



**STANDARDS
COMMISSION
FOR
SCOTLAND**

INTEGRITY IN PUBLIC LIFE



The Standards Commission for Scotland

ANNUAL REPORT 2023/24



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SECTION 1: OVERVIEW AND CONVENER'S 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. Its role is to:

- ▶ Encourage high ethical standards in public life including the promotion and enforcement of the Codes of Conduct;
- ▶ 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 identified, in its Strategic Plan for 2020-24, that its four key objectives were to:

1. Have a positive impact on ethical standards in public life.
2. Pursue continuous improvement in the ethical standards framework and the way it does its work.
3. Pursue and develop strong relationships with its 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 we have made towards delivering and achieving the stated aims in the final year of the plan.



Convener's Introduction

I am pleased to present the Annual Report of the Standards Commission for Scotland ('the Standards Commission'), which covers the period from 1 April 2023 to 31 March 2024.

Key Achievements

Throughout the year, the Standards Commission continued to work towards achieving the vision and aims outlined in our Strategic Plan for 2020-2024. We did this by promoting high ethical standards and awareness of, and 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 understanding of the Codes' provisions to help councillors and members understand their responsibilities and prevent the occurrence of inadvertent breaches.

We also strived to ensure that we undertook our adjudicatory role, in respect of alleged breaches of the Codes, in a fair, proportionate and timely manner. We sought to publicise our decisions in order to inform good practice and deter poor conduct.

We held a total of 16 Hearings between 1 April 2023 and 31 March 2024, to determine whether the Respondent councillor or member had breached their respective Code and, if so, to decide the sanction to be applied.

In 2023-24, the Standards Commission also helped councillors and members 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. We did so by highlighting the key provisions of the Codes and providing explanations of how they applied and why adherence to them was so important, in our associated Guidance, Advice Notes, video and e-Learning modules. We also promoted the Codes and key principles of public life in news articles, blogs and social media posts.

In addition, we held training events for councillors and members. We also presented, with the Improvement Service, joint webinars for councillors on how best to engage with members of the public (in person, in writing and on social media), while still complying with the requirements of the Councillors' Code.

The Standards Commission reviewed our Guidance on both Councillors' and Model Codes of Conduct, in light of feedback and enquiries we had received, and issues that had arisen during the ESC's investigations and at Hearings. We also produced, published and disseminated a joint Advice Note with the Improvement Service on a Councillor's Right of Access to Information. Further new advice notes produced and issued in the year included ones for the public on the main requirements of the Councillors' and Model Codes of Conduct, and one for College Sector Board Members.

The Standards Commission consulted with stakeholders on a new four-year Strategic Plan, outlining our vision and aims for 2024-2028. We are grateful to all those who provided feedback and suggestions. The Plan has now been finalised and can be accessed on our website at:

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

The Standards Commission welcomed a new member, Helen Donaldson, in April 2023. Helen brought valuable knowledge and experience to the role from a long career in education, both locally and nationally. Helen began as an English teacher

in Stirling and in Angus, moving on to more strategic and leadership roles in Aberdeenshire. 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.

The tenure of the previous Convener, Paul Walker, concluded at the end of the year. Paul provided much support to his fellow Members and I would like to take this opportunity to express our thanks to him after his six years' service as both a Member and Convener of the Commission. I would also like to thank our retiring Member, Anne-Marie O'Hara, and recognise both for their commitment, hard work and support. On behalf of everyone at the Standards Commission, I wish them both the best for the future.

Looking Forward

The Standards Commission's Strategic Plan for 2024-28 identifies the following four key aims:

1. We will take all opportunities to be a strong and consistent voice for the importance of the key principles of public life and to educate on the standards of conduct expected of councillors and members of devolved public bodies.
2. We will continue to develop strong relationships with our stakeholders and work with them to resolve issues and prevent breaches of the Codes of Conduct.
3. We will make clear, evidence-based and well-reasoned decisions on cases referred to us for adjudication to help improve standards and ensure that any failure to meet those expected by the Codes of Conduct is dealt with in a fair, consistent and proportionate manner.
4. We will continue to invest in, engage with and empower Members and staff to deliver our work effectively and efficiently.

The Standards Commission's Business Plan for 2024-25 outlines the objectives for the forthcoming year that will contribute to the achievement of these aims. A copy of the Business Plan for 2024-25 can be found at:

<https://www.standardscommissionscotland.org.uk/corporate-info/strategic-and-business-plans>

The Standards Commission also looks forward to welcoming two new Members, Lezley Stewart and Morag Ferguson, joining us in 2024-25.

Lezley is a graduate of University of St Andrews and University of Edinburgh, and Princeton and Pittsburgh Seminaries, USA. She worked for the Church of Scotland for over 25 years in Dundee and Edinburgh, serving as an ordained Office Holder. Most recently, Lezley was employed as the Recruitment & Support Secretary and Ministries Support Manager for the Church of Scotland, with oversight of the recruitment and assessment processes for the Ministries of the Church, providing advice and guidance and working with a Code of Conduct.

Over her career, Morag has gained extensive experience of local government administration and of working with elected members, holding the statutory role of Monitoring Officer at both Fife Council and East Lothian Council. She has also developed and delivered training on governance and the Councillors' Code of Conduct as well as being a member of the SOLAR Monitoring Officers Networking Group.

I look forward to continuing to work effectively with all 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.



Suzanne Vestri, Convener

SECTION 2: ABOUT US

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:



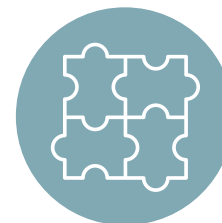
FAIR

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;
- ▶ pursuing and developing strong relationships with its stakeholders;
- ▶ 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 2023-24, the Standards Commission had a positive impact on ethical standards in public life through its engagement with stakeholders, and its work to promote the Codes of Conduct. The Standards Commission also had a positive impact through its work to train and educate others on how the Codes’ provisions should be interpreted.

Engagement with Stakeholders and Promotional Work

After Standards Commission Members held a development and strategy day to identify the organisation’s aims and priorities moving forward, the Standards Commission drafted a new strategic plan to cover the period from 1 April 2024 to 31 March 2028. Having published a draft version and consulted with stakeholders on its contents, the Standards Commission laid and published a final version of the strategic plan at the end of February 2024. A copy of the Strategic Plan for 2024-28 can be found on the Standards Commission’s website at: <https://www.standardscommissionscotland.org.uk/corporate-info/strategic-and-business-plans>

The Standards Commission held its annual workshop for council Monitoring Officers, both in person and online, in October 2023. Matters discussed included whether more work could be done to try to help manage public expectations around what the Councillors’ Code does and does not cover. Attendees also discussed suggestions for strengthening the Standards Commission’s Guidance on the Code, including whether a section

should be added to provide specific advice for councillors on identifying and managing potential conflicts of interest in respect of budget setting meetings. In addition, attendees discussed possible suggested amendments that the Standards Commission could recommend be made to the Ethical Standards in Public Life etc. (Scotland) Act 2000, to ensure potential breaches of the Codes of Conduct can be dealt with in the most effective and proportionate manner.

The Standards Commission held its annual workshop for Standards Officers of devolved public bodies in March 2024. Attendees identified general issues and trends, and any problems their members were experiencing in terms of interpreting their Codes, which are based on the Model Code of Conduct. Attendees also discussed suggestions for further guidance or support the Standards Commission could offer to assist with training and promoting awareness of, and adherence to, the Codes.

The Standards Commission’s Executive Director and Case Manager presented on the role of the Standards Commission and the revised Model Code of Conduct at the Scottish Government’s ‘Welcome on Board’ induction workshops for Ministerial appointees in May and September 2023. This included facilitating group discussions, with the Ethical Standards Commissioner (ESC), on hypothetical case studies, which allowed attendees to consider and discuss the potential application of the Code, and what they could or should do in certain circumstances and situations.

The Executive Director also presented a joint session with the ESC on the ethical standards framework and ongoing issues and work at the SOLAR Autumn Conference in November 2023.

In addition, the Executive Director gave evidence on the Standards Commission's Annual Report for 2022-23 at the Local Government, Housing & Planning Committee meeting in December 2023 on a variety of matters, including how the Standards Commission assessed or tracked interest in its activities at both local and national levels, whether it should have the power to initiate complaints about potential breaches of the Codes, and whether the Councillors' Code prevents elected members from scrutinising properly the performance of council officers and the services being provided.

Members of the Standards Commission attended a session with the Scottish Parliamentary Corporate Body in December 2023 to discuss the Standards Commission's priorities, any issues and its new strategic plan, along with the officeholder landscape, funding and shared services.

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, which were issued by the Scottish Ministers in December 2021. 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' briefings, which contain information about work it is undertaking, events it is holding and general matters concerning the ethical standards framework. The Standards Updates also included information about cases referred to the Standards Commission, including the outcome and any learning points from all Hearings held.

News articles and monthly blogs published by the Standards Commission on its website in 2023-24 covered a range of topics, such as: distinguishing between lobbying and helping constituents and service users; the importance of compliance with the confidentiality requirements in the Codes; and on when the Codes of Conduct might apply to

councillors and members of devolved public bodies.

The Standards Commission conducted its annual review of the enquiries it had received throughout the year in writing, by telephone, and via its website and social media sites, 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 Facebook by a further 6%, and on X by a further 5%. The Standards Commission responded to all enquiries timeously, with responses to 97% of enquiries being provided on the same day of receipt or within one working day, which was well within the timescales detailed in its Service Charter.

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 and the Northern Ireland Public Services Ombudsman.

The Standards Commission also worked closely with the ESC in 2023-24 to identify and try to resolve issues arising in respect of the interpretation of the Codes. The Standards Commission held regular meetings with the ESC to discuss suggestions for improving the processes for the investigation and adjudication of complaints about councillors and members of devolved public bodies, in order to achieve efficiency, transparency and consistency in decision-making. The Standards Commission engaged with the ESC on any proposed changes to its case related policy and process documents, and on its educational material. The Standards Commission provided informal input and a formal response to the ESC's consultation on his Strategic Plan for 2024-28.

The Standards Commission also provided a formal response to the Scottish Government's consultations on:

- ▶ the National Performance Framework; and
- ▶ mandatory training for councillors on their role in the planning system.

The Standards Commission also responded to Scottish Parliament's Finance and Public Administration Committee's call for views as part of an inquiry into Scotland's commissioner landscape. Copies of all responses were published on the Standards Commission's website.

In 2023-24, the Standards Commission continued to promote its adjudicatory work by publishing information about all Hearings and 'no action' decisions held and taken on its website and in its Standards Updates. The Standards Commission contacted local journalists to advise them of scheduled Hearings. It also issued and published press releases summarising decisions made and the reasons for these, following the conclusion of each Hearing.

The feedback the Standards Commission received from the engagement activities it undertook has indicated that these sessions have helped promote its work, improved understanding of the Codes and the ethical standards framework, and strengthened the positive working relationships it enjoys with stakeholders.

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 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.

The Standards Commission issued a Direction to the ESC in 2020-21 (known as the Eligibility Direction), which required the ESC to 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 of the European Convention on Human Rights, which protects the right to freedom of expression); or

- ▶ the complaint was made more than one year after the conduct being complained of occurred (or in the case of a course of conduct, the conduct ended).

The Eligibility Direction ensured that all complaints about councillors and members that could potentially amount to a breach of a Code, which are made timeously, were investigated. The Standards Commission considered the Eligibility Direction provided transparency and gave those who are subject to the Codes, and members of the public, confidence that there was consistency in approach in respect of how complaints were assessed in terms of their eligibility for investigation.

In 2023-24, the Standards Commission and ESC agreed a change to the second eligibility criterion so that a complaint that could, on the face of it, could constitute a contravention of the relevant Code could also be rejected as ineligible if an initial assessment of publicly available evidence demonstrated that there had been no such breach. The Standards Commission decided that it was not necessary to renew the Eligibility Direction, when it expired in August 2023, as the ESC agreed to publish the revised criteria in his publicly available Investigation Manual.

Training and Educational Work

The Standards Commission supported councillors and members to meet the standards expected of them by holding training events on the Codes of Conduct.

In 2023-24, the Standards Commission presented training events on the revised Model Code of Conduct for the boards of Public Health Scotland, the Scottish Environment Protection Agency, the Judicial Appointments Board, City of Glasgow College, and Clackmannanshire Health and Social Care Integration Joint Board. A training workshop on the Councillors' Code was also held for elected members of Clackmannanshire Council. There was good attendance at these events, with positive feedback indicating that they were well received.

In partnership with the Improvement Service, the Executive Director and Case Manager presented joint webinars for councillors on assisting constituents and social media, respectively, in January and February 2024. The webinars were open to all elected members and were aimed at assisting attendees understand how best to engage with members of the public, while still complying with the requirements of the Councillors' Code.

The Executive Director presented on key changes and issues with the revised Councillors' Code at a Scottish Member Services Development Network meeting in June 2023. Attendees provided insight into their experiences in assisting councillors in understanding and adhering to its provisions.

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 Codes' provisions to the situations they may find themselves in, along with examples of factors they may wish to consider when applying their requirements. The Guidance and Advice Notes are all available on the Standards Commission's website.

In 2023-24, the Standards Commission reviewed its Guidance on both the revised Councillors' and Model Codes of Conduct, issued in December 2021, in light of feedback and enquiries it had received, and issues that had arisen during the ESC's investigations and at hearings. Following consultations with stakeholders, the Standards Commission issued and published a revised version of the Guidance on the Councillors' Code in February 2024, and on the Model Code in March 2024. The main changes were the inclusion of more information about:

- ▶ when the Codes apply and the factors the Standards Commission may take into account in determining this;
- ▶ how the Standards Commission will make an objective assessment when deciding whether alleged conduct could amount to a breach of the respect, courtesy, bullying or harassment provisions in the Codes;
- ▶ the fact that the Codes do not prevent councillors or members from making points or from scrutinising the performance of their local authority or public body, provided they do so in a respectful manner that is compatible with the applicable Code;
- ▶ the fact that anyone can make a complaint to the ESC about an alleged breach of a Code and that pressurising officers or employees to do so could compromise them;
- ▶ what might constitute a registrable interest under category 5: Houses, Land and Buildings; and
- ▶ what might constitute a registrable interest under category 8: Non-Financial Interests.

In addition, the updated Guidance on the Councillors' Code contains:

- ▶ specific guidance on participating in decisions on the Council's budget when a councillor has a personal interest under Section 5; and
- ▶ further guidance on 'pre-judging' quasi-judicial and regulatory applications under Section 7.

The updated Guidance on the Model Code also contains more information on:

- ▶ the composition of boards and the complaint route for different types of board members; and
- ▶ the requirement for members to act in the best interests of the public body, as opposed to the interests of any individual constituency from which they have been appointed, nominated or elected.

As noted above, the Standards Commission and Improvement Service produced a joint Advice Note on a Councillor's Right of Access to Information. The Advice Note outlines the circumstances under which an elected member has a right of access to information held by their council. It also highlights some of the provisions in the Councillors' Code that may apply and should be considered when an elected member is exercising their right to access information (for example, requests must be made in a respectful manner and should not result in elected members becoming inappropriately involved in operational matters). The Advice Note also includes an explanation of the potential impact of repeatedly asking for information, in terms of officer time and resources.

The Standards Commission produced and published Advice Notes for the public on the Councillors' and Model Codes of Conduct. These provide information about:

- ▶ the different sections of the Code and what they mean, in a user-friendly format;
- ▶ when the Codes might apply;
- ▶ what is covered by the Codes and the complaints process; and
- ▶ how to make a complaint about and potential breach of a Code.

The Advice Notes aim to help manage the expectations of the public, service users and constituents by explaining that certain matters are not covered by the Codes and complaint process, such as:

- ▶ complaints about decisions councillors and members have made (unless they have made the decision in an unfair way or not in accordance with their council or public body's policies or rules);
- ▶ the performance of councillors and members, such as how well they engage with constituents and service users;
- ▶ complaints about the service provided by a council or public body;
- ▶ complaints about decisions made by councils (such as planning applications or licensing decisions) or public bodies;
- ▶ general complaints about the council or public body as a whole; and
- ▶ complaints about council or public body employees.

The Standards Commission also produced, issued and published an Advice Note for Chairs of Devolved Public Bodies, which aims to assist Chairs of devolved public bodies, employees and others, by providing information about the role that Chairs may be expected to undertake within the ethical standards framework. The Advice Note makes suggestions for Chairs, in particular, on:

- ▶ when and how to resolve issues internally;
- ▶ how to promote diversity of thought and ensure all members have an opportunity to contribute; and
- ▶ how they may wish to deal with a situation where a member is being disrespectful or is failing to register or declare an interest as required.

In addition, and following consultation with the College Good Governance Steering Group, the Standards Commission produced, issued and published an Advice Note for College Sector Board Members. The Advice Note aims to help members of college sector boards understand their roles and responsibilities, and provides information about how they should identify and manage conflicts of interest.

New animated videos on bullying and harassment, and the use of social media were published on the Standards Commission's website in 2023-24. These aim to aid understanding of certain key aspects of the Codes.

In addition, a British Sign Language video outlining and explaining the main provisions in the Model Code was published. The video covers the following topics:

- ▶ The key principles of public life;
- ▶ General conduct including respect, confidentiality and gifts and hospitality;
- ▶ Registering and declaring interests; and
- ▶ Lobbying and access

The Standards Commission continued to seek feedback on its promotional and educational work throughout the year, to enable it to evaluate its impact in a meaningful way. Following receipt, all feedback provided was considered by Standards Commission Members at their next meeting.

SECTION 4: ADJUDICATION

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;
- ▶ 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; 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 2023-24 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.

Adjudication 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 (known as 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
- ▶ 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
- ▶ 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 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 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 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 its 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 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. However, the right to freedom of expression under Article 10 is qualified. Article 10(2) notes that public authorities, such as the Standards Commission, may restrict an individual's right if they can show that the restriction 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 council or public body 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;
- ▶ impose a suspension or disqualification, as a result of the finding of breach; and
- ▶ 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:

- ▶ 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, 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 2023-24 is outlined in the 'Decisions made by the Standards Commission in 2023-24' 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 alleged 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.

Work Undertaken in 2023-24

Following the making, issuing and publishing of a 'no action' or Hearing decision, the Standards Commission reviewed the particular case at the next Standards Commission meeting, to check that it was well-reasoned, consistent and clear, and to identify any potential learning points in respect of how the referral and adjudication process was managed.

The Standards Commission also undertook a full annual review of all decisions made, and feedback received, in respect of case referrals and Hearings in the previous year (2022-23), to identify any potential improvements to its case related policies, procedures and standard documents.

Following this review, various improvements were made to the way Hearings were managed. These included the creation of a new 'Information for Respondents' page on the Standards Commission's website, which is aimed at ensuring all relevant and helpful information for Respondents is easily accessible. The Hearing Rules were updated to reflect the fact that while the parties are entitled to sum up their case at a Hearing, there is no requirement for them to do so.

In addition, the pre-Hearing process was amended to ensure that Hearing Panels always considered whether any witnesses who may be able to provide relevant and material testimony to assist in its decision-making on the factual basis of the complaint, have been identified and called to give evidence. If not, the Panel will consider asking the ESC to call them, failing which it will consider issuing a citation requiring the witness to appear. In order to ensure that Hearings were conducted efficiently and without undue delays, it was agreed that Panel Chairs would take the opportunity at pre-Hearing meetings (which are held in advance to determine whether any procedural issues and can be resolved in advance), to remind the parties that questions to be put to witnesses at Hearings should only relate to matters in dispute.

A separate review of all sanctions imposed at Hearings in the previous 12 months was conducted at a Standards Commission meeting in July 2023, in order to:

- ▶ identify any trends and issues;
- ▶ check for fairness and consistency in the application of sanctions; and
- ▶ determine whether any improvements can be made to the sanctions process.

Following this review the Standards Commission updated its Policy on the Application of Sanctions to include a new paragraph stating that Hearing Panels will consider, and give weight to, the timing and proximity of local government elections in

determining the length of any disqualification, in order to ensure that it is appropriate and proportionate, and that any interference with the Respondent's Article 10 rights is the minimum necessary, while achieving the aims of maintaining standards in public life.

Having consulted with stakeholders, the Standards Commission reviewed and updated its Suspension Guidance, to provide more detail about the extent of the activities in which a councillor should engage while they are the subject of a suspension (either one imposed as an interim measure while the ESC's investigation is ongoing, or one imposed after a breach finding is made at a Hearing).

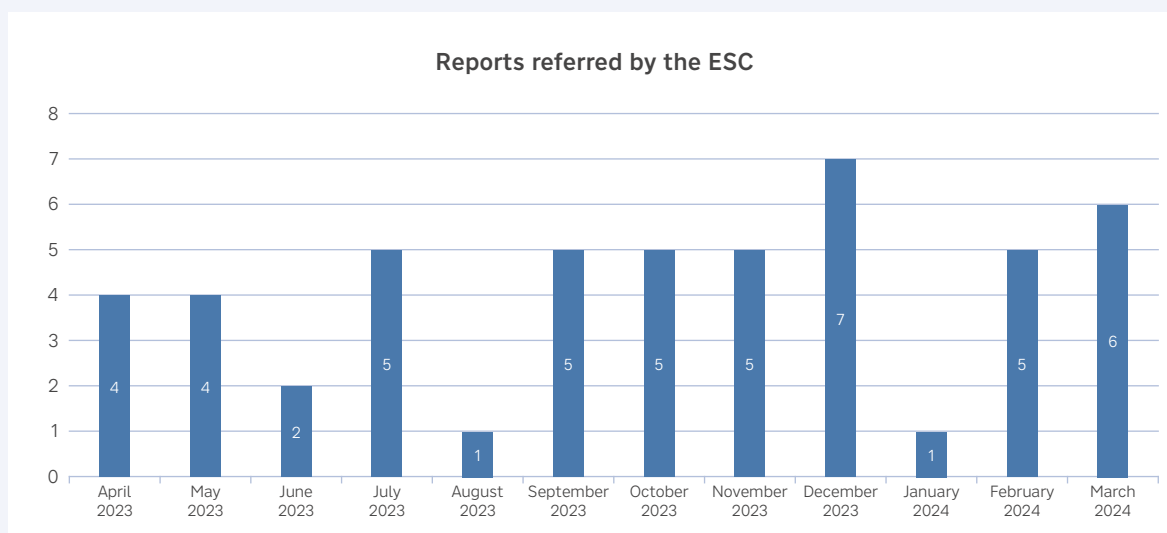
All Standards Commission Members were provided with refresher training on conducting Hearings (including questioning witnesses and identifying and managing issues around relevancy). In addition, Members were provided with regular updates on relevant case law concerning Article 10 and the right to freedom of expression.

The Standards Commission undertook a review of the costs associated with Hearings to ensure best value was being achieved. This involved analysing the work undertaken by Panels and staff before, during and after Hearings to ascertain whether it reflected an appropriate use of time and resources. As a result, changes were made to the procedures for briefing Panels before Hearings and for seeking decisions from them on the admissibility of evidence.

Decisions made by the Standards Commission in 2023-24

Referrals

The ESC referred 50 cases to the Standards Commission between 1 April 2023 and 31 March 2024. The number and timings of referrals made by the ESC, by month, are outlined in the graph below.



The table below shows the 50 final decisions taken by the Standards Commission. These were on 49 of the 50 cases referred to it between 1 April 2023 and 31 March 2024, and on one case referred at

the end of the previous year. In the one remaining case, the Standards Commission had not yet made a decision on a referral made on 27 March 2024 (the final decision being made in 2024-25).

Decision	No. of cases resulting in a decision	No. of respondents involved in the cases	
		Councillors	Members
Hold a Hearing	16	16	0
Do neither	34	45	5
Report referred to devolved public body under Section 24	0	0	0
TOTAL	50	61	5
Direct the ESC to carry out further investigations with subsequent decision to Hold a Hearing (included in total above)	1	1	0

Hearings

The Standards Commission held a total of 16 Hearings between 1 April 2023 and 31 March 2024. Of these, six Hearings were held in respect of cases referred by the ESC before 1 April 2023. Five Hearings on case referrals made on or before 31 March 2024 are scheduled to be held in 2024-25.

Of the 16 Hearings held in 2023-24, five were held online and livestreamed on the Standards Commission's website, and 11 were held in person.

The table below outlines the decisions made at the 16 Hearings held in 2023-24.

Hearing Decisions

Decisions	No. of Hearings	No. of Respondents involved in Hearing(s)
Finding of breach	9	9
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	1	1
Finding of no breach	6	6
TOTAL	16	16

Sanction Decisions

The table below outlines the sanctions imposed by the Standards Commission at the Hearings held between 1 April 2023 and 31 March 2024.

Sanction	No. of Hearings	No. of respondents involved in Hearings
Censure	5	5*
Suspension – full	4	4
Suspension – partial	0	0
Disqualification	0	0
No breach and, therefore, no sanction	7	7
TOTAL	16	16

*In two cases, the Panel issued a censure to a former councillor as it did not have the option of suspending them.

Interim Suspension Decisions

The Standards Commission did not receive any interim reports from the ESC in 2023-24 and no decisions under Section 21 of the 2000 Act were made.

Appeals

On 13 February 2024, an appeal was lodged against a decision made by the Standards Commission in respect of the decision made at a Hearing on case reference LA/AC/3812. The appeal was served on the Standards Commission on 5

April 2024 and a decision to concede the appeal was made shortly thereafter. The concession was made on the basis that no expenses were due to or by either party, and was based on an acceptance by the Standards Commission that its Panel had made an error of law in relation to how it had approached the technical legal test in the application of Article 10.

Dispensation Decisions

One dispensation request was received in 2023-24 on behalf of the Members of both Cairngorms National Park Authority and Loch Lomond and the

Trossachs National Park Authority. The Standards Commission decided to grant the dispensation. This allowed Members of both National Park Authorities to take part, without being bound by the provision in their Codes on collective responsibility, in any discussion, decision-making and voting on the Scottish Government’s consultation on the future governance of National Parks in Scotland and the future governance arrangements of National Park Authorities. The Standards Commission was of the view that it was within the spirit and intention of the Model Code of Conduct for Members of

Devolved Public Bodies to grant the dispensation. In reaching this decision, the Standards Commission considered that any potential personal benefit to individual Members, or any perception of such, would be outweighed by the clear public interest in the Government being able to benefit from hearing the perspectives and views of the organisations directly affected by the proposals. Members were reminded, nevertheless, that their participation in the development of any response on behalf of their National Park Authority must be approached from the perspective of its best interests.

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 in 2023-24 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 in 2023-24.

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/AC/3812	26/09/2023	02/10/2023	5	31/10/2023	N/A – Hearing held

The average time between a report being received from the ESC and the Standards Commission issuing a written decision to direct further investigation was **5 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 (three of whom form the Hearing Panel), 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 2023-24 is outlined in the table below. In cases LA/AC/3812 and LA/H/3755, 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/SL/3558b	03/03/2023	06/03/2023	30/08/2023	18*
LA/SL/3558a	03/03/2023	06/03/2023	27/06/2023	12*
LA/S/3571	10/03/2023	15/03/2023	21/06/2023	10
LA/H/3759	01/11/2023	03/11/2023	06/02/2024	10
LA/WL/3698	03/11/2023	13/11/2023	16/02/2024	10
LA/D/3745	10/03/2023	13/03/2023	06/06/2023	9
LA/D/3742	26/04/2023	27/04/2023	06/06/2023	4**
LA/E/3645	12/07/2023	15/07/2023	09/10/2023	9
LA/NL/3705	05/07/2023	10/07/2023	29/09/2023	9
LA/NA/3707	26/10/2023	30/10/2023	26/01/2024	9*
LA/Mi/3803	02/06/2023	06/06/2023	23/08/2023	8*
LA/As/3780	10/08/2023	11/08/2023	30/10/2023	8
LA/AC/3812	31/10/2023	03/11/2023	17/01/2024	8
LA/Fi/3614	28/04/2023	05/05/2023	11/07/2023	7
LA/An/3690	28/02/2023	06/03/2023	01/05/2023	6*
LA/H/3755	31/03/2023	03/04/2023	25/05/2023	6
LA/WL/3790	04/10/2023	11/10/2023	30/11/2023	5*

The average time taken between the Standards Commission making a decision to hold a Hearing and the start of Hearings was **9 weeks**.

* adjournment was granted, or a Hearing date was changed, following a request from one of the parties

** two case referrals considered at the same Hearing as they concerned the same Respondent

SECTION 5: GOVERNANCE & FINANCIAL OVERVIEW 2023-24

This section provides an overview of the Standards Commission's governance arrangements in 2023-24 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 2023-24 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 effective and appropriate arrangements in place to continue to deliver services. It was satisfied that the strategic planning arrangements set out in the Strategic Plan 2024-28 took appropriate account of the needs for the organisation to be financially sustainable.

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 2023-24 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 2024.

Internal Audit

The Standards Commission's internal auditor, the SPCB's Head of Internal Audit, reviewed the Standards Commission's training and induction processes for new Members, as part of the 2023-24 audit. The review aimed to provide assurance about the quality of the existing Member training and induction processes and 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 appropriate arrangements in place in relation to the training and induction process for new members including an induction plan and pack. No significant risks arose from their review and the suggested minor recommendations, in respect of undertaking some of the training in person and recording progress, will be implemented by the Standards Commission. The overall internal audit conclusion was that satisfactory assurance can be taken from the areas reviewed.

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 2023-24. A report of the review was thereafter provided for consideration by Members at the next available meeting of the Standards Commission.

During 2023-24, 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:

- ▶ avoidable delays in the disposal of complaints; and
- ▶ the Standards Commission failing to adhere to the key principles of public life and its own Code of Conduct.

The second key risk identified was that the Standards Commission would have insufficient resources in terms of staff time and knowledge, and Members' knowledge, time and availability, to meet its business objectives and comply timeously with its statutory duties and any reporting requirements.

Work the Standards Commission undertook to mitigate these risks included inviting the ESC to quarterly meetings with Members. The ESC provided, via a fortnightly report, information about timescales and the number of complaints at admissibility and investigation stages. The Standards Commission's Executive Team also held regular meetings with the ESC to discuss the timescales for potential referrals, any complaint trends and other matters of common interest.

The Standards Commission carried out a review of the case decisions it had made in the previous year (2022-23) to identify trends and ensure consistency and clarity in reasoning. 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 processes as appropriate. This review also included analysis and discussion on what went well or otherwise, and what could have been done differently.

Standards Commission Members agreed that any complaints that a Standards Commission Member has breached the Code of Conduct will be investigated by an external legal firm with any upheld findings being reported to the SPCB.

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

The number of complaints made to, 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

The Standards Commission reviewed its performance against key performance indicators (KPIs) three times in 2023-24, to identify any changes that need to be made to processes where any had not been met. These included key performance indicators relating to the timescales involved in the disposal of complaints. 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 2023-24. For further information about the Standards Commission's financial position, a full copy of the Annual Accounts 2023-24 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 2024 amounted to £337,000 (2022-23, £289,000). The expenditure was divided between staff costs of £300,000 (2022-23, £252,000) and other administrative costs of £37,000 (2022-23, £37,000).

Staff costs include all remuneration paid to both staff and Members. Member salaries include payments for Hearings and were comparatively higher in 2023-24 than 2022-23, as a result of more Hearings being held in the year. Staff salaries increased in line with the SPCB pay award (which was higher in 2023-24 than in 2022-23). Other

administration costs for 2023-24 include higher fees for legal advice and higher staff and member travel costs than the prior year but these have been offset by lower spending on PR costs.

Overall expenditure for the year was £337,000, which was £1,000 (or 0.3%) under the agreed overall budget. An overspend in staff costs was driven by the actual staff pay award made by the SPCB being higher than that assumed in the budget and higher than forecasted costs for Hearings held in the year. This was more than offset by savings in other administrative costs.

Statement of Comprehensive Net Expenditure

	2023-24	2022-23
	£'000	£'000
Administration costs		
Staff costs	300	252
Other Administration costs	37	37
Gross Administration costs	337	289
Net Operating costs	337	289

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

	2023-24	2022-23
	£'000	£'000
Fees for legal advice and representation	11	6
Audit Fee	4	4
Property hire costs	1	2
Information technology costs	2	2
Printing and promotion costs	1	9
General administration costs	4	4
Members' travel and expenses	5	3
Staff travel and expenses, and staff and members' training costs	9	7
	37	37

APPENDIX A: SUMMARY OF CASES

Summaries of all decisions made, and Hearings conducted, by the Standards Commission in 2023/24 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>

HEARING DECISIONS

Case	LA/An/3690 – Angus Council
Date of Referral	28 February 2023 (case referred in 2022/23)
Date of Hearing	1 May 2023
Date of Written Decision	4 May 2023

The Panel noted that there were two matters before it. The first concerned a Facebook post by the Respondent about the Complainer's alleged comments during a private meeting of their Council's Licensing Board. The post suggested the Complainer trivialised a serious assault as "just another domestic," which the Panel confirmed was inaccurate after reviewing the meeting's recording. Despite this, the Panel recognised the Respondent's lack of intent to misrepresent the Complainer and her compliance in removing the post when prompted.

The Panel nevertheless concluded that, given the emotive subject of domestic violence and the potential for public backlash, the Respondent should have verified the accuracy of her statement before posting. The Panel determined that the Respondent's conduct, by misrepresenting the Complainer and not ensuring the post's accuracy, had, on the face of it, breached the Code's courtesy and respect requirements.

The second matter was whether the Respondent had breached confidentiality in her post. The Panel found that the Respondent's post did not disclose specific details about the licence holder's identity or the private report's contents. It acknowledged that while the post aroused public interest and led to media disclosure of the licence holder's identity and conviction, it did not constitute a breach of the Code's confidentiality requirements as it was likely the information was already public.

In relation to the first matter, the Panel then considered the Respondent's freedom of expression rights under Article 10 of the European Convention on Human Rights (ECHR), especially given the public interest nature of the discussion. It performed a balancing act between these rights and the Code's restrictions, concluding that the Respondent's post, although emotive, was not offensive or abusive enough to warrant a restriction on her freedom of expression. In making this decision, the Panel accepted that the Respondent had acted in good faith, even if her post was factually incorrect.

Ultimately, the Panel did not find a formal breach of the Code, emphasising the importance of context and intent in evaluating the Respondent's right to freedom of expression against the potential impact on the Complainer's rights and reputation. The case highlighted the complexities of political discourse, the significance of accurate representation of opponents' views, and the protection of freedom of expression within the bounds of respectful conduct.

Case	LA/H/3755 - Highland Council
Date of Referral	31 March 2023* (case referred in 2022/23)
Date of Hearing	25 May 2023
Date of Written Decision	30 May 2023

* The initial referral was received on 28 February 2023. The Standards Commission directed the ESC to undertake further investigation on 8 March 2023.

The Panel considered the conduct of a councillor Respondent, who participated in a planning committee meeting decision on a wind farm application despite potential conflicts of interest. It was alleged that the Respondent had attended meetings with the applicant and had publicly supported the project, raising concerns about impartiality. However, the Panel found no evidence of one-to-one meetings with the applicant or any undue influence over the project's discussions.

The Panel acknowledged the Respondent's interactions with the applicant were informational and open to other parties, which is permissible for councillors. They noted that the Respondent had not expressed a stance on the application during these meetings. Additionally, the Panel recognised that the Respondent's previous letter to the Scottish Government, expressing general support for a wind farm at the site, did not indicate bias towards the specific application under consideration.

Upon reviewing the meeting's webcast, the Panel observed that the 2021 application differed from one rejected in 2015, featuring fewer turbines and a smaller area. It concluded that the Respondent's prior support for the earlier application did not equate to pre-judgment of the new application's merits.

Ultimately, the Panel determined that the Respondent had not breached the Code, as there was no failure to act fairly or avoid bias. Therefore, there was no need for the Respondent to have declared an interest and withdrawn from the meeting. The Panel nevertheless emphasised the importance of councillors maintaining fairness, impartiality and transparency when making decisions on quasi-judicial and regulatory matters.

Case	LA/D/3745 and LA/D/3742 – Dundee City Council
Date of Referral	LA/D/3745 referred on 10 March 2023 and LA/D/3742 referred on 26 April 2023
Date of Hearing	6 June 2023
Date of Written Decision	12 June 2023

The Panel reviewed the conduct of a councillor Respondent following two complaints about their behaviour on Twitter (now X) and via email. The Respondent had posted a tweet in response to a member of the public (the Complainer) stating, “with absolutely no respect whatsoever, get to fuck, TERF”, and referred to another member of the public as a “cunt”. The Panel determined these comments were intended to offend and were disrespectful, breaching the requirements in the Code for councillors to treat everyone with courtesy and respect.

Upon being notified of complaints about their Twitter posts, the Respondent sent three emails to a senior council officer using profanities and derogatory language, including telling the officer to “go and tell someone who gives a fuck” and making assumptions about the officer’s personal characteristics. The Panel found these responses inappropriate and disrespectful, in contravention of the Code.

The Panel noted that the Respondent had identified themselves as a politician and discussed their role as a councillor in previous tweets, and the emails were sent from their council email account. This established that the Code applied to the Respondent’s actions.

The Panel concluded that the Respondent’s use of the term “TERF” in conjunction with an offensive phrase was a personal attack. Additionally, the Respondent’s reference to the officer’s race, gender identity, and sexual orientation indicated discrimination, in contravention of the Code.

The Panel also found that the Respondent’s emails demonstrated neither trust nor respect for the council officer, breaching the Protocol in the Code for Relations between Councillors and Employees. Furthermore, by using a council email address and device to send disrespectful emails, the Respondent breached the Council’s IT policy and used council resources imprudently.

The Panel weighed the Respondent’s right to freedom of expression against the standards of public debate. It determined that the Respondent’s public comments and emails were offensive enough to justify restricting their freedom of expression.

While the Panel accepted that the Respondent considered they had been the subject of abuse and that they were determined to stand up for trans rights and to call out transphobia, it nevertheless noted that the Respondent had agreed that they would abide by the terms of the Code, including the requirement to behave with courtesy and respect towards council officers and members of the public.

The Panel noted that the Respondent had been found to have breached the respect provisions of the Code at two previous Hearings and that, despite this, they had engaged in similar and entirely unacceptable conduct. The Panel concluded, therefore, that the Respondent’s behaviour in this case was deliberate. The Panel further noted that the Respondent had failed to show any remorse or to demonstrate any understanding or insight of the impact of their conduct on others. In addition, the Respondent had failed to engage with the Hearing process, choosing instead to use profanities and insults in correspondence to the Standards Commission. The Panel concluded, as such, the appropriate sanction was a lengthy suspension.

The Panel could not impose a suspension, however, as the Respondent was no longer a councillor. The Panel therefore had no other option but to censure the Respondent.

Case	LA/S/3571 – Stirling Council
Date of Referral	10 March 2023
Date of Hearing	21 June 2023
Date of Written Decision	5 July 2023

The Panel considered four issues about a councillor Respondent’s conduct:

Issue 1: The Panel found the Respondent sent numerous emails to council officers between September 2018 and October 2019, attempting to influence their views on a planning application and enforcement action against a developer. The Panel found that, in doing so, the Respondent had breached paragraphs 3.4 and 3.5 of the Code which obliges councillors to refrain from becoming inappropriately involved in operational matters, and to adhere to the Protocol for Relations between Councillors and Employees.

Issue 2: The Panel found the Respondent behaved in manner that was disrespectful, improper, and aggressive towards council officers and applicants at a Licensing Board Meeting in October 2019. In doing so, the Respondent breached the requirements in the Code for councillors to be respectful and fair and to avoid any perception of improper conduct when making quasi-judicial or regulatory decisions.

Issue 3: The Panel found the Respondent belittled and treated both the Council’s Chief Operating Officer and Clerk with contempt at an Environment and Housing pre-agenda meeting in October 2019. The Panel found the Respondent breached the requirement in the Code for councillors to be respectful towards officers and to refrain from bullying and becoming inappropriately involved in operational matters.

Issue 4: The Respondent allegedly referred to the Council’s Monitoring Officer as a “boot” in a private conversation. The Panel did not find sufficient evidence to uphold this issue.

The Panel deemed the restriction on the Respondent’s right to freedom of expression was justified and required to:

- ▶ protect the reputation and rights of the officers in question and to ensure that they were free from undue perturbation in order to perform their duties;
- ▶ protect the mutual bond of trust and confidence between councillors and officers;
- ▶ enable the Council to function effectively; and
- ▶ protect the reputation of the applicant’s solicitor and the right of the applicant to be given a fair hearing.

The Respondent was suspended for five months due to serious nature of the breaches. The Panel had found that the Respondent had subjected council officers to unacceptable behaviour, questioned their capability publicly, and made unwarranted accusations about their integrity. The Respondent’s conduct disrupted effective working relations, threatened the council’s reputation, and opened it up to the risk of legal challenges. Despite mitigating factors such as personal issues, good character references, and regret expressed by the Respondent, the Panel concluded that a suspension was warranted due to the seriousness of the conduct and its impact on others.

Case	
LA/SL/3558a – South Lanarkshire Council	
Date of Referral	3 March 2023
Date of Hearing	27 June 2023*
Date of Written Decision	7 July 2023
*Hearing initially scheduled to take place on 19 May 2023 but postponed at Respondent's request.	
<p>The Respondent, a member of the Cross-Party Working Group (CPWG) on South Lanarkshire Leisure and Culture, was accused of disclosing confidential information about potential closures of Council leisure and culture facilities to the press. The information had been shared initially with the CPWG on 21 April 2021.</p> <p>On 30 April 2021, the Respondent sent a news release to various press outlets expressing concern about a lack of transparency over the potential closure of up to 50 community leisure and cultural facilities across South Lanarkshire. He also shared this news release with other councillors in his political party and encouraged them to share it.</p> <p>On 4 May 2021, following receipt of an enquiry, the Respondent sent a journalist a list of the 50 facilities identified for potential closure. This list was created by the Respondent using information from an internal briefing paper provided to the CPWG.</p> <p>The Panel found that the Respondent knowingly and deliberately disclosed confidential information, in breach of paragraph 3.16 of the Code. The Panel also found that the Respondent used the information for personal or party-political advantage, in breach of paragraph 3.17 of the Code.</p> <p>The Panel accepted that the disclosed information concerned a matter of public concern, being the potential closure of local leisure facilities. The Panel agreed, however, that it was appropriate for the Council to have decided there was a need to preserve confidentiality until any final decision was made.</p> <p>In making its decision on sanction, the Panel noted that the requirement for councillors to refrain from disclosing confidential information is a key requirement of the Code. A failure to do so can damage the reputation and integrity of a Council and can also impede discussions and decision-making.</p> <p>The Panel noted that the Respondent had co-operated fully with the investigative and Hearing processes. The Panel further noted that there was no evidence of repeated behaviour over a long period of time, of dishonesty and / or concealment, or of any previous or subsequent contraventions of the Code by the Respondent. The Panel found, however, that the Respondent had deliberately disclosed the information and that it was satisfied, on balance, that he had done so at least in part for party-political gain.</p> <p>The Panel was concerned by the deliberate nature of the disclosure and noted that despite being aware that the information in question was confidential, the Respondent chose to share it with the press. The Panel further noted that while the Respondent accepted at the Hearing that the best course of action in such situations would have been to seek advice from council officers, no such advice was sought at the time despite the Respondent's admission that he had considered it to be a "borderline" case.</p> <p>The Panel noted the potential impact of the Respondent's actions on others, particularly council officers, who would have been responsible for dealing with any resulting enquiries from the press and public. The Panel was concerned that the Respondent appeared not to have considered this before making the decision to disclose the information. The Panel further noted that the disclosure was likely to have resulted in speculation about facilities being closed, before any final decision had been taken, which may have caused undue and unnecessary concern amongst members of the public.</p> <p>The Panel determined that a two-month suspension was a relevant, proportionate and appropriate sanction.</p>	

Case	LA/Fi/3614 – Fife Council
Date of Referral	28 April 2023
Date of Hearing	11 July 2023
Date of Written Decision	17 July 2023

The complaint against the councillor Respondent alleged disrespectful behaviour towards council officers and the secretary of a community council. The Panel found that the Respondent had been directly critical of a council officer's attitude in her emails, accusing the officer of inflaming a situation and damaging the Council's reputation. The Panel concluded that the Respondent's criticisms of the officer's conduct had been made publicly, contravening the Code's provisions, and that while the Respondent may have had legitimate concerns about the Council's approach to community engagement, it was agreed that she could have raised her concerns respectfully, without resorting to public criticism of the officer's attitude and conduct.

The Panel further found that the Respondent's behaviour at a community council meeting in August 2021 was aggressive, combative, and inappropriate. Witnesses described the Respondent as having talked or shouted over the secretary, failing to afford him an opportunity to respond.

The Panel acknowledged that the Respondent felt strongly about her perception of how the secretary had referred to one of her constituents in an email sent to council officers in June 2021. However, the Panel noted that the Respondent could have raised any concerns with the secretary privately. The Panel concluded that the Respondent had shouted at the secretary, a member of the public, and behaved in an aggressive, disparaging, and dismissive manner towards him at the meeting. In doing so, she had failed, to treat the secretary with courtesy and respect, as required by the Code.

The Panel was concerned that the Respondent had behaved inappropriately towards the secretary of the community council, disrupting the meeting entirely. The Panel noted such behaviour towards members of the public is serious, as it has the potential to erode public confidence in the council and its elected members, and could prevent a community council from functioning effectively.

In terms of mitigation, the Panel accepted that the Respondent's intention had been to defend a constituent. However, the Panel noted that the Respondent had agreed, as part of her acceptance of office as a councillor, to abide by the terms of the Code, which included the requirement to behave with courtesy and respect towards members of the public.

Having considered all the mitigating and aggravating factors, the Panel concluded that a disqualification was neither warranted nor justifiable. As the Respondent was no longer a councillor by the time of the Hearing, the Panel had no other option but to censure the Respondent.

Case	LA/Mi/3803 – Midlothian Council
Date of Referral	2 June 2023
Date of Hearing	23 August 2023
Date of Written Decision	29 August 2023

The complaint concerned an interaction between two Midlothian councillors at an event in September 2022. The Respondent greeted the Complainer and mentioned arranging a date for a photoshoot to publicise the Council's Fair Tax Policy. The Complainer, wearing a red top, offered to wear red to the photoshoot. The dispute arises over whether the Respondent complimented the Complainer's top and suggested she wear red underwear, and whether he looked at her chest.

The Hearing Panel heard evidence from both parties and five other witnesses. The Complainer contended that the Respondent looked at her chest and suggested she wear red underwear, which the Respondent denied. The Panel concluded that the Respondent may have glanced at the Complainer's chest during their conversation, which would be a natural reaction if the top had been mentioned.

The Panel considered three scenarios regarding the alleged comment about the Complainer's underwear: the Respondent made the comment, the Respondent did not make the comment, or the Complainer misheard the Respondent. Both the Complainer and Respondent were found to be credible and reliable witnesses.


Various witnesses testified that the Complainer appeared upset after the conversation, which could support her version of events. The Panel noted, however, this was not conclusive evidence that the Respondent had engaged in inappropriate conduct including making any comment about her underwear. The Complainer could have been upset if she had misheard the Respondent or if she was attempting to make a vexatious complaint.

One witness testified that the Complainer looked uncomfortable during her conversation with the Respondent, but this did not necessarily mean any comment about the Complainer's underwear had been made. Another witness testified that the Respondent appeared shocked and bemused when advised of the complaint, which could support the Respondent's version of events. The Panel again noted, however, that this was not conclusive evidence that any comment about the Complainer's underwear had not been made.

Witness A, the only individual who claimed to have overheard the conversation, testified that the Respondent had not mentioned the Complainer's underwear. Having heard evidence from the Respondent, the Panel accepted his representative's argument that he spoke quickly and was difficult to understand. In the circumstances, it could not rule out the possibility that the Complainer had misheard what was said.

Given these considerations, the Panel was unable to conclude, on balance, that it was more likely than not that the Respondent had behaved as alleged. The Panel was unable, therefore, to conclude that the Respondent had breached the Code.

Case	LA/SL/3558b – South Lanarkshire Council
Date of Referral	3 March 2023
Date of Hearing	30 August 2023
Date of Written Decision	13 September 2023
Hearing initially scheduled to take place on 19 May and 27 June but postponed twice at Respondent's request	
<p>The complaint was that a councillor Respondent shared confidential information about potential closure of leisure facilities on Facebook. The Panel found that the Respondent had received an email from the Council's Labour Group Leader in late October 2020, containing confidential documents recommending the closure of certain facilities. Despite being warned about confidentiality, the Respondent published a Facebook post in early May 2021, sharing information about the potential closures and criticising the plans and her election opponent.</p> <p>The Panel determined that the Respondent had disclosed confidential information, breaching paragraph 3.16 of the Code. It also found that the Respondent had used the information for personal or party-political advantage, breaching paragraph 3.17 of the Code.</p> <p>The Panel acknowledged that the information was of public concern and that, therefore, the Respondent benefitted from enhanced protection in respect of her right to freedom of expression. The Panel agreed, however, that it was appropriate for the Council to have decided the information was to be kept confidential until a final decision on the future of the facilities was made, to allow officers to perform their duties and to avoid unnecessary public concern. The Panel determined that the imposition of a restriction on the Respondent's right to freedom of expression could be justified in the circumstances.</p> <p>The Panel censured the Respondent. In deciding the sanction, the Panel noted that the disclosure was likely to have resulted in speculation about facilities being closed, before any final decision had been taken, which may have caused undue and unnecessary concern. In mitigation, the Panel noted that the Respondent had co-operated fully with the investigative and Hearing processes, and further noted her contribution to public life and to her community and a number of character references from across the political spectrum. The Panel noted that there was no evidence of repeated behaviour over a long period of time, of dishonesty and / or concealment, or of any previous contraventions of the Code by the Respondent. Additionally, the Panel noted the Respondent's reflections on the matter and her stated insight on the importance of the Code. The Panel further noted that the Respondent had been encouraged to disclose the information by her Group Leader.</p>	



Case	LA/NL/3705 - North Lanarkshire Council
Date of Referral	5 July 2023
Date of Hearing	29 September 2023
Date of Written Decision	6 October 2023
<p>The complaint concerned a phone call between the Respondent and a journalist about a planning application for a rail freight development at the former Ravenscraig steelworks site. The conversation was followed by a media article titled 'Councillor reveals controversial Ravenscraig rail freight terminal to be rejected by planners'. The Respondent did not see the article before publication and did not attend the Council meetings where the decision on the application was made.</p> <p>No evidence was found that officers had advised the Respondent that they intended to reject the planning application. The Panel noted that the quote attributed to the Respondent in the article to this effect was, therefore, incorrect. As such, the Panel was not convinced that the Respondent had disclosed confidential information to the journalist.</p> <p>The Panel then considered whether the Respondent had presented the officer's recommendation or application status as fact to the journalist, and if this was done deliberately to influence officers or other elected members. The Panel agreed that the Respondent must have given an indication of what he believed the recommendation would be, even though there was no evidence that officers had disclosed this to him.</p> <p>The Panel considered that the article may have led members of the public to believe that council officers had acted inappropriately in providing information about their recommendation to the Respondent, even though this had not been the case. This could potentially bring the Council into disrepute. As such, the Panel concluded that the Respondent had breached the Code's Protocol for Relations between Councillors and Employees.</p> <p>The Panel censured the Respondent. In deciding this sanction, the Panel noted the Respondent's full cooperation with the investigative and Hearing processes, his outstanding commitment to public service, and his positive impact on the community. The Panel had no reason to believe that the outcome of the planning application had been affected by the Respondent's conduct. The Panel concluded that a censure, being the minimum sanction available, was the appropriate sanction in the circumstances.</p>	

Case	LA/E/3645 – City of Edinburgh Council
Date of Referral	12 July 2023
Date of Hearing	9 October 2023
Date of Written Decision	18 October 2023

The complaint concerned the councillor Respondent's conduct during a meeting at a solicitors' firm, where a confidential report on how the Council had handled allegations of misconduct by a former employee was being reviewed by elected members.

The Panel noted conflicting accounts of the Respondent's conduct at the meeting. After considering the evidence and submissions, the Panel concluded that the Respondent had reacted angrily to a paragraph in the report, raising his voice and expressing his views in a confrontational manner. The Panel was not convinced, however, that the Respondent banged his fist on the table as alleged.

The Panel accepted the Respondent's incredulity at the paragraph's inclusion in the report and his right to challenge it. It noted, however, that he could have done so without raising his voice. By behaving confrontationally, the Respondent failed to show courtesy and respect to the solicitors present, as required by the Code.


The Panel noted that the Respondent used his mobile phone during the meeting to listen to a journalist's voicemail. Despite being warned against using mobile phones due to the report's sensitive nature, the Respondent used his phone and offered it to one of the solicitors, mentioning contact with a journalist. The Panel found this behaviour inappropriate and disrespectful.

While one solicitor present reported feeling shocked and upset by the Respondent's behaviour the Panel did not consider the Respondent's conduct would amount to bullying or harassment as it lacked a significant personal element.

The Panel concluded that the Respondent had contravened paragraph 3.2 of the July 2018 version of the Code. It proceeded to consider the application of Article 10 of the European Convention on Human Rights, noting that the right to freedom of expression is not absolute and can be restricted to ensure the conduct of public life does not fall below a minimum level and to protect others from intimidation or aggression.

The Panel agreed that the Respondent could have expressed his views respectfully, without raising his voice or behaving confrontationally. It noted that comments in the political context, which amount to value judgements, are tolerated even if untrue, as long as they have some factual basis. The Panel found that the Respondent was expressing a value judgement about the report's recommendation in good faith.

The Panel considered, in the circumstances, that the Respondent's conduct was not sufficiently shocking, offensive, or gratuitous to justify a restriction on his right to freedom of expression. It determined that imposing a restriction on the Respondent's right to freedom of expression would not be relevant, sufficient, and proportionate. Therefore, the Panel concluded that a formal finding of a breach of the Code could not be made.



Case	LA/As/3780 – Aberdeenshire Council
Date of Referral	10 August 2023
Date of Hearing	30 October 2023
Date of Written Decision	2 November 2023

The Panel considered the conduct of a councillor Respondent, who was accused of disrespectful behaviour towards a member of the public on Twitter (now X), in July 2022. The Respondent had accused the Complainer of harassment and of using derogatory terms about him in a public forum. The Panel noted that the Respondent’s Twitter account was used for council-related business, and that she had identified herself as a councillor during the exchange. As such, it was satisfied that the Code applied.

The Panel agreed that the Respondent’s comments were discourteous and disrespectful, causing potential reputational damage. It was noted that the Complainer had not directly provoked the Respondent. The Panel found the use of derogatory terms to be personal attacks on the Complainer’s character, rather than criticism of his views or actions. The Panel agreed that the Respondent intended to be disrespectful and cause offence.

The Panel acknowledged that politicians are often the subject of abuse and offensive personal attacks on social media, but noted this did not negate a councillor’s obligation to abide by the Code of Conduct. The Panel concluded that the Respondent’s conduct was objectively disrespectful and contravened the requirement for councillors to treat members of the public with courtesy and respect.

The Panel accepted that as the Respondent was engaging in a debate on a matter of public interest, she attracted enhanced protection in respect of her right to freedom of expression. The Panel noted, however, that such a right was not absolute and could be restricted to protect the reputation and rights of others and to maintain confidence in elected members and the council.

The Panel concluded that the Respondent’s accusation that the Complainer had engaged in harassment was a value judgement for which there was a sufficient basis in fact. As such a restriction on her freedom of expression in respect of that comment could not be justified.

The Panel nevertheless considered the Respondent’s use of derogatory terms to be a gratuitous personal attack on the Complainer’s character and, as such a restriction on her freedom of expression was justified. The Panel concluded that a formal finding of a breach of paragraph 3.1 of the Code could be made and censured the Respondent.

In deciding the sanction, the Panel noted that the Respondent could have expressed her views without resorting to personal insults and abuse. The Panel noted the Respondent’s cooperation with the investigation, her regret over her choice of words, and her attempt to stand against perceived bullying and harassment of individuals from ethnic minorities in politics. Considering these factors, the Panel concluded that a censure was the appropriate sanction.

Case	LA/WL/3790 – West Lothian Council
Date of Referral	4 October 2023
Date of Hearing	30 November 2023
Date of Written Decision	6 December 2023

The complaint concerned the Respondent’s behaviour at a local Business Improvement District (BID) office. The Respondent, a local business owner and ward councillor for Linlithgow, visited the BID office in July 2022 to deliver a cheque and discuss her nomination to the BID board by the Council. The Panel determined that as the Respondent identified herself as a councillor during this exchange and referred to her appointment as a board member, the Code applied to her during the incident.


The Panel found that the Respondent became angry when a staff member questioned her about her status as a board member of the BID. She responded in a loud and aggressive manner, pointing her finger at the staff member, which left the office staff shocked and surprised. The Panel agreed that this behaviour was discourteous and disrespectful, breaching paragraph 3.1 of the Code, which requires councillors to treat others with courtesy and respect.

The Panel acknowledged that the Respondent believed she was on the BID board and had the right to raise concerns about not receiving requested paperwork. It agreed, however, that she could have expressed her concerns respectfully, without resorting to aggressive behaviour. The Panel considered the Respondent’s conduct towards the employee to be egregious.

The Panel noted that restricting the Respondent’s freedom of expression could be justified to protect the reputation and rights of others, including the right of BID employees to a safe work environment. However, the Panel did not find the Respondent’s behaviour sufficiently shocking, offensive, or gratuitous to warrant such a restriction. This was because the Panel found her discourteous and disrespectful conduct limited in scope and duration and accepted that she was trying to explain her board member status (albeit she had done so in an inappropriate and disrespectful manner).

Consequently, the Panel determined that imposing a restriction on the Respondent’s freedom of expression would not be relevant, sufficient, or proportionate. It concluded, therefore, that a formal finding of a breach of the Code could not be made.





Case	LA/NA/3707 – North Ayrshire Council
Date of Referral	26 October 2023
Date of Hearing	26 January 2024*
Date of Written Decision	31 January 2024

*Hearing initially scheduled to take place on 9 January 2024 but postponed at Respondent's request.

The complaint concerned the Respondent's participation in a Council's Local Review Body meeting in December 2021, when a planning application was considered. The Respondent failed to disclose, at the meeting, that he had visited the site that was the subject of the application and asked the neighbours for their views on the application.

It was alleged that, during the visit, the Respondent suggested that the proposed extension might look out of place. The Respondent denied this, however, and contended that he had only asked the neighbours for their views. At the Hearing, the neighbours gave evidence and could not rule out the possibility that the Respondent had been referring to the Planning Department's view that the extension would look out of place (rather than expressing his own opinion).

Due to the passage of time and discrepancies in recollections, the Panel could not conclusively determine what was said during the visit. While it was satisfied the Respondent raised the possibility of whether the proposed extension could look out of place, the Panel noted that councillors are entitled to carry out site visits and discuss applications with interested parties before meetings. The Panel agreed that doing so would not necessarily create a declarable interest.

The Panel concluded that even if the Respondent had questioned the suitability of the extension at the site visit, he would only have been required to declare an interest at the Local Review Body meeting if the objective test was met. In this case, the Panel did not believe that any suggestion made by the Respondent to the neighbours about the proposed extension looking out of place would be considered significant enough as to be likely to impact his discussion or decision-making. The Panel further considered that making such a suggestion did not in itself indicate that the Respondent had pre-judged the application in advance of the Local Review Body meeting. After reviewing the webcast of the meeting, the Panel was satisfied that the Respondent gave the Complainer the opportunity to make statements in support of his application and comment on the question of whether the extension would look out of place.

The Panel concluded that it would not be reasonable for a member of the public, with knowledge of the relevant facts (being the Respondent's site visit and his conduct at the Local Review Body meeting), to conclude that he had failed to ensure he was acting fairly, or that he had failed to avoid any suspicion of pre-judging, bias or a lack of fairness in relation to the application. The Panel concluded, therefore, that a finding of a breach of the Code could not be made.

Case	LA/H/3759 – Highland Council
Date of Referral	1 November 2023
Date of Hearing	6 February 2024
Date of Written Decision	13 February 2024

The complaint against the Respondent involved two issues: a failure to timeously register her business interests and an allegation that she had excluded another councillor from a committee due to her pregnancy and upcoming maternity leave.

The Panel confirmed that the Respondent breached the Code by not registering her shareholding in two companies within the stipulated time.

Regarding the second issue, the Panel noted that the Respondent, in an email to a council officer, had suggested other councillors for the committee instead of Councillor C. The Panel inferred that the Respondent did not consider Councillor C to be “continuous and consistent”. Although the Respondent did not mention Councillor C’s pregnancy or maternity leave in the email, she later admitted during the investigation that she thought Councillor C “couldn’t” be on the committee due to her maternity leave. The Panel acknowledged the Respondent’s intention was not to discriminate against Councillor C and, instead, had been seeking to ensure the committee’s effectiveness. The Panel found, however, that the Respondent failed to advance equality of opportunity by not considering Councillor C for the committee position due to her pregnancy and assumptions about her maternity leave, breaching paragraph 3.2 of the Code. The Panel also found that the Respondent was discourteous and disrespectful, contravening paragraph 3.1 of the Code.

The Panel noted that as the Respondent’s conduct occurred while expressing views on a matter of public concern, she would attract enhanced protection in respect of her right to freedom of expression. The Panel noted, nevertheless, that this right is not absolute and can be restricted. In this case, the Panel found that a restriction was necessary to protect the rights of a fellow councillor, maintain trust and confidence between elected members, ensure confidence in elected members and the Council, and uphold a minimum standard of conduct in public life.

The Panel concluded that the Respondent contravened paragraphs 3.1 and 3.2 of the Councillors’ Code of Conduct and suspended her for one month. In deciding the sanction, the Panel noted the Respondent’s full cooperation, unreserved apology for the failure to register interests, and her longstanding contribution to the Council and public life. The Panel also acknowledged the Respondent’s passion for planning and her aim to protect the committee’s effectiveness. The Panel nevertheless found that the Respondent’s assumptions about Councillor C were discourteous and could have been detrimental to the councillor and the Council’s effective functioning. After consideration, the Panel concluded that a full suspension of one month was appropriate.



Case	LA/WL/3698 – West Lothian Council
Date of Referral	3 November 2023
Date of Hearing	16 February 2024
Date of Written Decision	28 February 2024

The complaint concerned the Respondent’s behaviour during an online Council meeting in September 2021. The Respondent was accused of making several inappropriate comments and speaking over others. The Panel found, however, that while the Respondent did raise his voice and made unnecessary comments, these actions did not constitute a breach of the respect and courtesy provisions in the Code. In reaching this decision, the Panel noted that the meeting was heated and somewhat unruly, with other attendees also reprimanded for raising their voices.

The Panel agreed with the ESC’s representative that the Respondent could have expressed frustration about his perception that the Complainer had been lecturing him and other members of his political party in a different manner. The Panel considered, nevertheless, that it was clear that, while directed at the Complainer as an individual, the Respondent’s comments regarding her “dulcet tones”, and his suggestion that he was “falling asleep” and made to feel like he was “back at school” while listening to her, were political points relating to her contribution to the meeting, as opposed to being a personal attack about the way she sounded. The Panel did not consider, therefore, that the Respondent’s conduct in making these comments was objectively disrespectful.

As such, the Panel concluded that the Respondent had not breached paragraphs 3.2 or 3.7 of the Code. As the Respondent’s conduct was not found to be disrespectful, it was also not deemed serious enough to constitute bullying or harassment. Therefore, the Panel also concluded that the Respondent had not breached paragraph 3.6 of the Code.

DO NEITHER (NO ACTION) DECISIONS

Case	LA/H/3778 – Highland Council
Date of Referral	23 March 2023
Date of Decision	5 April 2023

The Ethical Standards Commissioner (ESC) reviewed the conduct of a Respondent councillor on social media and during a council meeting.

The ESC examined the Respondent’s social media posts, where they referred to the Complainer as “stalking” them, and as being “a snake in the grass,” and “a crocodile who comes from Dundee.” Additionally, the Respondent suggested in a public meeting that the Complainer was “not fit for public office.” The ESC recommended that the Respondent’s conduct, in posting the remarks, amounted on the face of it to a breach of the Code’s respect provisions.

The ESC recognised that the Respondent’s comments addressed the character of the Complainer, a political opponent, and matters relevant to the local community. Given the political context, the ESC determined that the Respondent was entitled to the enhanced protection of freedom of expression afforded to politicians discussing matters of public concern. Consequently, the ESC recommended that imposing a restriction on the Respondent’s right to freedom of expression, which would result from a breach finding and sanction, was not justified.

Upon reviewing the evidence, the Standards Commission agreed with the ESC’s assessment. Considering the context and colloquial nature of the language used, the Commission deemed the comments not gratuitous or offensive enough to warrant restricting the Respondent’s right to freedom of expression. Therefore, it was unlikely that a breach of the Code would be established at a Hearing.

The Standards Commission decided, in the circumstances, that holding a Hearing was neither proportionate nor in the public interest, choosing to take no action on the referral.

Case	LA/E/3653 – City of Edinburgh Council
Date of Referral	14 April 2023
Date of Decision	18 April 2023

In an investigation into the unauthorised disclosure of a letter to the media, the ESC reported that the Complainer was uncertain about the identity of the individual who leaked the information in question, but that she suspected it was one of the Respondent councillors. The Complainer revealed that her group leader, one of the Respondents, had informed her that the letter had been circulated among all group leaders.

The ESC sought to uncover the source of the leak by contacting all the Respondents, certain members of their staff, the journalist who reported on the matter, and council officers. Despite these efforts, the ESC found there was no evidence to indicate, or prove, who was responsible for the leak or that it was one of the Respondents. The ESC concluded, therefore, that the complaint had not been proven.

The Standards Commission noted the ESC had carried out an extensive investigation, and, as such, considered it improbable that additional substantive evidence would emerge, either in the lead-up to or during a Hearing. As a result, the Standards Commission determined that holding a Hearing would not be proportionate or in the public interest and decided, therefore, to take no further action on the matter.

Case	LA/AC/3788 – Aberdeen City Council
Date of Referral	2 March 2023
Date of Decision	<p>The Standards Commission initially decided to hold a Hearing on the matter. Having received, on 19 April 2023, what it considered to be new and material information (as outlined below) in submissions received from the Respondent’s representative, the Standards Commission then reviewed its decision.</p> <p>The new decision was made on 26 April 2023.</p>
<p>The ESC found that a councillor Respondent had omitted to declare a significant shareholding in a company, within one month of its incorporation, on her Register of Interests. Despite updating her Register to include her directorship, she failed to disclose her shareholding of between 25% to 50%, which breached the requirement in the Code to do so.</p> <p>The ESC reported that the Respondent had explained that the company, created with family members for a potential tourism business, had remained inactive without trading, turnover, or a bank account. As such, she had not understood it was necessary to register the shareholding. The ESC advised the Respondent had now apologised and corrected the oversight.</p> <p>The Standards Commission emphasised that the requirement in the Code to declare shareholdings did not distinguish between active or dormant companies, given the potential for a conflict of interest to arise if a company commenced trading.</p> <p>The Standards Commission noted, nonetheless, that, there was no evidence such a conflict of interest had arisen in the case. It further noted that the Respondent had previously sought advice on registering her directorship in the company, which indicated there had been no intent to conceal the interest. Having also noted the minimal value of the shareholding and the Respondent’s full admission and apology, the Standards Commission deemed the alleged breach to be minor in nature and without significant consequence. It determined, therefore, that it was not proportionate or in the public interest to hold a Hearing and decided to take no further action on the matter.</p>	

Case	LA/R/3781 – Renfrewshire Council
Date of Referral	25 April 2023
Date of Decision	27 April 2023
<p>During a debate on Scottish independence at a council meeting, two councillor Respondents were accused of breaching the Code by using offensive language. The first Respondent linked a political party’s policies to the deaths of citizens, which the ESC deemed potentially disrespectful and a potential breach of the Code. The second Respondent, responding to criticisms of the first’s comments, claimed another party’s policies were killing people. The ESC also found this could be disrespectful and a possible breach of the Code.</p> <p>The ESC noted, however, that both Respondents, as politicians discussing a contentious issue of public concern, were entitled to enhanced protection in respect of their right to freedom of expression. The ESC considered that as the Respondents were expressing opinions on policies rather than engaging in personal attacks, it was unlikely a restriction on their freedom of expression could be justified.</p> <p>The Standards Commission agreed with the ESC’s conclusions. It considered the Respondents’ remarks were value judgements on another political party’s policies. Given the amount of media coverage on both topics, the Standards Commission noted that it understood that both the imposition of the policies in question were matters that had provoked a great deal of public debate, with many individuals having strong feelings on both subjects. In that context, the Standards Commission considered that it was likely that the Respondents had expressed their opinions and value judgements in good faith, regardless of whether their views had any basis in fact. The Standards Commission concluded, therefore, 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/R/3770 – Renfrewshire Council
Date of Referral	3 May 2023
Date of Decision	5 May 2023

The ESC advised that the first issue of complaint concerned the alleged behaviour by the first councillor Respondent at an online board meeting of Shopmobility. The ESC advised that he did not consider the Code applied as the Respondent was not appointed to the Shopmobility board by the Council, had not referred to himself a councillor during the meeting and because no business relating to the Council had been discussed.

The second complaint was that another councillor Respondent failed to record, on her Register of Interests, receipt of a payment to undertake work for Shopmobility. The ESC found, however, that the payment was made to the Respondent’s business, a limited company. The Respondent had recorded her directorship of that company on her Register of Interests. The ESC noted that the Code did not require a councillor to register payments made to any business or company in which they held a directorship. As such, the ESC concluded that the Code had not been breached.

Having reviewed the ESC’s report, the Standards Commission found no reason to depart from his conclusion that the Code did not apply to the first Respondent. The Standards Commission further agreed with the ESC that there was no requirement for the second Respondent to have registered the payment and, as such, there was no evidence of a breach of the Code. The Standards Commission concluded, therefore, 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.

Case	LA/E/3708 & 3724 – City of Edinburgh Council
Date of Referral	9 May 2023
Date of Decision	12 May 2023

The complaint alleged that the councillor Respondent campaigned against a planning application and influenced council officers. It was also claimed that the Respondent assisted neighbours in opposing the application by providing a template response for them to use to lodge objections. The ESC, after reviewing extensive email correspondence, found no evidence to support these allegations. The Respondent was found to have merely provided advice on the process and responded to queries. No evidence was found to suggest that the Respondent circulated a template response to help people oppose the application. The ESC concluded that the facts of the complaint were not proven and, therefore, that there was no breach of the Code.

The Standards Commission noted that councillors are allowed to organise support for or opposition to a planning application, provided they then declare an interest in the matter and withdraw from any meeting they are involved in where that application is being considered.

The Standards Commission noted, in any event, that the ESC had not found the facts of either issue of complaint to be proven. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion. It concluded that it was not proportionate or in the public interest to hold a Hearing and decided to take no action on the referral.

Case	LA/E/3158 – City of Edinburgh Council
Date of Referral	12 May 2023*
Date of Decision	19 May 2023
<p>* The initial referral was received on 17 March 2023. The Standards Commission directed the ESC to undertake further investigation on 3 April 2023 into the capacity in which the councillor was acting, at the time of the events in question, in order to determine whether the Code applied.</p>	
<p>The complaint about the Respondent, covering allegations regarding his conduct between April 2016 and February 2018, was received by the ESC in November 2019. After the Respondent was charged in relation to some of the conduct covered in the complaint, the ESC's investigation was initially suspended and then closed, pending the outcome of the criminal proceedings. The ESC re-opened the investigation after the Respondent was convicted of various matters in August 2022 and placed on the Sex Offenders' Register.</p> <p>The ESC reported that he found that the following issues of complaint had been proved:</p> <ol style="list-style-type: none"> 1. In April 2016, in a taxi home after an event for members of a political party, the Respondent engaged in sexually motivated conduct towards Ms A (who worked for an MSP of the same party and was also a fellow member of its city association) by forcibly kissing her without consent. 2. In October 2017, at a property in Glasgow, the Respondent engaged in sexually motivated conduct by forcibly attempting to get into bed with a colleague, Councillor C, without consent. 3. Between December 2017 and February 2018, while subject of an internal political party process, in relation to his conduct towards Councillor C, the Respondent inappropriately contacted Councillor C. 4. In February 2018, at a hotel in Edinburgh, during a meeting with party colleagues, as part of an internal party-political process, the Respondent punched furniture and a wall. 5. On or around 15 February 2018, following his suspension from the political party, the Respondent inappropriately attended Ms A's workplace. <p>The ESC advised that he considered the Respondent had breached the respect provisions in the 2010 version of the Councillors' Code, which was in place at the time the events outlined above had occurred. The ESC advised that he considered the Code applied to the Respondent in respect of the allegations listed above because the Respondent was identifiable as a councillor and / or because the Respondent could be reasonably perceived to be a councillor at the time of the events in question.</p> <p>The ESC advised that he had also considered an allegation that:</p> <ol style="list-style-type: none"> 6. In October 2017, the Respondent punched a party colleague during a taxi journey to a party conference in Glasgow. <p>The ESC advised, however, that he had found that "there was a lack of evidence to conclude the Respondent was readily identifiable as a councillor at the material time". The ESC had concluded, therefore, that the Code did not apply to the Respondent in respect of issue six.</p> <p>The Standards Commission noted the 2010 version of the Code, in place at the time, stated that it applied in all situations where an individual was <i>acting as a councillor</i>, which included when they were representing the Council on official business. The Standards Commission's Guidance on the 2010 version of the Code stated that it was important to note that the rules of good conduct set out in Section 3 of the Code, which included the requirement to treat all colleagues, council employees and members of the public with respect, must be observed in all situations where councillors were acting as councillors, including representing the council on official business.</p> <p>In this case, the Standards Commission accepted that the Respondent was known to be a councillor and, therefore, was identifiable as such. The Standards Commission further accepted that the Respondent could reasonably be perceived as being a councillor. The Standards Commission did not consider, however, that the Respondent was acting as a councillor, or could reasonably be perceived as acting as a councillor, during any of the events outlined in issues one, two and six.</p>	


Case
Continued LA/E/3158 – City of Edinburgh Council

In respect of issues one, two and six, the Standards Commission noted that the events linked to those issues were open to all members of the political party, not just councillors, and that the council itself did not have a role in receiving or circulating invitations to such an event, which were political in nature and outwith the remit of the work of the council. The Standards Commission further noted, in any case, that the conduct that was the subject of those issues occurred (in the case of issues one and two) before the event, and (in the case of issue six) after the event had ended. The Standards Commission did not consider, therefore, it was reasonable to conclude that the Respondent, was acting or could be reasonably perceived as acting in his then capacity as an elected member.

The Standards Commission noted that it would only be able to find a breach of the Code at a Hearing, if it was satisfied that the Code applied to the Respondent at the time of the events in question. As the Standards Commission determined that the Code would not apply to the conduct that is the subject of issues one, two and six, it follows that a breach of the Code cannot be found in relation to these matters. The Standards Commission concluded, therefore, that it was neither proportionate, nor in the public interest, for it to hold a Hearing on issues one, two and six of the complaint.

The Standards Commission noted that issues three, four and five above concerned the Respondent's conduct during and as part of an internal political party process. The Standards Commission understood that the process was undertaken because the Respondent was a member of the party. The Standards Commission noted that there was no suggestion that the Respondent was undertaking council-related duties or discussing council business during the process. The Standards Commission further noted that while the party could have expelled him during the process, it could not have prevented him from continuing to be a councillor. The Standards Commission nevertheless accepted that the process was being undertaken, at least in part, to determine whether the Respondent could continue to be a member of, or represent, the political party (which would include in his then role as a councillor). The Standards Commission considered it was therefore arguable that the Respondent could be reasonably perceived as acting in the capacity of a councillor in respect of his behaviour during and as part of the internal political process.

In considering the public interest and proportionality, the Standards Commission noted that the Respondent's alleged conduct in respect of those issues could have caused fear, alarm or upset to Councillor C, his party colleagues and Ms A. The Standards Commission considered that the public are entitled to trust that those in public life will be meeting the highest standards of ethical behaviour and are entitled to expect that where it appears that a councillor may have contravened the Code, their behaviour will be scrutinised at a Hearing.

The Standards Commission noted, however, that the option to take no action had been included in the 2000 Act to ensure that neither the ethical standards framework, nor the Standards Commission, was brought into disrepute by spending public funds on administrative or legal processes in cases that did not, on balance, warrant such action. In this case, the Standards Commission noted that it was not wholly satisfied that the Code would apply to the Respondent in respect of issues three, four and five. The Standards Commission further noted that the events that were the subject of the issues occurred in late 2017 and early 2018, being more than five years ago and, also, that the Respondent was no longer a councillor, having not stood for re-election in 2022.

Having taken into account the above factors, and the fact that criminal proceedings about the sexually motivated aspects of the Respondent's behaviour had already been completed, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing on issues three, four and five of the complaint. The Standards Commission determined, therefore, to take no action on any aspect of the referral.



Case	LA/As/3784 – Aberdeenshire Council
Date of Referral	31 May 2023
Date of Decision	5 June 2023
<p>The complaint concerned an allegation that the Respondent failed to declare an interest and withdraw from the consideration of a planning application at two Area Committee meetings held in June 2022, despite being a close neighbour of a company that stood to benefit from the application, and being ‘Facebook friends’ and / or linked by marriage with individuals connected in various ways to the application.</p> <p>The ESC advised that, having investigated the matter, he had not found that the Respondent’s connections to any of the individuals in question to be so significant that a member of the public, with knowledge of the relevant facts, would reasonably regard them to be likely to influence her decision-making. As such, the Respondent was not required to declare an interest and was entitled to participate in the discussion and decision-making on the application.</p> <p>The Standards Commission noted that the ESC, in his report, had reached the conclusion that there was no evidence to support the Complainer’s contention that the Code had been breached. Having reviewed the ESC’s report, the Standards Commission found no reason to depart from that conclusion.</p> <p>Having taken into account the above factors, and in particular the fact that it was not satisfied that there was any evidence of 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 determined, therefore, to take no action on the referral.</p>	

Case	LA/E/3768 – City of Edinburgh Council
Date of Referral	13 June 2023
Date of Decision	14 June 2023
<p>The complaint concerned the conduct of the Respondent, in re-posting a tweet, from a third party entitled ‘#FMQs summed up through the sign language translator’. The post showed fictional phrases next to a sign language interpreter describing various opposition party politicians as a “creaking wardrobe”; “I’m sorry, I don’t speak Fud” and, “He’s too dense for me to comprehend”.</p> <p>The ESC found that the Respondent referred to herself as a councillor in her Twitter (now X) account name and, therefore, the Code applied to her conduct when she retweeted the post. The ESC noted that the Respondent’s position was that she must have re-posted the tweet in error as it did not reflect her views. The ESC considered, however, that as it contained derogatory comments next to pictured and identifiable politicians, the Respondent had failed to behave with courtesy and respect and had, on the face of it, breached the Code. The ESC nevertheless considered that the Respondent’s conduct in retweeting the post was not so egregious as to justify a restriction on her enhanced right to freedom of expression.</p> <p>The Standards Commission considered that while the phrases were directed at individual politicians, it considered that they were relatively light-hearted and mocking in tone. The Standards Commission was of the view that it was very unlikely that the Respondent’s conduct, in retweeting the post 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>In the circumstances, 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/E/3775 – City of Edinburgh Council
Date of Referral	17 July 2023
Date of Decision	19 July 2023
<p>The complaint concerned the conduct of the Respondent, in posting a tweet in which he stated, “annoying Sunday 740am wake up call for local people today. Thank you to @LidlGB #twats for being a pain in the ass. Alarm goes off regularly and nothing done about it”. The ESC advised that the Respondent referred to himself as a councillor in his Twitter (now X) account handle and, therefore, the Code applied.</p> <p>The ESC considered that, by identifying the particular store, it could be inferred that the Respondent was referring to its staff. The ESC advised that he considered the comments in the tweet to be “personal in nature” and derogatory, and concluded that the Respondent’s conduct, in posting the tweet was, on the face of it, disrespectful. The ESC nevertheless considered that the comments were not sufficiently egregious as to justify a restriction on the Respondent’s right to freedom of expression.</p> <p>The Standards Commission was not 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 terms used by the Respondent were somewhat vulgar, it did not agree with the ESC that they were personal in nature or that they had been made in a way that resulted in any members of staff being reasonably identifiable. Instead, the Standards Commission considered the terms were directed at a company, as an entity.</p> <p>The Standards Commission was further of the view that it was very unlikely that the Respondent’s comments, in the tweet in question, would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on his right to freedom of expression.</p> <p>In the circumstances, 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/AC/3711 – Aberdeen City Council
Date of Referral	24 July 2023
Date of Decision	27 July 2023
<p>The complaint alleged that the Respondents (an elected member and a former elected member) should have declared an interest in their membership of a trade union and withdrawn from consideration of a motion at the Council’s City Growth and Resources Committee in August 2021.</p> <p>The ESC advised that the motion, which referred to the trade union, concerned comments another councillor had made to the media. The ESC noted that the Code required councillors to declare interests which fall within the terms of an objective test, being whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it would be likely to influence their decision-making on the matter to be considered. In this case, the ESC did not consider that the Respondents’ membership of the trade union would fall within that test, because the reference to the trade union in the motion was incidental and there was no prospect of the outcome benefiting the Respondents or having any impact whatsoever on the trade union. The ESC concluded that the Respondents were not required to declare an interest and recommended, therefore, that a breach of the Code could not be found.</p> <p>Having reviewed the evidence and reasoning in the ESC’s report, the Standards Commission found no reason to depart from the ESC’s findings and 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	NB/NHS NS/3874 – NHS National Services Scotland
Date of Referral	26 July 2023
Date of Decision	31 July 2023
<p>The complaint concerned an allegation that the Respondent disclosed the identity of an individual by stating that the individual (a) was known to him from another organisation and (b) had a long criminal record, and in doing so breached the confidentiality provisions of NHS National Services Scotland’s Code.</p> <p>The ESC advised that he had found that while the Respondent made reference at an event to a ‘young person’ he was aware of, whose paper record of police checks was ‘about six foot long’, the individual in question had not been named. The Respondent had also not disclosed any personal information relating to the individual or any information about any convictions they may have incurred. As such, the ESC considered it was unlikely that the individual could be identified from the information disclosed by the Respondent. In any event, the information disclosed about the individual did not relate to the work of the Respondent’s public body, nor had it been obtained by him in his capacity as a board member. The ESC therefore recommended that the Respondent’s conduct did not amount to a breach of the Code.</p> <p>The Standards Commission noted it was evident from the complaint itself that the Respondent stated he had obtained the information from another organisation. As such, there was no evidence or suggestion the information was provided to the Respondent, had emanated from, or related to the work of NHS National Services Scotland. The Standards Commission was satisfied, therefore, that there was no question that the Respondent had disclosed information that was confidential to NHS National Services Scotland.</p> <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 could ever amount to a breach of the applicable Code, 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	NHS/WI/3815 – NHS Western Isles
Date of Referral	6 September 2023
Date of Decision	11 September 2023
<p>The complaint concerned an allegation that the Respondent had breached confidentiality by disclosing his reappointment to, and promotion to deputy chair of, the NHS Western Isles board, in advance of an official announcement.</p> <p>The ESC advised that he had found the Respondent updated his LinkedIn profile to reflect his reappointment to the board and promotion to deputy chair before this was announced officially. The ESC found, however, that the Scottish Government’s Public Appointments Team and NHS Western Isles’ Standards Officer confirmed that the reappointment was not confidential. The ESC therefore recommended that the Respondent’s conduct did not amount to a breach of the of NHS Western Isles Code. Having reviewed the complaint, the Standards Commission found no reason to depart from that conclusion.</p> <p>The Standards Commission concluded, therefore, that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined to take no action on the referral.</p>	

Case	LA/EL/3839 – East Lothian Council
Date of Referral	15 September 2023
Date of Decision	18 September 2023
<p>The Complainer alleged that, during a telephone conversation in September 2022, the Respondent shouted at him, referred to ‘angry’ emails the Complainer had sent him, and said he would not meet with the Complainer again. The ESC advised that the Respondent accepted that he may have raised his voice but contended he could only have done so to emphasise that he could do no more to support the Complainer and to voice his concern about the Complainer’s threatening tone and language. The ESC advised he had found no further evidence was available to substantiate what took place during the call. The ESC advised he was unable to conclude, on the balance of probabilities, that the facts of the complaint had been proven.</p> <p>While the Standards Commission noted that holding a Hearing would offer the opportunity to question the parties involved under oath or affirmation, it considered it was unlikely they would change their positions and / or that further substantive evidence would be led which would allow it to conclude, on balance, that a breach of the Code had occurred. This was particularly the case given the ESC had found there had been no independent witnesses to the call, and no recording or contemporaneous note of it had been made. The Standards Commission further noted that the Code did not require councillors to meet members of the public more than once. As such, any statement that the Respondent made to the effect that he would not meet the Complainer again would not amount to a breach of the Code. The Standards Commission further noted that it was a matter of opinion as to whether the Respondent considered any emails sent by the Complainer to be ‘angry’ in tone, and that any reference to this opinion in the call would again not amount to a breach of the Code.</p> <p>In the circumstances, the Standards Commission concluded that it was not proportionate for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.</p>	


Case	LA/S/3791 – Stirling Council
Date of Referral	15 September 2023
Date of Decision	19 September 2023
<p>The complaint alleged that the Respondent had failed to declare an interest in relation to an application for an entertainment licence at a festival, despite having received four complimentary tickets to it. The ESC advised that he found that all residents of the village in which the Respondent lived were entitled to complimentary tickets to the festival, with no conditions being attached to their provision. The ESC found that as the Respondent recorded receipt of the tickets in her Register of Interests, she created a connection. The ESC did not, however, consider that connection to amount to an interest that required to be declared. This was because the tickets had been acquired by the Respondent’s husband on the basis of where they lived and there was no link between the Respondent’s role as a councillor and the receipt of the tickets.</p> <p>As such, the ESC did not consider that a member of the public, with knowledge of the relevant facts, would reasonably regard the Respondent’s connection as being so significant that would be likely to have influenced the Respondent’s decision-making. The ESC concluded, therefore, that there was no need for the Respondent to have declared an interest at the Panel meeting at which the entertainment licence application was considered and that the Respondent’s conduct did not amount to a breach of the Code.</p> <p>The Standards Commission agreed with the ESC’s conclusion and determined, therefore, that it was not proportionate for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.</p>	

Case	LA/Fi/3740 – Fife Council
Date of Referral	22 September 2023
Date of Decision	27 September 2023
<p>The complaint related to the conduct of the Respondents at a Licensing Board Hearing on 19 April 2021, at which an application for the variation of a premises licence was considered. The Complainer, an objector to the application, alleged that at the Hearing the Respondents demonstrated bias in favour of the applicant.</p> <p>Having reviewed notes taken at the meeting in question and having contacted a number of attendees, the ESC advised that he had not found any evidence to support the contention that any of the Respondents had acted disrespectfully, nor any evidence that they had acted unfairly, demonstrated bias or gave the impression of such. The ESC recommended, therefore, that the Respondents' conduct did not amount to a breach of the Code.</p> <p>The Standards Commission found no reason to depart from the ESC's conclusion. As such, it concluded, therefore, that it was not proportionate for it to hold a Hearing and determined to take no action on the referral.</p>	


Case	LA/As/3827 – Aberdeenshire Council
Date of Referral	10 October 2023
Date of Decision	16 October 2023
<p>The complaint alleged that in comments published on Twitter (now X) in November 2022, the Respondent accused the Complainer of lying about her.</p> <p>The ESC advised that as the Respondent referred to herself as a councillor in her Twitter account and identified herself as such in the accompanying biography section, he was satisfied that the Code applied. The ESC found that the Respondent accused the Complainer, on three occasions, of lying about her in a publicly available Twitter exchange about their respective political views in respect of her commitment to the independence movement.</p> <p>The ESC considered that by repeatedly alleging the Complainer had lied, the Respondent had engaged in a personal and sustained attack on him. The ESC concluded that, as such, the Respondent had failed to treat the Complainer with courtesy and respect, in breach of the Code. The ESC was of the view, nevertheless, that in the context in which they had been made, the Respondent's accusations could reasonably be construed as representing a legitimate, albeit subjective, interpretation of a differing political position. The ESC considered, therefore, restriction on the Respondent's enhanced rights to freedom of expression could not be justified.</p> <p>The Standards Commission considered that while the comments were directed at the Complainer as an individual, it was evident from the context in which they were made that the Respondent was accusing him of misrepresenting her position on a specific matter deliberately, rather than of him being generally dishonest in character. The Standards Commission agreed with the ESC, therefore, that it was unlikely that a restriction on the Respondent's right to freedom of expression could be justified. The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and, as such, determined to take no action on the referral.</p>	

Case	LA/G/3818 – Glasgow City Council
Date of Referral	11 October 2023
Date of Decision	16 October 2023
<p>The complaint alleged that the Respondent misused publicly funded resources to pursue political party activities by delivering a party-political leaflet to the Complainer’s home at the same time as one outlining how constituents could contact him in his capacity as a ward councillor. The ESC advised that while the second leaflet was one that promoted the Respondent’s political party, he had found no evidence to support the contention that any council resources were used to produce, print or deliver it. As such, the ESC concluded that there was no evidence of a breach of the Code.</p> <p>Having reviewed the information before it, the Standards Commission found no reason to depart from that conclusion. In the circumstances, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and determined, therefore, to take no action on the referral.</p>	

Case	LA/WL/3826 – West Lothian Council
Date of Referral	23 October 2023
Date of Decision	26 October 2023
<p>The complaint alleged that during a council meeting in November 2021, the Respondent made a scathing and demeaning remark to the Complainer, a fellow councillor. The ESC advised that having reviewed an audio recording of the meeting in question he found that the Respondent told the Complainer, while gesturing or pointing towards the report that it contained “a handy summary in the final few pages”, “just in case he prefers to read the summary rather than the detail”. The ESC noted that the Complainer considered that, in doing so, the Respondent was mocking his dyslexia. The ESC stated, however, that the evidence he had found suggested, on balance, that the Respondent was unaware at the time that the Complainer had dyslexia. The ESC found, instead, that the Respondent’s reference to the summary of the report and accompanying pictures had been relevant to the discussion and questions from the Complainer. As such, the ESC considered it was likely that the Respondent would have made these comments regardless of whether the Complainer was dyslexic.</p> <p>In any event, the ESC considered that, at worst, the Respondent’s comments could be described as a satirical characterisation of a political opponent’s ability to comprehend complex information. As such, even if it was found, on the face of it, that the Respondent’s comments were disrespectful, a restriction on her enhanced right to freedom of expression would not be justified.</p> <p>The Standards Commission noted that the ESC had not found any other evidence to support the Complainer’s contention that the Respondent was mocking his dyslexia. In the circumstances, the Standards Commission did not consider the conduct in question would amount to a breach of the respect or bullying and harassment provisions in the Code. In the circumstances, 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/ED/3832 – East Dunbartonshire Council
Date of Referral	23 November 2023
Date of Decision	28 November 2023
<p>The complaint concerned an incident in December 2022 during which the Respondent entered and began measuring the Complainer’s driveway, without consent. The ESC advised that the Respondent confirmed she was attempting to assist a constituent who was involved in a boundary dispute with the Complainer. Accordingly, the ESC was satisfied the Respondent was acting as a councillor and that the Code applied.</p> <p>The ESC was of the view that the Respondent did not treat the Complainer with courtesy or respect in assuming she had a right to enter the Complainer’s driveway without permission. The ESC advised he had therefore found that, on the face of it, the Respondent had breached the Code. The ESC reported that he was nevertheless of the view that the Respondent’s actions were not sufficiently offensive, bad or shocking as to justify a restriction on her right to freedom of expression.</p> <p>The Standards Commission was not satisfied, however, that the Respondent’s conduct in attending the Complainer’s property and attempting to take a measurement could, on the face of it, amount to a breach of the Code. The Standards Commission noted that CCTV footage of the incident demonstrated that the Respondent was on the Complainer’s driveway for approximately 20 seconds before the Complainer and her partner left their house, and the Complainer’s partner immediately pushed the Respondent to the side. As such, it was apparent that there was no evidence to support a contention that the Respondent had refused to leave the property when asked. While the Standards Commission accepted that the Respondent had not been invited by the Complainer to attend the property, it did not consider that an assumption she could do so was inherently disrespectful or discourteous, particularly given it was evident that the Respondent had done so in an attempt to help a constituent resolve what was clearly an acrimonious neighbour dispute. The Standards Commission noted that it would not be uncommon for a councillor, when campaigning or delivering leaflets, to attend constituents’ properties without necessarily having been invited to do so, or without assuming they would be welcomed.</p> <p>In the circumstances and for the reasons outlined above, 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/G/3846 – Glasgow City Council
Date of Referral	29 November 2023
Date of Decision	4 December 2023

The complaint was that the Respondent failed to declare an interest and leave a Licensing Board meeting, in January 2023. The ESC advised that it was not disputed that the Respondent had previously informed the Complainer, in 2021, that she would support his objection to the granting of an Occasional Licence Application. It was also not disputed that the Respondent did not then declare this support, as an interest, when a Major Variation Application was being considered by the Licensing Board at a meeting in January 2023, in respect of the same premises, until prompted to do so by the Complainer.

The ESC advised, however, that he was satisfied the two licences that had been sought were distinct, even though they were for the same premises. The ESC further advised that he had found that no formal objection had been submitted in respect of the Occasional Licence Application. As such, the ESC concluded the Respondent did not have any connection to the Major Variation Application being considered by the Licensing Board on in January 2023. The ESC noted, therefore, there was no requirement for the Respondent to have declared an interest in the matter or to have refrained from taking part in the discussion or decision-making. The ESC concluded, therefore, that he was not satisfied that there had been any breach of the Code.

Having reviewed the ESC’s factual findings and reasoning, the Standards Commission found no reason to depart from his conclusions. In the circumstances, 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.



Case	LA/An/3822 – Angus Council
Date of Referral	1 December 2023
Date of Decision	12 December 2023

The complaint concerned the Respondent’s conduct at a meeting of Angus Council in November 2022. The ESC advised he had found that the Respondent stated publicly, in reaction to the failure of a motion he had put forward, that he would no longer refer to the chair as ‘Provost’ until he started “to act like one”. The Respondent stated that he was leaving the room in protest at “the disgraceful pettiness of the SNP and the two stooges they have got”.

Taking into account the personal and public nature of both comments made by the Respondent, the ESC concluded that they could reasonably be interpreted as disrespectful and discourteous. The ESC concluded that, on the face of it, the Respondent had breached the Code. The ESC considered, however, that the Respondent’s comments to the Chair were not so gratuitous, personal or threatening in nature, as to justify an interference on his right to freedom of expression.

The Standards Commission considered that while the comments were directed at the Chair as an individual, it was evident from the context in which they were made that the Respondent was expressing unhappiness that his motion had been rejected (and the behaviour of members of another political party in opposing it), rather than making a particularly personal remark. The Standards Commission agreed with the ESC that it was very unlikely that the Respondent’s comments would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on his right to freedom of expression.

In the circumstances, 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.

Case	LA/G/3816 – Glasgow City Council
Date of Referral	6 December 2023
Date of Decision	14 December 2023
<p>The first issue of complaint was that, in emails he sent in November and December 2021 and in a telephone call, the Respondent treated the staff of a community membership organisation disrespectfully by trying to ensure local residents could attend an event the organisation was hosting, without necessarily holding tickets. This was despite the fact that doing so could mean Covid-19 restrictions and the venue’s own rules would be breached. The ESC advised, however, that he had not found the content of the Respondent’s emails to be objectively disrespectful or discourteous. In reaching this conclusion, the ESC noted that the Respondent had focused on the issue itself and had not made any personal comments or used language that was abusive, demeaning or insulting.</p> <p>The second issue was that the Respondent failed to declare an interest at a Local Area Partnership meeting in December 2021 when council funding for an annual local festive event was discussed, despite being the organiser of the event. The ESC found, however, found that the event was in fact organised by the Council’s events team and local stakeholders, and that the Respondent’s involvement was limited. As such, the ESC considered that the Respondent’s connection to the event would not amount to a declarable interest.</p> <p>The third issue was that the Respondent used council staff and resources inappropriately to arrange and assist with annual events in the local area in 2021 and 2022. The ESC found, though, that the Council’s Events Team was responsible for providing advice and practical support for community events and, therefore, it was appropriate for the Respondent to have sought their advice and support to help organise the events.</p> <p>The ESC concluded, therefore, that he was not satisfied that there had been any breach of the Code. Having reviewed the ESC’s factual findings and reasoning, the Standards Commission found no reason to depart from his conclusions. In the circumstances, 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/Mo/3857 – Moray Council
Date of Referral	8 December 2023
Date of Decision	12 December 2023

The first issue of complaint was that the Respondent failed to register an interest in a hotel. The second was that the Respondent failed to declare an interest in meetings of the Licensing Board in June and September 2022, and February 2023, and also at a meeting of the Licensing Committee in February 2023.

The ESC advised he had found no evidence that the Respondent had worked for the hotel or engaged in any activity on its behalf for which he received payment. The ESC advised that he had, however, found the Respondent published posts, on social media, promoting the hotel, which was owned by a friend of his. The ESC concluded that Respondent should have registered his personal connection with the hotel and its owner as a non-financial interest and that a failure to do so amounted to a breach of paragraph 4.22 of the Code. This states that councillors must register any non-financial interests, “such as membership or holding office in public bodies, companies, clubs, societies and organisations”, if they were ones that “members of the public with knowledge of the relevant facts might reasonably think” could influence their decision-making.

The ESC found that while the Respondent did not declare an interest at any of the meetings in question, he would only have been obliged to do so if the objective test was met. In this case, it would be met if a member of the public with knowledge of the relevant facts (being the Respondent’s link to the hotel and his actions in promoting it) would reasonably regard his connection to any specific matter being considered at a meeting as being so significant that it would be considered as being likely to influence his discussion or decision-making. In this case, the ESC advised that he had not found that the objective test had been met, in respect of any of the specific matters before either the Licensing Board or the Licensing Committee at any of the meetings identified.

The Standards Commission noted that a councillor would have to *declare* a connection to a friend or family’s business, especially one they promoted, if the objective test was met in terms of the specific item or matter being considered by the council or one of its boards or committees (for example, if the friend or family’s business could be directly impacted by the decision).

The Standards Commission did not consider, however, that a member of the public, with knowledge of the Respondent’s connection, would consider it could influence his decision-making. As such, the Standards Commission did not consider that there had been any requirement for the Respondent to have *registered* his connection to the hotel as an interest. In reaching this view, the Standards Commission considered that if it had been the intention for councillors to register this type of activity, they would have been required by the Code to record any unpaid work undertaken. Similarly, the Standards Commission considered that the Code would have made express provision if it had been intended that councillors register the interests of any friends or family.

Having not been provided with any evidence of 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 determined, therefore, to take no action on the referral.

Case	LA/E/3865 – City of Edinburgh Council
Date of Referral	11 December 2023
Date of Decision	15 December 2023
<p>The complaints alleged that the Respondent, in a series of tweets posted in March 2023, was disrespectful to those attending an event at a local library on schools and gender identity, by encouraging people to attend a protest against it. The ESC advised that he had found that the Respondent had been critical of the event and, in particular, the impact she considered it would have on young transgender individuals. The ESC found, however, that the Respondent's tweets had not been personal in nature, offensive or intimidating and, instead, had been professional and respectful in tone. While the ESC accepted that those attending the event may have found the protest intimidating, he considered this did not mean the Respondent's actions in promoting it amounted to a breach of the Code.</p> <p>The ESC noted, in any event, that as the Respondent's tweets were not gratuitously offensive or shocking, a restriction on her right to freedom of expression, under Article 10 of the European Convention of Human Rights, would not be justified.</p> <p>Having reviewed the evidence before it, the Standards Commission found no reason to depart from the ESC's conclusion. In the circumstances, 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/R/3886 – Renfrewshire Council
Date of Referral	20 December 2023
Date of Decision	3 January 2024
<p>The complaint alleged that the two Respondents had breached the confidentiality provisions of the Code by disclosing to a member of the public (Mr B) that the Complainer had reported his neighbour (Mr A) to the planning department in relation to a business Mr A was operating from his garden. The ESC reported that it was not disputed that, in late March 2023, Mr B approached the Respondents in a pub. The ESC advised that both Respondents confirmed that, having established Mr B wished to discuss a ward matter with Respondent 1, Respondent 2 had left. The ESC further advised that Mr B sent a follow up email to Respondent 1 only. The ESC noted that the Complainer had not provided any evidence to support the contention that Respondent 2 had spoken to Mr B about the matter. The ESC advised that, as such, he was not satisfied that Respondent 2 provided Mr B with information, in breach of the Code.</p> <p>The ESC found that, at the time Respondent 1 spoke to Mr B in the pub, no report had been submitted by the Complainer, or in his name, to the planning department about the business allegedly being run by Mr A. In addition, the Complainer was not mentioned by name in any emails between Respondent 1 and the council's planning department, or in a subsequent email sent by Respondent 1 to Mr B. The ESC concluded, therefore, that there was no evidence to support the contention that Respondent 1 had breached the Code.</p> <p>Having reviewed the evidence before it, the Standards Commission found no reason to depart from the ESC's conclusion that there was no evidence to support the contention either Respondent had breached the Code. In the circumstances, 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/3852 – Aberdeenshire Council
Date of Referral	18 December 2023
Date of Decision	8 January 2024

The ESC found that the Respondent failed to register an interest in a property she owned between her election in May 2022 and when the property was sold in August 2022, and that she failed to register a property in which she resided between August and November 2022. The ESC concluded, therefore, that the Respondent had breached the requirement in the Code for councillors to register timeously any interest they have in any houses, land and buildings.

The ESC further found that the Respondent received two donations of ‘notional spending’ each in excess of £50 towards her election expenses and did not register these sums on her Register of Interests. The ESC noted that the donations were ‘notional spending’ and, therefore, no money would have been received by the Respondent, but per Electoral Commission Guidance, these were to be treated as donations and, as such, should have been registered.

Having reviewed the ESC’s report, the Standards Commission was not satisfied that the allegations regarding the Respondent’s conduct in respect of the second issue would amount to a breach of the Code. The Standards Commission noted that while paragraph 4.17 of the Code referred to donations, it considered it was evident from the use of the word “donation”, in tandem with the stated pecuniary limit, that the obligation to register election expenses only covered monetary donations. In support of this view, the Standards Commission noted that if the provision was also intended to cover non-monetary donations, councillors would need to register all types of assistance, including donations of time (such as a friend helping hand out leaflets) or petrol costs associated with canvassing. The Standards Commission considered this was not the intention of the Code, given the differences in interpretation that could arise, and how onerous and disproportionate such a requirement would be. The Standards Commission further considered that the requirement to register a donation under paragraph 4.17 was unconnected to, and not dependent upon, any Electoral Commission guidance or associated legislative provisions. It was not the case, therefore, that any non-monetary donations required to be registered under the Code.

In respect of the first issue, the Standards Commission noted that the Respondent had apologised for the failure to register timeously her interest in the properties and that it had been provided with information to indicate that this failure was inadvertent and resulted from her personal circumstances at the time. It was satisfied, therefore, that there was no evidence of any intention by the Respondent to hide her interests in the properties in question.

In the circumstances, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing in respect of either issue. It determined, therefore, to take no action on the referral.

Case	LA/PK/3888 – Perth & Kinross Council
Date of Referral	23 January 2024
Date of Decision	25 January 2024
<p>The complaint alleged that, at a meeting in March 2023, the Respondent, as Convener of the Council's Licensing Committee, moved to grant a short-term licence without allowing discussion or consideration of the police evidence, or a debate on the objections. The ESC advised, however that he had found that the police were only present as they were to provide information about an entirely separate licensing application. The police made no formal representations or objections, that may have required consideration, in respect of the application in question. The ESC advised that there was no requirement for Committee members to have discussed or debated any objections or any representations. In this case, the Respondent asked committee members if they would like to adjourn to discuss the matter further following the objectors and applicant's deputations, but no one indicated that they wished to do so. The Respondent therefore moved a motion to grant the application, as he was entitled to do. The ESC concluded, therefore, that there had not been any breach of the Code.</p> <p>Having reviewed the ESC's factual findings and reasoning, the Standards Commission found no reason to depart from his conclusions. The Standards Commission noted that there is no requirement under the Code for members of a Licensing Committee to discuss or debate any objections. They are simply obliged to take relevant and material objections into account in their decision-making. In the circumstances, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and determined to take no action on the referral.</p>	

Case	NPA/LLT/3892 – Loch Lomond and The Trossachs National Park Authority
Date of Referral	7 February 2024
Date of Decision	12 February 2024
<p>The complaint concerned a planning application to be determined by the National Park Authority's Board. It was alleged that during a site visit in early October 2022, Respondent 1 allowed officers from the National Park Authority to provide an unfair and inaccurate view of the proposed development, and that Respondent 3 provided inaccurate information about it. It was further alleged that Respondent 1 did not competently chair the meeting held in late October 2022, when the planning application was decided, and that Respondents 2 and 3 failed to act in accordance with the Code at that meeting.</p> <p>The ESC reported that the National Park Authority's Code did not cover the alleged conduct of Respondents 1 and 3 in relation to the site visit, nor the alleged conduct of any of the Respondents at the meeting in late October 2022. The ESC further reported that he had not found the Respondents' alleged conduct to be incompliant with the Code or the National Park Authority's Standing Orders. The ESC concluded, therefore, that there had not been any breach of the Code by any of the Respondents.</p> <p>Having reviewed the ESC's factual findings and reasoning, the Standards Commission found no reason to depart from his conclusions that there was no evidence to support the contention the Code had been breached. The Standards Commission noted, in any event, that the fact an applicant or member of the public may disagree with a decision would not, in itself, be evidence of any poor conduct. A distinction should be drawn between, on the one hand, the performance of a member in exercising discretion when discharging decision-making responsibilities and, on the other, a situation where they acted improperly and demonstrated bias (for example if they were biased in favour of one of the parties to the application or participated despite having a personal interest in the matter).</p> <p>In the circumstances, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and determined to take no action on the referral.</p>	

Case	LA/SB/3908 - Scottish Borders Council
Date of Referral	22 February 2024
Date of Decision	27 February 2024

The complaint concerned an allegation that the Respondent had failed to declare an interest at two meetings of the Council's Common Good Fund Sub Committee, held in November 2021 and November 2022. The complaint further alleged that the Respondent may have accepted a free or reduced-price pitch at a local event held by a local company on common good land, in contravention of the Code's provisions regarding gifts and hospitality.

The ESC reported that he had found that payments were made by the Respondent's business to the local company for pitches. As such, there was no evidence that any gifts or hospitality had been received. There was also no evidence to suggest that the Respondent had sought any preferential treatment for his company. The ESC further reported that while the Respondent knew some of the directors of the local company, there was no evidence of any other connection. As such, the ESC was unable to conclude that a member of the public, with knowledge of the relevant facts, would reasonably regard the Respondent's connection as so significant that it would be likely to prejudice his discussion or decision-making at either meeting. The ESC indicated, therefore, that he did not consider that the Respondent had been required to declare an interest at either meeting. The ESC concluded that the Respondent's conduct did not amount to a breach of the Code.

Having reviewed the evidence before it, the Standards Commission found no reason to depart from the ESC's conclusion. The Standards Commission determined 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.

Case	LA/AC/3794 – Aberdeen City Council
Date of Referral	27 February 2024
Date of Decision	29 February 2024
<p>The complaint concerned allegations that the Respondent, a former Lord Provost, was disrespectful:</p> <ul style="list-style-type: none"> to the Complainer, the current Lord Provost, by purporting to still hold that position on four separate occasions, and in an email sent in August 2022; both to the Complainer and council officers by failing to follow council protocol when organising an official portrait; and to the council leadership by drawing comparisons between it and the Nazis during a council budget meeting. <p>The ESC advised that, in respect of the first two issues, he had determined that the evidence found did not support the Complainer’s allegations. In respect of the third issue, the ESC reported, that having reviewed a webcast of the budget meeting, he had found that the Respondent made several references to Nazis while commenting on the administration’s proposed budget. The ESC advised that he had found the Respondent’s comments to be an attempt, at least in part, to associate rival political parties and their budget with the Nazis and how they treated political opponents. The ESC advised that he considered such comparisons to be objectively disrespectful and offensive and recommended, therefore that the Respondent’s conduct in making the comments amounted, on the face of it, to a breach of the Code. The ESC nevertheless concluded that the Respondent’s comments were analogous to political caricature and had been employed to convey his criticism of the administration’s budget. The ESC was further of the view that it was evident the Respondent was only using these terms to explain concepts associated with sleight of hand, rather than stating them to imply anyone was a Nazi or held their beliefs. For those reasons, the ESC did not consider the Respondent’s conduct to be so egregious that a restriction of his right to freedom of expression could be justified.</p> <p>The Standards Commission agreed with the ESC, for the reasons he provided, 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. In particular, the Standards Commission noted that it was clear the references employed by the Respondent were intended to convey his criticism of the administration’s budget proposals and process and were not personal comments aimed at any of his fellow elected members. The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing in the circumstances. The Standards Commission determined, therefore, to take no action on the referral.</p>	

Case	LA/G/3829 – Glasgow City Council
Date of Referral	1 March 2024
Date of Decision	4 March 2024
<p>The complaint concerned an incident that took place at a Community Centre in Glasgow in November 2022, where an advocacy group was holding an event to launch a report on the Scottish Government’s work to address the country’s drug death crisis. The ESC advised that the Complainer, who had not been in attendance, contended that the Respondent had behaved in a disrespectful and discourteous manner by arguing with the advocacy group’s Chief Executive and by refusing to leave the event when asked. The ESC reported, however, that having reviewed the publicly available footage of the interaction between the Chief Executive and Respondent, and having interviewed several witnesses who were present, he was satisfied that the Respondent did not act inappropriately or disrespectfully. In contrast, the evidence indicated the Respondent had tried to reason with the Chief Executive and complied when asked to leave. The ESC advised that he had concluded, therefore, that the conduct complained of did not occur.</p> <p>The Complainer further alleged that, after being asked to leave the event, the Respondent threatened to influence Scottish Government bodies to withdraw funding from the advocacy group. The ESC advised, however, that having weighed up the evidence provided by all parties, he had found that the Respondent expressed a view that the Chief Executive’s conduct at the event would undermine support for advocacy’s group’s campaign. The ESC noted that this was not the same as threatening to withdraw funding. As such, the ESC did not consider the Respondent had breached the Code in relation to the second issue of complaint.</p> <p>Having reviewed the extent of the ESC’s investigation and his reasoning, the Standards Commission found no reason to depart from his conclusion that there was no other evidence to support the allegation that the Code had been breached. The Standards Commission determined, therefore, to take no action on the referral.</p>	

Case	LA/AC/3864a – Aberdeen City Council
Date of Referral	8 March 2024
Date of Decision	12 March 2024
<p>The complaint alleged that the Respondent failed to register his interest in a local community trust and failed to declare his interest in the Trust at a budget meeting of the Council in March 2023. The ESC advised that he had found that the Respondent had not been appointed or nominated to the Trust by the Council and was not one of its trustees. The Respondent did not live in the area that benefitted from the work of the Trust. Instead, the Trust’s website referred to him as being a member of its ‘team’. The ESC found that this was a result of the Respondent having been a member of a named community group that was a predecessor of the Trust. The ESC advised that he had found the Respondent had last been involved with the Trust in the autumn of 2022, following attendance of two of its meetings.</p> <p>The ESC reported that given these findings, he did not consider that a member of the public, with knowledge of the relevant facts, being that the Respondent was simply a supporter of the Trust, without any right to vote or attend its meetings, would reasonably consider his association to it as sufficiently significant as to be likely to influence his overall actions, votes or decision making as a councillor. As such, the ESC did not consider the Respondent’s connection amounted to an interest, in terms of the Code, that required to be registered or declared at the Council meeting. As such, the ESC did not consider that there was evidence the Respondent had breached the Code.</p> <p>Having reviewed the extent of the ESC’s investigation and his reasoning, the Standards Commission found no reason to depart from this conclusion. The Standards Commission determined, therefore, to take no action on the referral.</p>	

Case	LA/NL/3944 – North Lanarkshire Council
Date of Referral	11 March 2024
Date of Decision	12 March 2024
<p>The complaint alleged that the Respondent used his influence or position as a councillor to secure his nephew a new council flat. The ESC advised, however, that the Complainer had provided no background information or evidence to substantiate her complaint, despite repeated requests for her to provide further information. The Council had confirmed while the Respondent’s nephew had applied for a council tenancy and had disclosed his family relationship with the Respondent in line with council procedures, he ultimately accepted a tenancy from a housing association. The property was not, therefore, one that was owned by the Council. The ESC further reported that the Council had confirmed that at no point had the Respondent discussed his nephew’s application either with them or the Housing Association. The Respondent’s relationship to his nephew had no impact on the application, in terms of the points accrued or list placement. As such, the ESC advised that there was no suggestion that the Respondent used his influence of position as a councillor to secure his nephew a new council tenancy. The ESC concluded, therefore, that the Respondent had not breached the Code.</p> <p>Having reviewed the extent of the ESC’s investigation and his reasoning, the Standards Commission found no reason to depart from this conclusion. The Standards Commission determined, therefore, to take no action on the referral.</p>	

Case	LA/AC/3847 – Aberdeen City Council
Date of Referral	14 March 2024
Date of Decision	20 March 2024
<p>The complaint concerned an allegation that the Respondent harassed and threatened the Complainer, a member of the public, about how she had parked her car outside a community centre. The ESC advised that he had concluded, on balance, that the facts of the complaint had been established, insofar as the Respondent spoke “at length” to the Complainer with a raised voice, intimidated her, and threatened her by saying she would regret it if she ever parked there again. The ESC advised he had further concluded that such conduct amounted, on the face of it, to a breach of provisions in the Code that require councillors to treat members of the public with courtesy and respect.</p> <p>The ESC nevertheless advised that, although the Respondent’s conduct felt intimidating to the Complainer, he was satisfied the Respondent had not used profanities or resorted to personal abuse or insults. The ESC noted that the Respondent was entitled to express his concerns about the Complainer’s parking. In the circumstances, the ESC advised he did not consider the Respondent’s conduct, including his threat that the Complainer would regret it if she parked there again, was sufficiently shocking, aggressive or gratuitous as to justify a restriction on his enhanced right to freedom of expression.</p> <p>The Standards Commission noted that the Respondent was entitled to challenge the Complainer about her parking, particularly if he considered it to be dangerous to others. The Standards Commission did not agree that the fact the Respondent may have felt strongly about the matter indicated, necessarily, that he had communicated his concerns in a disrespectful manner. The Standards Commission was further of the view that the fact the Respondent had repeated his concerns did not necessarily mean he had berated the Complainer, given it may have been the case that he had repeated himself to ensure she understood why he was concerned.</p> <p>The Standards Commission noted, in any event, that the ESC had concluded that a restriction on the Respondent’s right to freedom of expression, that a finding of a breach of the Code would entail, would not be justified in the circumstances. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion. The Standards Commission concluded that it was not proportionate for it to hold a Hearing and determined, therefore, to take no action on the referral.</p>	

Case	LA/H/3954 – Highland Council
Date of Referral	20 March 2024
Date of Decision	24 March 2024

The complaints alleged that the Respondent failed or delayed in updating his Register of Interest to record his appointment as an unremunerated director of the Inverness Business Improvement District (the BID). The ESC noted that councillors have one month to record any new interest in their register of interests. The ESC advised he had found, therefore, that the Respondent had delayed in registering his directorship interest between 6 August and 23 November 2023, in breach of the Code. The ESC reported that as he had found the Respondent had made transparency statements about his connection to the BID at meeting, it was evident he was not trying to conceal the interest. The ESC advised that the Respondent had apologised and confirmed the failure to timeously register the interest was inadvertent.

Having reviewed the ESC’s report, the Standards Commission was satisfied that the Respondent had not tried to conceal his interest and, therefore, had no reason to doubt the breach of the Code was inadvertent. The Standards Commission further noted that it was of limited duration. In the circumstances, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing in respect of the complaints and determined to take no action on the referral.



APPEAL AGAINST HEARING DECISION

Case	LA/AC/3812 – Aberdeen City Council
Date of Referral	1 November 2023*
Date of Hearing	17 January 2024
Date of Written Decision	23 January 2024
Date of Appeal Decision	10 June 2024

*The initial referral was received on 26 September 2023. The Standards Commission directed the ESC to undertake further investigation on 2 October 2023 into the application of Article 10(2) of the European Convention on Human Rights (ECHR), which provides that the exercise of an individual’s right to freedom of expression can be restricted in order to protect the reputation or rights of others.

Appeal Decision

The Respondent had appealed the decision made at the Hearing to Aberdeen Sheriff Court on the grounds that the Panel had made an error of law in relation to how they had approached the technical legal test in the application of Article 10 of the ECHR. Having taken legal advice on the way the Panel approached Article 10 in its written decision of 23 January 2024, the Standards Commission decided not to defend the appeal and submitted a joint motion with the Respondent stating this. As a consequence, the Sheriff Principal quashed the decision (as outlined below) that there had been a breach of the Code by the Respondent and found no expenses due to or by either party.

Decision Quashed on Appeal

The complaint concerned comments the Respondent councillor made in an online news article. The Respondent had accused a fellow councillor, the Complainer, of prejudice for not endorsing his nomination to a UK-wide pension forum. The Respondent suggested that the Complainer’s decision was based on racial prejudice.

The Panel found no evidence to support the Respondent’s claim. It was noted that the decision not to nominate the Respondent had been made before any issues about ethnic minority representation were raised, and that it was made on the basis that it was sufficient for engagement with the pension forum to be at officer level.

The Panel concluded that the Respondent’s public accusation of racial prejudice, without factual basis, was disrespectful and damaging to the Complainer’s reputation. The Panel agreed that the Respondent’s conduct was objectively disrespectful and contravened the requirement for councillors to treat everyone with courtesy and respect.

The Panel acknowledged that as the Respondent’s conduct occurred while expressing his views on a matter of public concern, he was entitled to enhanced protection in respect of his right to freedom of expression. The Panel noted, however, that the right to freedom of expression is not absolute and can be restricted to protect the reputation and rights of others and to maintain confidence in elected members and the council.

The Panel found the Respondent’s unfounded accusation of prejudice based on ethnicity to be egregious, shocking, and emotive. The Panel considered that such an accusation could cause serious damage to the Complainer’s reputation and, potentially, his career.

The Panel concluded that the Respondent may have made his accusation in good faith, but that there was no evidence to support his claim. The Panel was satisfied that imposing a restriction on the Respondent’s right to freedom of expression was relevant, sufficient, and proportionate.

The Panel suspended the Respondent for one month. In making its decision, the Panel noted that the requirement for councillors to treat others with courtesy and respect is key to maintaining standards in public life. The Panel acknowledged the Respondent’s commitment to promoting equality and diversity and his right to challenge the decision not to nominate him. The Panel was concerned, however, that the Respondent had publicly accused the Complainer of prejudice without any reasonable basis.

The Panel noted that the Respondent had not apologised for his actions or demonstrated any understanding of the likely impact his conduct would have had on the Complainer. The Panel concluded that a suspension of one month was the appropriate sanction, considering the serious nature of the accusation, the mitigatory circumstances, and the Respondent’s cooperation with the Hearing process and his long and otherwise unblemished record as a public servant. The Panel considered that this suspension was proportionate, necessary, and justified.

APPENDIX B: PERFORMANCE AGAINST KEY PERFORMANCE INDICATORS 2023/24

Key performance indicators (KPIs) for the Standards Commission were agreed and first published in 2022-23. These include measuring compliance with the timescales outlined in its 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 for 2023-24 is provided below.

Hearings

	Action	Target	Actual	Notes
1	Issue notification of Hearing to Respondent, Complainer, Ethical Standards Commissioner (ESC) and public body or council Chief Executive (CE) and publish on website within five working days of decision being made	100%	100%	
2	Advise Respondent, ESC 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%	88%	
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%	100%	

Do Neither

	Action	Target	Actual	Notes
1	Issue and publish 'do neither' decision within five working days of receipt of report from ESC	75%	88%	

Enquiries and 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 14 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 14 working days*	100%	100%	
5	Formal Complaints: Respond fully within 20 working days	100%	100%	1

* For the period 1 April to 13 November 2023, the target was 20 days.

Dispensations

	Action	Target	Actual	Notes
1	Acknowledge any request within five working days of receipt	100%	100%	
2	Respond to any dispensation request within 14 days**	100%	100%	

** For the period 1 April to 13 November 2023, the target was 21 days.

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%	2

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%	3
2	Members to confirm disposal of information within one week of the request being received	100%	83%	3

Notes:

1. One complaint was received in the year and was fully responded to within 5 days.
2. Six Freedom of Information requests were received in the year and all responses sent within the statutory timescales.
3. Responses from Members were one day over the targets in one out of the six requests made in the year.



INTEGRITY IN PUBLIC LIFE

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