

# STANDARDS UPDATE

ISSUE 44: December 2024

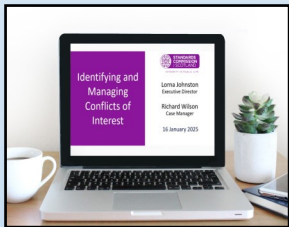
## News

### ***Guidance on the Councillors' Code***

The Standards Commission has updated its Guidance on the Councillors' Code of Conduct. The updated version includes further guidance to help councillors decide whether any non-financial interest they have requires to be registered. It clarifies that a failure to make a transparency statement (in circumstances when a councillor has a connection to a matter to be considered, but the objective test is not met) is not a breach of the Code in itself, and explains that officers' provision of technical or legal advice to councillors should not be viewed as an attempt to fetter any discussion or decision-making in respect of quasi-judicial or regulatory matters. The [revised Guidance can be accessed here](#).



The Standards Commission's Advice Note for Members of Arms' Length External Organisations has also been updated, and can be accessed [here](#). Thank you to everyone who contributed to the revision process.



### ***Upcoming Joint Webinars with the Improvement Service***

The Standards Commission is holding the following two joint webinars, with the Improvement Service, for councillors:

- Identifying and Managing Conflicts of Interest, 16 January 2025; and
- Quasi-Judicial and Regulatory Decision-Making, 30 January 2025.

Elected members can sign up for the webinars on the Improvement Service website, see links below:

[Identifying and Managing Conflicts of Interest](#)  
[Quasi-Judicial and Regulatory Decision-Making](#)

## Appeal

A Sheriff Principal has issued her judgment in respect of a recent appeal lodged against a decision of the Standards Commission to suspend a Stirling councillor for one month, following a Hearing held on 7 August 2024. Provisions in Integration Joint Boards Order and Health Boards Regulations meant that, as a result of the imposition of the suspension, the councillor was disqualified from being a member of an Integration Joint Board or a Health Board. The crux of the appeal was that the Hearing Panel's decision to discount the consequences of the imposition of a suspension and its lifetime duration involved a serious flaw in its reasoning and amounted to a failure to take a material factor into account.

The Sheriff Principal upheld the Standards Commission's decision and refused the appeal. In doing so, she found that the Panel took full account of the inevitable consequences for the councillor, but nevertheless considered that a short period of suspension was the appropriate sanction in all the circumstances. That being so there was no serious flaw in the reasoning. A copy of the Sheriff Principal's [judgment can be found here](#).

## Update from the Ethical Standards Commissioner

"The Ethical Standards Commissioner's office has been making progress against our biennial business plan this last quarter. Developments include establishing an office-wide accessibility working group, setting up and attending training provided to Investigating Officers with our equivalents in other UK jurisdictions and re-establishing a network to share resources, knowledge and experience. Based on stakeholder feedback, we have taken a proactive approach to reducing Stage 1 and Stage 2 wait times for complaint handling, trialling new initiatives including but not limited to the introduction of a Duty Investigating Officer role to assess complaints, request for further information and immediate allocation of certain complaints for assessment. The office will update on the impact of these measures on waiting and investigation times in the new year."

## Information for Witnesses

The Standards Commission has created a new page on its website for witnesses. The page contains information outlining what you can expect at a Hearing if you have been asked to appear as a witness for either the Ethical Standards Commissioner or a Respondent, or if you have been cited to appear by the Standards Commission. The new page contains a link to a video and Guidance Note for witnesses, which explain the process in greater detail. The [Information for Witnesses page can be found here](#).

## Monitoring Officers' Workshop

Thanks to all who attended, and participated at, the Standards Commission's annual workshop for Council Monitoring Officers on 28 October 2024. As ever, we found the discussions interesting and helpful, both in terms of our work to promote understanding of, and adherence to, the Codes of Conduct, and in respect of identifying potential improvements to our adjudicatory processes.



## Office Closure

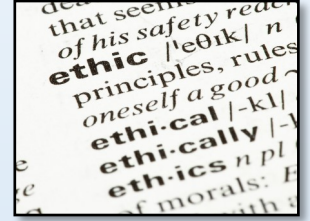
Our office will be closed from 12 noon on Tuesday, 24 December 2024 and will re-open on Friday, 3 January 2025. We wish everyone a peaceful festive break, and all the best for the new year!

# Cases Overview

Since the last briefing in September 2024, 12 cases were referred to the Standards Commission by the Ethical Standards Commissioner (ESC) about elected members of East Lothian (two cases), North Lanarkshire, South Ayrshire, Midlothian, Aberdeen City (two cases), Highland (two cases), City of Edinburgh, Argyll and Bute and Fife Councils. The Standards Commission has scheduled Hearings in three cases concerning Midlothian, Aberdeen City and Argyll and Bute councillors. At our last briefing, the Standards Commission had directed the ESC to carry out further investigation in a case involving a Highland Councillor and receipt of the further investigation report is pending. The decision on a North Lanarkshire case was pending at our last briefing. The Standards Commission decided to hold a Hearing and the outcome is outlined below. The Standards Commission also held a further Hearing in respect of a case concerning another councillor from North Lanarkshire Council, the outcome is outlined below. No action was taken in nine cases and the written decisions in respect of these cases can be found on the [Cases](#) page of our website.

## North Lanarkshire Council - LA/NL/3979 - Breach

Following a Hearing held on 23 October 2024, a North Lanarkshire Councillor was suspended for one month. This was after he was found to have behaved disrespectfully towards the Council's Chief Executive Officer in a social media post regarding a decision taken by the Council to carry out a review of its facilities. The Panel found that, in his post, the Respondent effectively accused the Chief Executive both of going beyond his remit and of not being politically neutral by stating that he (along with the Council Leader) had initiated the review and by inferring that this had been done for political reasons. The Panel accepted that, as a politician, the Respondent was entitled to criticise both the decision by fellow councillors to undertake the review, its timing and the likely use of its findings by his political opponents. The Panel considered, however, that he could have done so without specifically naming or, indeed, making any mention of the Chief Executive, who had only been instructed to carry out the review and had not been involved in the decision to initiate it. The Panel heard that the post had been prepared in advance by the Respondent's political group. As such, it was evident that the post had not been drafted in haste, without considering the wording and its likely inference. In light of this, the apparent problems in the relationship between Respondent's political group and officers, and the Respondent's knowledge that the decision to undertake the review had been made by councillors, the Panel was satisfied, on the balance of probabilities, that the mention of the Chief Executive in the post was deliberate and was intended to link him to the review in order to publicly criticise his alleged conduct.



The Panel was of the view that such public questioning of the Chief Executive's impartiality and therefore his integrity, could have been highly damaging to his reputation as an individual. Given the Chief Executive's position as its senior officer, it could have also been damaging to the reputation of the Council itself. The Panel found, therefore, that the Respondent's conduct amounted to a breach of the provisions in the Code which require councillors to treat council officers with courtesy and respect; and refrain from criticising the conduct of individual officers in public, and to work with them in an atmosphere of mutual trust and respect. The Panel was satisfied that a restriction on the Respondent's right to freedom of expression was relevant, sufficient and proportionate in order to:

- act as a deterrent to the Respondent and others from engaging in unfounded public attacks and / or making serious and false accusations about officers;
- protecting the mutual bond of trust and confidence between councillors and officers that enables local government to function effectively;
- prevent public confidence in local government and the Council from being undermined; and
- protect the reputation and rights of the Complainer.

## North Lanarkshire Council - LA/NL/3978 - Breach

At a Hearing held in Airdrie on 10 December 2024, a different North Lanarkshire Councillor was suspended for two months. This was after he was found to have behaved disrespectfully towards the Council's Chief Executive Officer in a social media post and email to a constituent regarding a decision taken by the Council to carry out a review of its facilities. As in the case above, the Panel found that, in his post, the Respondent effectively accused the Chief Executive both of going beyond his remit and of not being politically neutral by stating that he (along with the Council Leader) had initiated the review and by inferring that this had been done for political reasons. The Panel noted that the Respondent had repeated this in an email to a constituent. The Panel found, for reasons similar to the ones outlined in the case above, that the Respondent's conduct amounted to a breach of the provisions in the Code which require councillors to treat council officers with courtesy and respect; and refrain from criticising the conduct of individual officers in public, and to work with them in an atmosphere of mutual trust and respect.

The Panel further found that, in another social media post, the Respondent noted that one of his political group's budget proposals was a cut to "the council and labours PR machine". The Panel agreed this clearly inferred, in a public forum that, instead of being politically neutral and working to publicise decisions made by the Council, council officers were colluding with the Labour Party to promote its messaging. The Panel considered this was disrespectful and discourteous towards officers and in breach of the Code. The Panel was satisfied that a restriction on the Respondent's right to freedom of expression justified. The Panel noted, in mitigation, that the Respondent had not named any specific officers in the second post and that there had not been any previous findings of a contravention of the Code against him. The Panel was nevertheless concerned that the Respondent had not shown any insight into his conduct, and its potential impact. It noted that he had not proffered any apology. In the circumstances, the Panel concluded, on balance, that a two-month suspension was the appropriate sanction.

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

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

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