Council had to hold a further Committee meeting for the decision to be re-made. <p>The Panel emphasised that it is a councillor's personal responsibility to identify and declare certain interests and to thereafter withdraw from the decision-making process. The Panel noted that the requirement for councillors to withdraw from the room and take no part in the discussion and decision-making on any matter in which they have declared an interest is a fundamental requirement of the Code as it gives the public confidence that decisions are being made in the public interest, and not the personal interest of any councillor or their friends or family.</p> <p>The Panel further emphasised that the Code provides that quasi-judicial and regulatory decisions must be made solely on their merits. In order to give the public confidence that this is the case, councillors must not only act fairly and properly, but must be seen to be acting as such. A failure to comply with the Code's requirements in this regard can erode confidence in the Council and leave its decisions open to legal challenge.</p>




NO ACTION CASES



Case	LA/Fi/3544 – Fife Council
Date of Referral	6 April 2022
Date of Decision	12 April 2022
Complaint	The complaint concerned three Respondents. The first issue of complaint was that the Respondents failed to declare an interest in relation to an application being considered at a planning committee meeting, despite being members of the same political party as an objector to the application. The second issue of complaint was that two of the Respondents had carried out an unofficial site visit in breach of the Council’s policies.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ Aside from being members of the same political party as the objector in question, he had not found any evidence that any of the Respondents had a relationship with the objector. As such, the ESC concluded that it could not be said that any interest they had in the matter was sufficiently close and significant as to amount to a declarable interest. ▶ He had found that the Respondents who conducted the unofficial site visit had adhered to the procedures set out in their Council’s policy onsite visits. <p>The Standards Commission was not satisfied, on the face of it, that there was evidence of a breach of the Code. The Standards Commission concluded, therefore, that it was not proportionate or in the public interest to hold a Hearing. It decided to take no action on the referral.</p>


Case	LA/E/3542 – City of Edinburgh Council
Date of Referral	13 April 2022
Date of Decision	25 April 2022
Complaint	The complaint concerned an allegation that the Respondent publicly criticised the conduct and capability of an identifiable council officer in a letter sent to the Chief Executive of the Council, which was copied to and shared with others.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> it was not in dispute that the Respondent’s letter raised concerns about a council scheme and the actions of an unnamed council employee. The letter was copied to an MP and an MSP, and also shared with some constituents. information published on the Council’s website, in its response to a freedom of information request, had inadvertently included the unredacted name of the council officer criticised by the Respondent. Extracts from the Respondent’s letter were also published online in a newspaper article, meaning that the Respondent’s comments were brought into the public domain and the officer in question was identifiable. he had not found any evidence that the Respondent had shared the letter with the press. The ESC was satisfied that when the letter was sent to the Chief Executive and when the news story was then published, the unredacted freedom of information response had not been available online. As such, it could not be said that the Respondent had publicly criticised an identifiable council officer. <p>The Standards Commission was not satisfied, on the face of it, that there was evidence of a breach of the Code. The Standards Commission determined, therefore, that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided to take no action on the referral.</p>






Case	LA/R/3579 – Renfrewshire Council
Date of Referral	24 May 2022
Date of Decision	30 May 2022
Complaint	The first issue of complaint alleged that the Respondent had falsely accused the Complainer of vandalising windows on his home, in an article published in a newspaper. The second issue of complaint alleged that the Respondent told a fellow elected member that the Complainer had vandalised his windows.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The ESC reported that he had not found:</p> <ul style="list-style-type: none"> ▶ evidence to support the allegation that the Respondent told the press that the Complainer was responsible for breaking his windows. The ESC advised that the Complainer's name and gender were not mentioned in the article. ▶ any other evidence to suggest that the Respondent advised the other elected member that the Complainer had been the culprit. Indeed, the other elected member had confirmed the Respondent had not told him that the Complainer was responsible for the damage. <p>The Standards Commission was not satisfied, on the face of it, that there was evidence that the conduct complained of had occurred. The Standards Commission concluded, therefore, that it was not proportionate or in the public interest to hold a Hearing and decided to take no action on the referral.</p>

Case	LA/E/3595 – City of Edinburgh Council
Date of Referral	27 May 2022
Date of Decision	30 May 2022
Complaint	The complaint alleged the Respondent had publicly accused the Complainer of sexism in a tweet. In a post commenting on a blog posted by the Respondent, the Complainer stated that: “teenage girls won’t cycle because they don’t look cool with a helmet.” The Respondent had replied to the Complainer’s comment, noting that it was “a bit of a sexist comment”.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ the Respondent’s Twitter name and handle referred to him as being a councillor, and his account referenced the ward he represented. As such, the ESC was satisfied that it would be reasonable to perceive the Respondent was acting in the capacity of a councillor when posting and, as such, the Code applied. ▶ he had found that the Respondent had called the Complainer’s comment sexist. He had not made any personal attack or remark to the effect that the Complainer himself was sexist. ▶ he did not consider the Respondent’s remark to be disrespectful or discourteous in nature. Instead, he was of the view that the Respondent had merely provided his opinion on a comment made by the Complainer. <p>The Standards Commission was not satisfied, on the face of it, that there was evidence of a breach of the Code. The Standards Commission concluded that it was not proportionate or in the public interest to hold a Hearing. The Standards Commission decided, therefore, to take no action on the referral.</p>



Case	NHS/ACH/3584 – Aberdeen City Health and Social Care Partnership
Date of Referral	27 May 2022
Date of Decision	31 May 2022
Complaint	The complaints concerned the Respondent's conduct at a meeting of the Health and Social Care Integration Joint Board, held to address public concern regarding the management of a medical practice. The Complainers alleged that the Respondent made a number of incorrect claims at the meeting about whether there were other practices where staff had resigned and the timing of the resignations.
Applicable version of Code	Code of Conduct for Members of Aberdeen City Health & Social Care Partnership 2014.
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ he had found some of the information provided by the Respondent to be incorrect. The ESC noted, however, that he had been unable to establish whether the Respondent had done so deliberately, in the knowledge it was false. ▶ in any event, he had found that other participants had corrected the Respondent, so those present were informed immediately of the factual position. <p>The Standards Commission noted that neither presenting a different opinion nor making a factual mistake was inherently disrespectful. The Standards Commission was not satisfied that it would be possible to prove that the Respondent had known the information provided to be incorrect at the time. The Standards Commission was not satisfied, on the face of it, that there was evidence of a breach of the Code and concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission decided, therefore, to take no action on the referral.</p>


Case	LA/NL/3557 – North Lanarkshire Council
Date of Referral	13 June 2022
Date of Decision	20 June 2022
Complaint	The complaint alleged that by visiting a development site, having a photograph taken with the managing director of a building company and retweeting a news release before a council committee meeting, at which the award of a contract to the building company for works at the site was being considered, the Respondent had breached the provisions in the Code relating to lobbying and to making decisions on quasi-judicial and regulatory matters.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The ESC reported that he did not consider there was evidence of any breach of the Code. This was because:</p> <ul style="list-style-type: none"> ▶ while it was accepted the site visit had taken place, the visit had been arranged by council officers and, other than for the purpose of the photoshoot, the Respondent did not meet with the managing director (or any other contractor). As such, there was no evidence that the Respondent had been lobbied or otherwise influenced, during it, in a way that a member of the public might reasonably consider as likely to impact upon her subsequent vote at the committee meeting. ▶ the news release contained a quote attributed to the Respondent, but it did not relate directly to the development and did not outline the Respondent's position in advance of the meeting. <p>The Standards Commission found no reason to depart from the ESC's conclusion that there was no evidence of a breach of the Code. The Standards Commission concluded, therefore, that it was neither proportionate, nor in the public interest, for it to hold a Hearing. It decided to take no action on the referral.</p>



Case	LA/OI/3588 – Orkney Islands Council
Date of Referral	7 June 2022
Date of Decision	20 June 2022
Complaint	The complaint concerned allegations that the Respondent misrepresented the Complainer's position in respect of parking permits in a town centre. The Complainer further alleged that the Respondent had been disrespectful in correspondence and a Facebook post by inferring that the Complainer lacked common sense and had been "swiping from the sidelines".
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ despite the Respondent naming the Complainer in his letter and suggesting that his position about whether he supported the parking proposals might be inconsistent, the ESC did not consider that the letter was discourteous or disrespectful to the Complainer. ▶ he had found the Respondent had failed to treat the Complainer with courtesy and respect as negative connotations about him could be drawn from the use of the phrase "swiping from the sidelines", and by inferring that he lacked common sense. The ESC, nevertheless, considered that a formal finding of a breach of the Code could not be justified as the Respondent's conduct was not sufficiently serious, offensive or abusive as to warrant a restriction on his right to freedom of expression under Article 10 of the ECHR. <p>The Standards Commission agreed with the ESC that the threshold required for a breach of the respect provisions in the Code was not reached in relation to the content of the correspondence.</p> <p>The Standards Commission agreed with the ESC that, on the face of it, the content of the Facebook post could be reasonably perceived to be discourteous or disrespectful. The Standards Commission noted, however, that the Facebook post did not appear to have reached a wide audience, and that it had been superseded by the publication of the letter and a subsequent response from the Complainer, which limited its impact and practical consequence. The Standards Commission agreed, in the circumstances, that it was very unlikely that the conduct in question would be found to be sufficiently serious, offensive or abusive as to justify a restriction on the Respondent's enhanced right to freedom of expression. The Standards Commission concluded, therefore, that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided to take no action on the referral.</p>


Case	LA/AN/3631 – Angus Council
Date of Referral	13 July 2022
Date of Decision	18 July 2022
Complaint	The complaint alleged that although the Respondent was a director in a company that had submitted a planning application, he had not been named in the application.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ he had not found any evidence to support the Complainer’s contention that the Respondent was involved in the submission of the application or that he was aware it had been made. The planning officer who made the decision on the application confirmed that he had not been influenced, in any way, by the Respondent. ▶ he had found that the Respondent had not had any dealings (formal or otherwise) in respect of the Council’s consideration of the application that would have required any declaration of interest to be made. ▶ the Respondent had included an entry to the effect that he was a director of the company in his register of interests, as required by the Code. <p>The Standards Commission was not satisfied, on the face of it, that there was any evidence of a breach of the Code. The Standards Commission determined, therefore, that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided to take no action on the referral.</p> <p>The Standards Commission noted that the ‘complaint’ appeared to be based on a misunderstanding of the planning process on the part of the Complainer, who was himself a councillor. The Standards Commission noted that any suggestion that the planning application had been influenced by the Respondent would also involve, by implication, a suggestion that the planning officer may not have followed due process. The Standards Commission noted that there was no evidence of this whatsoever.</p>






Case	LA/As/3629 – Aberdeenshire Council
Date of Referral	15 July 2022
Date of Decision	20 July 2022
Complaint	The complaint concerned text messages sent by the Respondent to a fellow councillor during an online meeting.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC reported that:</p> <ul style="list-style-type: none"> ▶ the Respondent sent text messages, during a virtual meeting of a Council committee, to a fellow councillor, encouraging her to challenge the Complainer’s position. ▶ he did not consider that the sending of the messages was inherently disrespectful as there was nothing within the Code or the Council’s Standing Orders that would prevent a councillor from messaging a colleague during a meeting. ▶ he had nevertheless found that, on the face of it, the words the Respondent used in the text messages to describe the Complainer were disrespectful in nature. The ESC noted, however, that the exchange did not occur in a public context and the Code was not intended to capture private correspondence. <p>The Standards Commission was not satisfied that the conduct, as established, could amount to a breach of the Code and concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission decided, therefore, to take no action on the referral.</p>

Case	LA/SL/3684 – South Lanarkshire Council
Date of Referral	12 August 2022
Date of Decision	16 August 2022
Complaint	The complaint related to an email exchange between the Respondent and the Complainer. The Complainer alleged that the tone of the Respondent's emails was accusatory, intimidating and bullying.
Applicable version of Code	Councillors' Code of Conduct December 2021
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ the Complainer sent the Respondent three emails relating to a Facebook post made by the Respondent commenting on GP services in the local area. The Complainer, a GP, found the Respondent's Facebook post to be upsetting and emailed the Respondent to raise her concerns. The Respondent replied to the Complainer twice. ▶ he did not consider the Respondent's conduct was sufficiently serious as to amount to bullying. This was because: ▶ the Complainer had initiated the email exchange (which was wholly private in nature) and her emails to the Respondent had been persistent and had pressed for a response; ▶ the Respondent had apologised to the Complainer for the wording of her Facebook post in her first email and attempted to make amends; and ▶ it was not a workplace situation where one individual held a position of power over the other. Instead, it was an exchange of emails between two individuals of recognised and respected professions. <p>The Standards Commission was not satisfied that the conduct, as established, could amount to a breach of the Code. In particular, the Standards Commission noted that the Respondent had been replying to emails initiated by the Complainer, and that the Respondent had, in her initial response, offered an apology to the Complainer. The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>




Case	LA/SL/3587 – South Lanarkshire Council
Date of Referral	26 August 2022*
Date of Decision	1 September 2022
* The initial referral was received on 26 July 2022. The Standards Commission directed the ESC to undertake further investigation on 1 August 2022.	
Complaint	The complaint alleged that the Respondent had contacted members of a Community Centre Management Committee and had harassed them, in an attempt to persuade them to overturn a decision. The Complainer alleged that, in doing so, the Respondent had provided the members with incorrect information. The Complainer also alleged that the Respondent had attacked her character by calling her a liar during a telephone call with another Community Centre member.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ while it was not in dispute that the Respondent had contacted at least one Community Centre member, the ESC was satisfied that the Respondent did not provide them with incorrect information. ▶ he was not persuaded that, by asking questions about how the decision in question was taken and by making references to the wishes of the late Chair of the Community Centre, the Respondent's alleged conduct would constitute bullying, harassment or disrespect. ▶ the Respondent denied making the telephone call to the Community Centre member during which it was alleged he had called the Complainer a liar. The ESC further advised that, in any event, the member in question had provided different recollections of what had been said during the alleged call. As such, the ESC was unable to conclude that the facts of the issue had been established and found, on the balance of probabilities, that the complaint had not been proven. <p>The Standards Commission was of the view that while it appeared the Community Centre Members were upset at being challenged about the decision, this did not in itself mean that the Respondent was not entitled to contact them to ask why they had made it. The Standards Commission was not satisfied, on the face of it, that the conduct as established could amount to a breach of the Code and concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission decided, therefore, to take no action on the referral.</p>

Case	LA/AN/3564 – Angus Council
Date of Referral	30 August 2022
Date of Decision	6 September 2022
Complaint	The complaint concerned an anonymous Facebook account operated by the Respondent, which was alleged by the Complainers to have posted abusive and disrespectful comments about others, including other councillors.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ although the account had been operated anonymously, the Respondent’s subsequent identification as the operator of the account by the press, and his admission, meant that it was reasonable to perceive that he was acting as a councillor at the time of operating the account and, as such, the Code applied. ▶ he had only been able to recover two posts from the account. The first of these, sought to encourage tactical voting, which the ESC noted to be neither disrespectful nor discourteous. ▶ the second post appeared to be a screengrab of a tweet, questioning the proximity between independent councillor colleagues of the Respondent and a political party. The ESC considered that this post was potentially disrespectful and discourteous towards those independent councillors and could be considered a breach of the respect provisions of the Code. The ESC nevertheless considered that the Respondent, as a politician commenting on a matter of public concern, would be entitled to enhanced protection to his right to freedom of expression. <p>The Standards Commission agreed with the ESC that, even if the Respondent’s conduct in respect of the second post was found to be disrespectful or discourteous at a Hearing, it was highly likely that he would enjoy the enhanced protection to freedom of expression afforded by Article 10 of the ECHR, given it related to a matter of public concern (being the alleged proximity between independent councillors and a political party). The Standards Commission considered that it was very unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent’s right to freedom of expression. As such, it was unlikely that a breach of the Code could be found at a Hearing.</p> <p>The Standards Commission determined, therefore, that it was not in the public interest or proportionate to hold a Hearing and decided to take no action on the referral.</p>




Cases	NPA/C/3612 & 3628 – Cairngorms National Park Authority LA/As/3613 – Aberdeenshire Council
Date of Referrals	31 August 2022
Date of Decisions	7 September 2022
Complaint	The complaints alleged the Respondent, during an online meeting of the board of the Cairngorms National Park Authority (CNPA), uttered or mouthed a profanity while one of the Complainers was speaking.
Applicable version of Codes	Code of Conduct for Members of the Cairngorms National Park Authority December 2014 Councillors' Code of Conduct July 2018
Decisions	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ the Respondent disputed the allegation. ▶ he had found both the Respondent and Complainers to be credible witnesses and, as such, had found it difficult to prefer one version of events over the another. ▶ one of the Complainers had posted a message during the meeting suggesting it was unprofessional for a member to mouth expletives. In addition, during an internal investigation by the CNPA, another participant reported that they had observed that the Respondent had “muttered something” while one of the Complainers was speaking. ▶ he was not satisfied that there was sufficient evidence to establish that the Respondent had uttered the remark as alleged, with the intention of swearing at another member. <p>Having reviewed the evidence before it, the Standards Commission noted that the alleged incident was a one-off event and that there was no evidence that the Respondent had directed the remark at either of the Complainers (or anyone else). The Standards Commission acknowledged that the Respondent had issued an apology to the Complainer who had been speaking at the time of the incident when the matter was brought to his attention, in the event that he had unknowingly caused her any offence. Having taken into account these factors, the Standards Commission was not satisfied that, even if established, the alleged conduct would amount to a breach of the Code.</p> <p>The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided, therefore, to take no action on the referral.</p> <p>The ESC referred a second report to the Standards Commission about the incident and Respondent, in the Respondent’s capacity as a councillor of Aberdeenshire Council (the Respondent having been nominated by Aberdeenshire Council to the board of the CNPA). Having considered the terms of the second report, the Standards Commission determined that the Respondent was not acting in the capacity of a councillor at the time of the alleged incident and, as such, the Councillors’ Code of Conduct did not apply. This was because the Respondent was attending the meeting as a member of the CNPA Board and was acting in that capacity (regardless of how he had been appointed as a member of the board). As the Councillors’ Code did not apply, the Standards Commission determined it was neither in the public interest, nor proportionate to hold a Hearing and, as such, also decided to take no further action on the second report.</p>


Case	LA/NL/3581 – North Lanarkshire Council
Date of Referral	6 September 2022
Date of Decision	8 September 2022
Complaint	<p>The complaint related to a dispute between the Respondent and the Complainer, who were neighbours. The ESC reported there were three issues of complaint, being that:</p> <ul style="list-style-type: none"> ▶ during a telephone conversation, the Respondent threatened to report the Complainer to the Council’s Planning Department if the Complainer did not agree to build a new fence; ▶ the Respondent suggested that the Council’s Planning Department had told her that she could remove a fence and that planning officers would attend the Complainer’s property to support her [the Respondent’s] position; and ▶ the Respondent started a hate campaign against the Complainer and his wife and falsely accused them of using their CCTV system to film her, in discussions with other neighbours and in a Facebook post.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ in respect of the first and third issue, there was no evidence that the Respondent told the Complainer or his wife that she was acting as a councillor or referred to herself as such during either the telephone conversation in discussions with other neighbours. The Facebook comment was posted on her personal account, not her councillor one. As such, he had found that the Respondent was not acting as a councillor and the Code did not apply. ▶ in any event, the Respondent would have been entitled to state that she would report the Complainer to the Council’s planning department (if indeed she did so), as that was an option open to all members of the public, including councillors. ▶ in respect of the second issue, the Respondent disputed that she had told the Complainer she could remove the fence and that planning officers would support her if she did so. The ESC advised that he had not found the factual basis of the second issue to be proven and concluded that a breach of the Code could not be found. <p>Having reviewed the evidence before it, the Standards Commission found no reason to depart from the ESC’s conclusions. The Standards Commission decided, therefore, that it was not proportionate or in the public interest for it to hold a Hearing. The Standards Commission decided to take no action on the referral.</p>



Case	LA/Mo/3615 – Moray Council
Date of Referral	21 September 2022
Date of Decision	26 September 2022
Complaint	<p>The complaint alleged that the Respondent had failed to declare an interest in the review of a planning application at a meeting of the Local Review Board. This was despite him being:</p> <ul style="list-style-type: none"> ▶ personal friends with two of the directors of the applicant company; and ▶ a co-member of a local committee, that organised annual festive events, with one of the directors.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ the Respondent disputed that he was personal friends with either director. The ESC reported that while he had found the Respondent to be 'friends' on Facebook with one director, evidence from the director and other members of the local committee supported the Respondent's position. The ESC found that the director was not on the same local committee as the Respondent, as alleged. ▶ in the circumstances, there was no requirement for the Respondent to have declared an interest in the planning application. <p>Having reviewed the evidence before it, the Standards Commission found no reason to depart from the ESC's conclusions. As the Standards Commission was not satisfied that there was evidence of any breach of the Code, it concluded that it was not proportionate or in the public interest to hold a Hearing. The Standards Commission decided, therefore, to take no action on the referral.</p>




Case	CSE/3748 – Children’s Hearings Scotland
Date of Referral	22 September 2022
Date of Decision	26 September 2022
Complaint	The complaint alleged that the Respondent had used disrespectful language in a tweet, in breach of the Children’s Hearings Scotland’s policies regarding the use of its resources and that, in doing so, had contravened the provision in Children’s Hearings Scotland’s Code of Conduct.
Applicable version of Code	Children’s Hearings Scotland Code of Conduct January 2022
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> he had dismissed, at the eligibility stage, the complaint that the Respondent’s language in the tweet was disrespectful as he had not found that to be the case. the Code stated that board members were only to use Children’s Hearings Scotland’s resources, including employee assistance, facilities, stationery and IT equipment, for carrying out duties on behalf of the public body, in accordance with its relevant policies. while the content of the Respondent’s tweet was unrelated to her role as a board member of Children’s Hearings Scotland, her Twitter profile identified her as such. The ESC considered, therefore, that the Respondent could objectively be considered to be acting in her capacity as a board member when she posted the tweet and, as such, the Code applied. the Respondent’s position was that she posted the tweet using her personal mobile phone, and not a device provided by Children’s Hearings Scotland. In the absence of any other evidence to dispute this position, the ESC was unable to conclude on the balance of probabilities that the Respondent had used the public body’s resources and, in doing so, had breached its policies or Code. <p>The Standards Commission was not satisfied that there was evidence of any breach of the Code. Having noted that it was very unlikely that any further evidence would come to light, the Standards Commission concluded that it was not proportionate or in the public interest for it to hold a Hearing. The Standards Commission decided, therefore, to take no action on the referral.</p>



Case	LA/S/3641 – Stirling Council
Date of Referral	22 September 2022
Date of Decision	27 September 2022
Complaint	The complaint concerned an image posted on the Respondent’s social media account showing the former Prime Minister about to be assaulted by police. The image comprised of a photograph that appeared to be from the miners’ strikes in the 1980s with another photograph of the Prime Minister superimposed on top.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ while the Respondent’s social media page appeared to be a private account, its introduction section, which was available to view, stated that he was a councillor and referenced the council ward he represented. As such, the ESC was satisfied that the Respondent could reasonably be perceived to be acting in the capacity of a councillor at the time and, therefore, the Code applied. ▶ the Respondent accepted he should not have posted the image and had indicated that he was willing to apologise for any offence it had caused. The ESC advised, however, that he was satisfied that as the Respondent posted an image that displayed violence towards an MP, his conduct could be perceived, on the face of it, as being a breach of the respect provisions in the Code. ▶ he considered that the post related to a matter of public concern, namely the then Prime Minister’s comments and views on the miners’ strikes. As such, the ESC considered that the Respondent would be entitled to the enhanced protection to freedom of expression afforded to politicians commenting on matters of public concern. The ESC concluded, in the circumstances, that a restriction on the Respondent’s freedom of expression, which a finding of breach and imposition of a sanction would entail, would not be justified. <p>Having reviewed the evidence before it, the Standards Commission found no reason to depart from the ESC’s conclusions. The Standards Commission considered that it was very unlikely that the conduct in question would be found, in the circumstances, to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent’s right to freedom of expression. As such, it was unlikely that a breach of the Code could be found at a Hearing. The Standards Commission concluded that it was not proportionate or in the public interest for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>


Case	LA/AB/3619 – Argyll and Bute Council
Date of Referral	10 October 2022
Date of Decision	13 October 2022
Complaint	The complaints related to allegations that firstly, at a meeting of a council’s area committee and secondly, at a full council meeting, the Respondent failed to declare an interest in relation to agenda items concerning the future of gardens in a local town. This was despite the Respondent’s husband and son both being employed by the Council and allegedly being involved in work relating to the gardens.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that he had found that:</p> <ul style="list-style-type: none"> ▶ while the Respondent’s son was a council employee, he had no connection to the gardens. The ESC advised that he was satisfied, therefore, that there was no requirement for the Respondent to declare an interest in relation to her son’s employment. ▶ although a small part of the Respondent’s husband’s role involved work at the gardens, he was not directly employed by them or based there. The ESC was of the view, therefore, that a member of the public, with knowledge of the relevant facts, would not reasonably consider that the Respondent’s husband’s role would be likely to influence the Respondent’s decisions. As such, the ESC concluded that the Respondent was not required to declare an interest. <p>Having reviewed the evidence before it, the Standards Commission agreed with the ESC’s conclusion. The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>





Case	LA/SA/3672 – South Ayrshire Council
Date of Referral	12 October 2022
Date of Decision	14 October 2022
Complaint	The complaint was that the Respondent, in submitting an objection to a planning application, included incorrect information and also failed to mention that he was personally connected to a neighbour of the applicant. The Complainer further complained that the Respondent went to the site with a Reporter who was appointed as part of the consideration of an appeal against the Council's refusal to grant the planning application.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ while there was no dispute that the Respondent included, in his email of objection, incorrect information about the property, there was no evidence he had done so in bad faith. The ESC further advised that the information had little impact on the Regulatory Panel's decision. ▶ while the Respondent confirmed that he submitted the objection, there was no evidence that he had any further involvement in the Council's consideration of the application or that he had sought preferential treatment. There was no evidence that the Respondent was connected to the neighbour of the applicant, beyond having provided assistance in his capacity as the ward councillor. ▶ he did not consider it was inappropriate for the Respondent to have gone to the site and he was not involved in the Reporter's decision (which is separate from decisions taken by the Council). The ESC concluded that while the facts of the complaint had been established, a breach of the Code could not be found. <p>Having reviewed the evidence before it, the Standards Commission found no reason to depart from the ESC's conclusions. The Standards Commission noted that, like any other member of the public, councillors are entitled to submit objections to a planning application, regardless of whether or not they have any connection to a property (or its owner / occupier) that could be affected by any decision to grant or reject the application.</p> <p>The Standards Commission concluded that it was not proportionate or in the public interest for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>


Case	LA/NL/3758 – North Lanarkshire Council
Date of Referral	13 October 2022
Date of Decision	18 October 2022
Complaint	The complaint concerned a tweet posted by the Respondent, in which he stated that the Complainer, another councillor, was “spouting lies”.
Applicable version of Code	Councillors’ Code of Conduct December 2021
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ although the Respondent contended that he was not acting in his capacity as a councillor when posting the tweet, he had referred to himself as such in both his Twitter name and profile. The ESC therefore concluded that the Respondent could objectively be perceived as acting as a councillor at the time he posted the tweet and, therefore, the Code applied. ▶ the Respondent had called into question the integrity of the Complainer by suggesting he was telling lies. The ESC considered that given the importance of integrity to a politician’s reputation, the tweet was disrespectful and discourteous in nature and concluded that the Respondent’s conduct in posting the tweet amounted, on the face of it, to a breach of the Code. ▶ the tweet related to a matter of public interest, namely claims the Complainer had made in respect of the political composition of another council. As such, the ESC was of the view that the Respondent would be entitled to the enhanced protection to freedom of expression afforded to politicians under Article 10 of the ECHR when commenting on matters of public interest. The ESC considered that the Respondent’s conduct was not so bad or shocking as to justify the restriction on his enhanced protection to freedom of expression that a finding of a breach of the Code would entail. As such, the ESC recommended that the Respondent’s conduct could not be found to amount to a breach of the Code. <p>The Standards Commission agreed with the ESC that even if the Respondent’s conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that he would enjoy the enhanced protection to freedom of expression afforded by Article 10. The Standards Commission concluded that it was not proportionate for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>



Case	LA/R/3598 – Renfrewshire Council
Date of Referral	2 November 2022
Date of Decision	7 November 2022
Complaint	The complaint alleged that the three Respondents made statements about the Complainer, a local bus company, at a council meeting that were false, misleading and designed to damage the Complainer’s reputation.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ while lying or knowingly misleading people at meetings could be potentially disrespectful or discourteous, his view was that the Respondents were merely stating opinions. The ESC noted that while the Complainer disagreed with the Respondents’ views on its services, that did not in itself mean their comments were false or misleading. ▶ he had found the Respondents provided reasons for their views. The ESC advised that although some of the Respondents’ comments were robust in nature, they were entitled to scrutinise and criticise the Complainer’s actions. <p>The Standards Commission noted that the ESC had reached the conclusion that the Respondents’ conduct did not amount, on the face of it, to a breach of the Code, and found no reason to depart from that conclusion. The Standards Commission concluded that it was not proportionate for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>

Case	LA/E/3651a – City of Edinburgh Council
Date of Referral	16 November 2022
Date of Decision	21 November 2022
Complaint	The complaint concerned an allegation that during a meeting of the Council’s Transport and Environment Committee, that she was chairing, the Respondent failed to follow legal advice in relation to two other councillors’ entitlement to participate in the decision-making on an agenda item.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ at the meeting, two councillors on the committee declared non-financial interests in an agenda item relating to Traffic Regulation Orders (TROs), being a matter that was quasi-judicial in nature. The ESC further advised that despite each having declared an interest, both councillors participated in the decision-making process in relation to the agenda item. ▶ the two other councillors in question had a personal responsibility to comply with the Code. While the ESC acknowledged that the Respondent was the Convener of the Committee, he noted that the Code did not place any responsibility on Committee Conveners or Chairs to ensure that the councillors who declared interests then recused themselves from the meeting. <p>The Standards Commission noted that the ESC had reached the conclusion that the Respondent’s conduct could not amount to a breach of the Code. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion. This was because it was a councillor’s personal responsibility to comply with the Code. There were no specific provisions in the Code that required councillors to accept advice from officers in this regard, or to take any action to ensure other councillors complied with its requirements. The Standards Commission decided, therefore, to take no action on the referral.</p>






Case	LA/Mo/3620 – Moray Council
Date of Referral	30 November 2022
Date of Decision	6 December 2022
Complaint	The complaint concerned a meeting of Moray Council’s Local Review Body at which two Respondents voted for the granting of planning permission that had previously been refused. The Complainer alleged that certain aspects of the Respondents’ conduct at the meeting indicated that they had failed to take into account relevant and material considerations. The complaint further alleged that one of the Respondents’ request for a site visit was an indication that he did not have sufficient information to reach a decision, meaning that his decision was not made fairly and properly.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ he did not find the majority of the Complainer’s allegations to be factually proven. In assessing the allegations that he found to be factually proven, the ESC noted that he had established the reasons given by the Respondents for supporting the planning application were material and relevant, as they all related to comments made by the public set out in the document bundle provided to councillors in advance of the meeting. ▶ the suggestion of a site visit by one of the Respondents was not related to the decision he reached, but instead to a disagreement with the designation of the site in the Local Development Plan, and as such the ESC considered it was not evidence that the decision was made unfairly or improperly. <p>The Standards Commission noted that councillors were required, under the Code, to exercise their judgement fairly and impartially and to base their decision on material and relevant reasons. In this case the Standards Commission noted that the ESC had found the reasons given by the Respondents for supporting the planning application were material and relevant. The Standards Commission was satisfied, therefore, that there was no evidence, on the face of it, of a breach of the Code. The Standards Commission decided, therefore, to take no action on the referral.</p>


Case	LA/AC/3639 – Aberdeen City Council
Date of Referral	1 December 2022
Date of Decision	7 December 2022
Complaint	The complaint alleged that, when taking part in five meetings of the Council’s Licensing Board, the Respondent failed to declare an interest in respect of 17 licensing applications that concerned Aberdeen Business Improvement District (BID) levy payers, despite being employed by the BID and having a relationship with some of the applicants.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ the Respondent was employed by the BID. His role was to provide advice and assistance to the Chief Executive in respect of developing and nurturing key partnerships and strategies of importance to the BID. ▶ the applications being considered by the Licensing Board related to businesses that were located within Aberdeen Inspired BID. Five of the applications concerned premises, the Managers of which were also Vice-Chairs of the board of Aberdeen Inspired. ▶ he had found that the Respondent was not a member of the board of Aberdeen Inspired and had confirmed that his employment rarely brought him into contact with the applicants. The ESC was therefore of the view that the Respondent’s relationship with the applicants was not one that required a declaration of interest to be made. ▶ the matters before the Licensing Board concerned the seeking of premises licences, the review of licensing conditions or applications to vary licence conditions. The ESC advised that some of the applications may have affected the rateable value of the property and subsequently any levy collected and passed on to Aberdeen Inspired. The ESC nevertheless advised that, having considered each matter individually, he was satisfied that none could be said to be so clear and significant as require a declaration of interest. The ESC confirmed that this was the case, both in respect of the Respondent’s employment and in respect of the financial interest of Aberdeen Inspired, as his employer. <p>Having taken into account the above factors, and in particular the fact that it was not satisfied, on the face of it, that the conduct as established could amount to a breach of the Code, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission decided, therefore, to take no action on the referral.</p>





Case	LA/SB/3654 – Scottish Borders Council
Date of Referral	20 December 2022
Date of Decision	21 December 2022
Complaint	The complaint was that, when considering two planning applications at a meeting of the Council's Planning & Building Standards Committee the Respondent, as Chair, allowed the Committee members to mislead themselves. The Complainer (who was the applicant) alleged that, in doing so, the Respondent failed to ensure the decisions were taken properly and failed to act fairly.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The ESC advised that he had found that:</p> <ul style="list-style-type: none"> ▶ the Respondent spoke in support, and voted in favour, of both planning applications, in accordance with the Council planning officers' recommendations. The ESC was of the view that this tended to show that the Respondent did not behave unfairly towards the Complainer. ▶ both contemporaneous notes taken by the Council's Planning Officer and Solicitor who were present at the meeting, and the meeting minutes, demonstrated that the issues discussed in respect of the planning applications were relevant and material. As such, the ESC concluded that the Respondent had not allowed the Committee members to mislead themselves, as alleged. <p>The Standards Commission noted that the ESC had reached the conclusion that the facts of the complaint had not been established and, as such, there had not been a breach of the Code by the Respondent. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion, and concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>


Case	LA/I/3688 – Inverclyde Council
Date of Referral	22 December 2022
Date of Decision	23 December 2022
Complaint	The complaint related to a series of tweets posted by the Respondent, which allegedly misrepresented a MSP’s position on paedophiles and child sexual assault.
Applicable version of Code	Councillors’ Code of Conduct December 2021
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> while he considered that the Respondent had publicly and deliberately misrepresented the MSP’s position on what was a sensitive topic, it was nevertheless a topic of political and public interest, on which the Respondent was entitled to comment and criticise. the Respondent had explained in a later tweet that he understood the MSP’s position and condemned the abuse she had received. As such, the ESC did not consider that the Respondent had deliberately encouraged abuse and criticism of the MSP. The ESC recommended, therefore, that the Respondent’s conduct did not amount to disrespect, bullying or harassment under the Code. <p>Having reviewed the evidence before it, the Standards Commission considered that a finding that the Respondent had deliberately and seriously misrepresented or distorted the other politician’s position, in the specific circumstances of a case where it could have been reasonably anticipated that doing so could lead to her receiving abuse, could potentially be disrespectful.</p> <p>The Standards Commission considered, however, that even if the Respondent’s conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that he would enjoy the enhanced protection to freedom of expression afforded by Article 10 of the ECHR, given the tweet concerned a matter of public and political interest.</p> <p>The Standards Commission noted that the Respondent, in a quote provided to a newspaper on the same day, acknowledged that the other politician’s position was potentially more nuanced than he had originally suggested in his tweet. In the circumstances, the Standards Commission considered that it was unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent’s enhanced right to freedom of expression. As such, the Standards Commission concluded that it was not proportionate for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>



Case	LA/Fi/3661 – Fife Council
Date of Referral	17 January 2023
Date of Decision	18 January 2023
Complaint	The complaint alleged that the Respondent failed to declare an interest in respect of a planning application submitted by the Complainer’s daughter, despite the Complainer’s family being known to the Respondent. The Complainer alleged that the Respondent asked inappropriate questions about whether a condition could be placed on the planning permission if it were to be granted, and that he was prejudiced against the Complainer and the Complainer’s daughter.
Applicable version of Code	Councillors’ Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ the comments made and questions posed by the Respondent related to matters mentioned in the Council’s report on, and in one of the objections received about, the application. The ESC advised that he had concluded, therefore, that it was neither unreasonable nor inappropriate for the Respondent to have made reference to the matters in question. ▶ he was satisfied that there was no connection or relationship between either the Respondent and the applicant or the Respondent and the applicant’s family (including the Complainer) that could be said to be an interest that was so clear and significant as to amount to a declarable interest. ▶ he had not found any evidence of prejudice or bias and noted, in any event, that the Respondent did not vote against the application. The ESC concluded that he had not found any evidence to support the contention that the Respondent had breached the Code. <p>The Standards Commission agreed with the ESC that it did not appear the Respondent would not have been required to declare an interest at the meeting in question. The Standards Commission noted that an important part of a councillor’s role is to scrutinise and did not consider that the Respondent asked questions that went beyond what might be classed as robust scrutiny. The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>


Case	LA/G/3776 – Glasgow City Council
Date of Referral	19 January 2023
Date of Decision	25 January 2023
Complaint	The complaints related to three Tweets posted by the Respondent in July 2022 in respect of a venue that was to host events organised by another political party.
Applicable version of Code	Councillors’ Code of Conduct December 2021
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> the Respondent had stated in one of his tweets that he considered the venue was “welcoming the business of a party obsessed with transphobia and led by a man with so many allegations of sexual harassment against him”. In his second tweet, the Respondent noted that the venue had cancelled the event on becoming aware of who had made the booking and stated “bigotry has consequences”. In the last tweet, the Respondent stated that “transphobia is unacceptable, wherever it goes”. he did not consider any of the tweets to be objectively discourteous. The ESC noted that, in reaching this view, no specific individual or individuals, other than the leader of the other party, could be identified from their contents. <p>The Standards Commission was of the view that the Respondent could arguably be said to have inferred, in his tweets, that the other political party was both transphobic and bigoted. The Standards Commission considered that such inferences, if made without basis, could potentially, on the face of it, be considered disrespectful. The Standards Commission nonetheless noted, however, that it would be obliged, in the event of a Hearing, to consider the Respondent’s right to freedom of expression under Article 10 of the ECHR. The Standards Commission considered that it was highly likely that the Respondent would enjoy enhanced protection given the tweet concerned a matter of public and political interest, being the views of another political party and the conduct of its leader.</p> <p>The Standards Commission considered that any inferences made by the Respondent about the other party being transphobic and bigoted would amount to value judgements. The Standards Commission accepted, given the media coverage and public debate on the issue of transphobia and opposition to gender recognition reform, that such value judgements were likely to have been made in good faith, regardless of whether they were accurate or not.</p> <p>While the Standards Commission accepted that the Respondent had not named the other party’s leader, it considered he was entirely and easily identifiable. The Standards Commission noted, nevertheless, that there had been a great deal of press coverage in relation to accusations of sexual harassment made against the leader, albeit he had been found not guilty in a subsequent criminal trial. As such, the Standards Commission found the Respondent’s comment to the effect the leader had been the subject of “many allegations of sexual harassment” to simply be a statement of fact on a matter that was already in the public domain.</p> <p>The Standards Commission was of the view that, even if found to be disrespectful, it was very unlikely that the conduct in question would be found to be sufficiently gratuitous or egregious as to justify a restriction on the Respondent’s right to freedom of expression, that any finding of a breach of the Code and imposition of a sanction would entail. The Standards Commission concluded that it was not proportionate for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>






Case	LA/Fi/3646 – Fife Council
Date of Referral	23 January 2023
Date of Decision	25 January 2023
Complaint	The Complainer alleged the Respondent failed to declare an interest and withdraw from the consideration of a planning application at the meeting, despite being friends with at least one of the objectors and despite knowing the applicant.
Applicable version of Code	Councillors' Code of Conduct July 2018
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ despite repeated requests from his Office, the Complainer had not provided any details as to the Respondent's knowledge of the applicant. The ESC noted that, having been asked to do so, the applicant also failed to respond to a request for details of her knowledge of the Respondent, and that the Respondent advised that he did not know the applicant. The ESC concluded, therefore, that the Complainer's allegation that the Respondent knew the applicant was not proven. ▶ the Complainer also failed to identify which of the objectors with whom he believed the Respondent was friends. Having questioned the Respondent and the objectors on their knowledge of one another, the ESC concluded that the Respondent was acquainted with four of the ten objectors, but that there was no evidence of any friendship or close association that would necessitate a declaration of interest. The ESC was of the view, therefore, that there was no evidence to support the Complainer's contention that the Code had been breached. <p>The Standards Commission was of the view that, given the extent of the ESC's investigation and the fact that the applicant and all objectors involved had been questioned, it was unlikely that any further material evidence would come to light either before or at a Hearing.</p> <p>The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and decided, therefore, to take no action on the referral.</p>

Case	LA/G/3606 – Glasgow City Council
Date of Referral	7 March 2023
Date of Decision	8 March 2023
Complaint	The complaint concerned tweets posted by the Respondent about a sign that had been put up on the door of a bookshop. The complaint was that the Respondent made disparaging remarks in her tweets about alternative belief systems.
Applicable version of Code	Councillors' Code of Conduct December 2021
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> the Respondent referred to herself as a councillor in her Twitter name and, therefore, the Code applied to her conduct when she made the comments on Twitter. he considered that, whether the Respondent's criticisms were of the bookshop's owners or whether they were aimed more generally, her tweets had a mocking tone. The ESC advised that he was of the view, in this respect, that the Respondent was mildly disrespectful, albeit he considered the comments to be relatively light-hearted and mocking in tone, rather than intentionally cruel. As such, the ESC considered that a restriction on the Respondent's right to freedom of expression under Article 10 of the ECHR was not reasonable. <p>The Standards Commission was not fully satisfied that the Respondent's comments, on the face of it, would be sufficiently disrespectful as to meet the threshold for amounting to a breach of the Code. This was because while the Standards Commission accepted that the Respondent's comments could be perceived as being disparaging about alternative belief systems and medicine, it was arguable that she was merely proffering her opinions. The Standards Commission noted that the Respondent's remarks were not offensive or personal in nature.</p> <p>In any event, the Standards Commission noted that even if the Respondent's conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that she would enjoy the enhanced protection to freedom of expression afforded by Article 10, given that the tweets concerned a matter of public interest (being the acceptability of a sign that had been displayed publicly in a shop window). The Standards Commission was of the view that it was very unlikely that the Respondent's comments, in the tweets in question, would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on her right to freedom of expression.</p> <p>Having taken into account the above factors, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.</p>




Case	LA/As/3686 – Aberdeenshire Council
Date of Referral	10 March 2023
Date of Decision	13 March 2023
Complaint	The complaint concerned a failure by the Respondent to register the property where he lived and a further property that he owned, in accordance with the applicable versions of the Code in place during his term in office.
Applicable version of Code	Councillors’ Code of Conduct July 2018 Councillors’ Code of Conduct December 2021
Decision	<p>The ESC advised that:</p> <ul style="list-style-type: none"> ▶ while he had found, and it was not in dispute, that the Respondent owned property and ran two businesses from “one of his residences”, no corresponding entries were recorded in his Respondent’s Register of Interests during his term in office. ▶ as such, he had concluded that the Respondent had breached the requirement, contained in both the 2018 and 2021 versions of the Code, in place at the time, for councillors to register any interest in houses, land and buildings in Scotland. <p>The Standards Commission noted that holding a Hearing (with the associated publicity) could promote the provisions of the Code. There could, therefore, be some limited public interest in doing so. The Standards Commission noted, however, that the complaint had been made to the ESC in 2021 and that the Respondent was no longer a councillor. The Standards Commission noted that the Respondent, in a letter commenting on the ESC’s report, had acknowledged that he should have registered his interests in the properties in question and had apologised for his failure to do so. The Respondent noted that he was no longer a councillor and advised that he had no intention of holding public office again.</p> <p>In the circumstances, and having taken into account the above factors, the Standards Commission concluded that it was not proportionate, despite some residual public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.</p> <p>The Standards Commission nevertheless emphasised that the requirement for councillors to register certain interests is an absolutely fundamental requirement of the Code. A failure to ensure a register is kept up to date, as required, removes the opportunity for openness and transparency in a councillor’s role and denies members of the public the opportunity to consider whether the councillor’s interests may or may not have the potential to influence their discussion and decision-making.</p>

SECTION 24 REFERRALS



Case	NHS/ACH/3527 & 3570 – Health and Social Care Partnership Integration Joint Board
Date of Referral	12 December 2022
Date of Decision	16 December 2022
Complaint	The complaint alleged the Respondent failed to register certain interests.
Applicable version of Code	Health and Social Care Partnership Integration Joint Board’s Code of Conduct 2016
Summary	<p>The ESC advised that:</p> <ul style="list-style-type: none"> the Respondent was an <i>ex officio</i> member of an IJB by virtue of a post held within a NHS health board. <p>[An <i>ex officio</i> member is one who is a member of a devolved public body by virtue of them holding an office in another organisation.]</p> <ul style="list-style-type: none"> he had found that the Respondent failed to register the fact that she was a partner of a medical practice and failed to register her directorship of a company within one month of becoming a partner and director, as required by the Code. The Respondent also failed to register her employment when the medical partnership changed entity and was incorporated. <p>Having considered the terms of the ESC’s report, the Standards Commission sent it to the IJB, in accordance with Section 24 of the 2000 Act.</p>

INTERIM SUSPENSIONS



Case	LA/Mi/3803
Date of Referral	18 January 2023
Date of Decision	23 January 2023
Background	The Standards Commission received an interim report from the ESC about a complaint he was investigating. The complaint alleged that the Respondent had failed to comply with the respect, bullying and harassment provisions in the Councillors' Code of Conduct.
Decision	<p>A Panel of the Standards Commission considered all the evidence before it. The Panel noted that while the allegation against the Respondent had not yet been fully investigated by the ESC and, as such, was unsubstantiated, it could amount to disrespect and harassment. The Panel was therefore satisfied that, on the face of it, there was evidence of a contravention of the Councillors' Code that would result in the imposition of a sanction at a Hearing, if established.</p> <p>The Panel was satisfied that there was no evidence or suggestion that the further conduct of the ESC's investigation was likely to be prejudiced, or that any individual's cooperation would be inhibited, if an interim suspension was not imposed.</p> <p>The Panel noted that while the imposition of an interim suspension was not a finding on the merits of the complaint, nor a disciplinary measure, the 2000 Act nevertheless referred to an interim suspension as being a 'sanction'. The Panel noted that this meant that the imposition of an interim suspension could be reasonably perceived by the public as being a ban or punishment. The Panel considered, therefore, that it would only be proportionate and in the public interest to impose an interim suspension in this case if it was likely that there would be a risk of further harm to the Complainer, a possibility of repeat behaviour or risk of significant disruption to the Council.</p> <p>The Panel was satisfied that the arrangements the Council had put in place mitigated the risks present in this case. The Panel noted that despite five months having elapsed between the complaint being made to the ESC and the interim report being received by the Standards Commission, no evidence had been provided to support a contention that the measures were insufficient in this regard.</p> <p>The Panel was further of the view that the imposition of an interim suspension would have a significant impact on the Respondent both reputationally, and on his and his family's health and wellbeing.</p> <p>Having carefully weighed the various considerations outlined above, the Panel determined, on balance, that it was neither proportionate nor in the public interest to impose an interim suspension.</p>

APPENDIX B: PERFORMANCE AGAINST KEY PERFORMANCE INDICATORS 2022/23

Key performance indicators (KPIs) were agreed and published in 2022/23. These include measuring compliance with the timescales outlined in the Hearing Rules and Service Standards, and assessing the time taken to respond to enquiries and Freedom of Information requests. The KPIs also include measurements relating to the sharing of information between staff and Members and the time taken to make decisions. Performance against these KPIs is monitored on a quarterly basis and a summary of performance in the year is provided below.

Hearings

	Action	Target	Actual	Notes
1	Issue notification of Hearing to Respondent, Complainer, ESC and CE and publish on website within five working days of decision being made	100%	83%	1
2	Advise parties and Panel of any new material information / circulate any new productions and case law within three working days of receipt	90%	100%	
3	Hearings to be held between six and 12 weeks after the date on which the Standards Commission decides to hold a Hearing	75%	100%	
4	Issue and publish written decision within 14 days of the conclusion of the Hearing	100%	100%	

Further Investigation

	Action	Target	Actual	Notes
1	Update Respondent, Complainer and CE on timescales within three working days of receipt of progress report from ESC	100%	50%	2

Do Neither

	Action	Target	Actual	Notes
1	Issue and publish 'do neither' decision within five working days of receipt of report from ESC	75%	91%	

Enquiries & Correspondence (incl case correspondence)

	Action	Target	Actual	Notes
1	Return any voicemail messages left within three working days.	100%	100%	
2	Respond substantively to any telephone enquiry within 20 working days	100%	100%	
3	Acknowledge correspondence (by post or email) within five working days of receipt	100%	100%	
4	Respond substantively to any postal or email enquiry within 20 working days	100%	100%	
5	Formal Complaints: Respond fully within 20 working days	100%	n/a	3

Dispensations

	Action	Target	Actual	Notes
1	Acknowledge any request within five working days of receipt	100%	100%	
2	Respond to any dispensation request within 21 days	100%	100%	

Freedom of Information and Data Subject Access requests

	Action	Target	Actual	Notes
1	Full written response to be issued within 20 working days	100%	100%	

Internal information sharing

	Action	Target	Actual	Notes
1	Members to provide updates on their Register of Interests within one week of the request being received	100%	83%	4
2	Members to confirm disposal of information within one week of the request being received	100%	83%	4

Notes:

1. Met measure in 5 of 6 Hearings. It took 8 working days to issue notification of Hearing correspondence in LA/D/3580, due to delays in ascertaining Member availability and agreeing a date for the Hearing.
2. Met measure in 1 out of 2 cases. Updates for case LA/AN/3546 were sent after 5 working days once all Members had considered whether the ESC's response to their request for further investigation had addressed all the points raised and would allow them to make a Section 16 decision without any further information.
3. No formal complaints received in 2022/23.
4. Met measure in 5 out of 6 instances. Late return of information by two Members in March 2023 where responses were received after 6 and 7 working days.



INTEGRITY IN PUBLIC LIFE

Standards Commission for Scotland
Room T2.21, The Scottish Parliament
Edinburgh
EH99 1SP

Tel: **0131 348 6666**

Email: enquiries@standardscommission.org.uk

Twitter: [@StandardsScot](https://twitter.com/StandardsScot)

Facebook: facebook.com/StandardsCommission