

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held at the City Chambers, High Street, Edinburgh on Wednesday 11 March 2026.

Panel Members: Dr Lezley Stewart, Chair of the Hearing Panel
Ms Helen Donaldson
Mrs Morag Ferguson

The Hearing arose in respect of two reports referred by Mr Ian Bruce, the Ethical Standards Commissioner (the ESC), further to complaint reference LA/E/4130, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillors Neil Ross and Marie-Clair Munro (the Respondents).

The ESC was represented at the Hearing by Mrs Angela Glen, the ESC's Senior Investigating Officer. Councillor Ross was represented at the Hearing by Mr Fred Mackintosh KC, Advocate, and Ms Rosie Walker, Solicitor. Councillor Munro represented herself at the Hearing.

REFERRAL

Following an investigation into complaints received in May 2024 about the conduct of the Respondents, the ESC referred a report to the Standards Commission on 28 November 2025, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The Standards Commission determined to take no action in respect of one issue of complaint outlined in the referral report, for the reasons outlined in a decision issued on 3 December 2025.

The Standards Commission decided to hold a Hearing in respect of the remaining issue of complaint. The substance of this was that the Respondents had contravened paragraphs 5.5 and 5.6 of the Code, which are as follows:

Declarations of Interest

5.5: I understand my connection is an interest that requires to be declared where the objective test is met – that is where a member of the public with knowledge of the relevant facts would reasonably regard my connection to a particular matter as being so significant that it would be considered as being likely to influence the discussion or decision-making.

5.6: I will declare my interest as early as possible in meetings. I will not remain in the meeting nor participate in any way in those parts of meetings where I have declared an interest.

Joint Statement of Facts

The Panel noted that a joint statement of facts had been agreed between the ESC and Councillor Ross. This recorded that it was not in dispute that:

- The complaint about Councillor Ross, to be considered at the Hearing, was that he had failed to declare an interest at meetings of the Council's Transport and Environment Committee on 15 June 2023 and 7 March 2024, and at a councillors' workshop on 9 August 2023, when matters concerning planning for a Quiet Route in the Braid Estate in Edinburgh (the Quiet Route) were being considered. Councillor Ross was acting as a councillor during the meetings and workshop in question.
- The Quiet Route was established in 2021 under emergency 'Spaces for People' measures during the Covid pandemic. In 2021, modal filters (physical barriers or restrictions) were introduced, with Braid Road, a critical part of the route, initially closed to all traffic. The term 'Braid Estate' is used to describe residential streets in the area in question.
- During 2022-2023, the Scheme was kept in place under an Experimental Traffic Regulation Order. A public consultation was opened on 4 September 2023 after concerns were raised by constituents.
- Until January 2024, Councillor Ross lived on Midmar Gardens (a street within the Braid Estate), which runs parallel to Braid Avenue. Councillor Ross's property on Midmar Gardens was marketed for sale in October 2023 and sold in January 2024.

- Councillor Ross is not a member of the Transport and Environment Committee but attended the meetings on 15 June 2023 and 7 March 2024 as a substitute.
- At the meeting on 15 June 2023, the Transport and Environment Committee agreed, in respect of the Braid Road Quiet Route that council officers should “work with local councillors to re-design the Schemes, taking into account improvements suggested by local residents during the consultation process, with a view to presenting options to residents living on or near the Schemes and thereafter to report back to Committee”. Councillor Ross made a Transparency Statement at the meeting.
- At the workshop on 9 August 2023 a council officer presented options for a public engagement survey to councillors. No votes or decisions were taken.
- The Transport and Environment Committee voted at the meeting on 7 March 2024 to remove modal filters along the Quiet Route, in accordance with the third option proposed in the public consultation.

EVIDENCE PRESENTED AT THE HEARING

Introductory Remarks by the ESC’s Representative

The ESC’s representative advised that the case before the Panel concerned two Respondents, Councillor Ross and Councillor Munro. The ESC’s representative advised that both Respondents signed declarations of office in May 2022, in which they confirmed they would comply with the Code.

The ESC’s representative advised that the complaints concerned a failure on the part of both Respondents to declare their respective interests at meetings of the Council’s Transport and Environment Committee on 15 June 2023 and 7 March 2024, and at a councillors’ workshop on 9 August 2023, when matters concerning the Quiet Route in the Braid Estate were being considered. This was despite Councillor Munro living on Braid Road, and Councillor Ross living on Midmar Gardens until June 2024 (with both Midmar Gardens and Braid Road being within the Braid Estate). The ESC’s representative advised that both Respondents accepted they attended the meetings and workshop as councillors and, as such, there was no dispute that the Code applied to their conduct at the time of the events in question.

Evidence from Councillor Ross

The Respondent’s representative led evidence from Councillor Ross.

Councillor Ross advised that he had owned the property in Midmar Gardens jointly with his wife since 1994, and that he normally walked or cycled from it to the City Chambers. Councillor Ross advised he decided to downsize when his children left home and began looking generally for other properties in early 2023, with a more focused approach by the Autumn of that year. Councillor Ross advised that when an offer he made on another property was accepted on 12 October 2023, he obtained a Home Report for the property on Midmar Gardens and put it on the market the following week. He eventually sold the property and moved out on 12 January 2024. Council Ross confirmed the Home Report did not mention the Quiet Route.

Councillor Ross advised that while Midmar Gardens ran parallel to the Quiet Route, it did not form part of it. Councillor Ross advised that the community was divided about the road closures involved and whether the modal filters were helpful or not. Councillor Ross explained that he was concerned that there had been insufficient public engagement in terms of whether to continue with the Scheme and that he had considered it was important to give residents the opportunity to express their views.

Councillor Ross confirmed that he attended the Transport and Environment Committee meeting on 15 June 2023 as a substitute. Councillor Ross confirmed that, at the meeting, the Committee considered a motion to:

- Set the Braid Estate Quiet Route Scheme apart from the Experimental Traffic Regulation Order process; and
- Ask officers to work with local councillors to re-design the Scheme, with a view to presenting options to residents living on or near the Schemes before reporting back to the Committee.

Councillor Ross advised that he made a transparency statement at the meeting in respect of the motion (which was recorded in the minutes), “as a resident of the Greenbank/Meadows area”. Councillor Ross stated that he had the Code in mind when doing so, as he wished to be transparent about the fact that he lived in the area. When asked why he had only made a transparency statement and had not declared an interest, Councillor Ross advised it was because the Committee was only being asked to determine the process that would be followed (as opposed to being asked to determine whether the Quiet Route should continue or be amended). Councillor Ross noted that any decisions on the extent and nature of the Quiet Route were yet to be determined and that, at this stage, no options had been identified or ruled out.

Councillor Ross advised that the Committee agreed the motion (as adjusted by an amendment) and that he had voted in favour of it. When asked whether the Committee instructed officers to re-design the Scheme, Councillor Ross confirmed it asked them to work with officers to develop options for consultation. Councillor Ross further confirmed that the Committee had not, at that time, directed officers to make any changes to the Quiet Route.

Councillor Ross advised that the workshop on 9 August 2023 was not a formal committee meeting. Councillor Ross advised that officers invited ward councillors to attend the workshop so that they [the officers] could present to them proposals for the redesign of the Scheme that had been prepared, following the decision of the Transport and Environment Committee meeting on 15 June 2023. Councillor Ross confirmed that while a note of the workshop had been taken, it was not an official minute and did not record individual contributions from any councillors present. Councillor Ross confirmed he had again made a transparency statement at the workshop, on the basis that he lived in the area. Councillor Ross advised he did not consider the workshop resulted in any changes to the proposed options or the Council’s approach.

Turning to the Transport and Environment Committee meeting on 7 March 2024, Councillor Ross confirmed that, by then, he no longer lived in the ward or area. Councillor Ross confirmed that the decision being made by the Committee concerned policy and was not quasi-judicial in nature.

When asked why he voted in the manner he did at the meeting, Councillor Ross advised it was because it was evident, from the consultation responses, that the majority of residents were in favour of the motion and he was simply reflecting the community’s view. Councillor Ross rejected the suggestion that where he lived had any bearing on his decision-making and reiterated that, by then, he had moved to another area.

In response to cross examination from the ESC’s representative, Councillor Ross confirmed that Midmar Gardens was in the Braid Estate.

When asked by the ESC’s representative whether he accepted the decision made at the Transport and Environment Committee meeting on 15 June 2023 to set apart certain schemes, including the Braid Estate one, from the Experimental Traffic Regulation Order process amounted to a change, Councillor Ross stated that an element of the decision remained the same.

The Panel noted that, in making transparency statements at the Transport and Environment Committee meeting on 15 June 2023 and the workshop on 9 August 2023, Councillor Ross must have recognised he had a connection to the matters in respect of the Quiet Route that were being considered. The Panel noted that, as such, he would be required, under the Code, to apply the objective test. The Panel asked Councillor Ross to explain why he had not considered this test was met. In response, Councillor Ross advised it was evident from the consultation that had been undertaken that “hundreds of residents” had concerns about the Scheme. Councillor Ross advised he had felt he would only be impacted “broadly” by any changes to the Quiet Route, in same way as other residents. Councillor Ross advised that as he would not be “directly impacted” he did not consider that members of the public would reasonably consider his connection as being likely to influence his discussions or decision-making and, as such, that the objective test had not been met. However, he accepted that, as a councillor and a decision maker in respect of the matter, his position was

different from that of other residents. Councillor Ross further noted that he had been aware that any decision taken at the Transport and Environment Committee meeting on 15 June 2023 would concern the process to be followed.

Turning to the workshop on 9 August 2023, the Panel asked Councillor Ross whether it would be reasonable for members of the public to consider the input of any councillors present, including him, might influence matters. In response, Councillor Ross accepted that may be the case.

The Panel noted that Councillor Ross sent the Council's Head of Democracy and Governance an email on 17 April 2024 advising that, after a decision on the Quiet Route was made by the Transport and Environment Committee at its meeting on 7 March 2024, he had received two emails from residents of Braid Avenue questioning whether he should have declared an interest. The Panel noted Councillor Ross asked the Council's Head of Democracy and Governance for advice about whether he may have breached the Code in not doing so. The Panel asked whether Councillor Ross had sought any advice from offices before this email. In response, Councillor Ross confirmed he had not.

The Panel noted that Councillor Ross had indicated some residents supported changes to the Quiet Route, while others opposed them, and asked him as to why this was. In response, Councillor Ross explained that any change impacted how vehicles could access certain streets and this determined how residents felt. When pressed by the Panel, Councillor Ross confirmed that while residents were concerned about the impact on the wider area, their views tended to be shaped by where they lived personally, and their preferred mode of travel. The Panel asked whether Councillor Ross accepted that given the objective test was based on perception, whether it would be reasonable for members of the public to consider he might have a similar personal interest in the Scheme. In response, Councillor Ross accepted that as he was known to walk and cycle, he could be impacted by any change to it.

In response to a question, in re-examination about whether the Committee could have asked officers to work with local councillors to re-design the Scheme, without deciding to set it apart from the Experimental Traffic Regulation Order process, Councillor Ross advised it would have made it more difficult. Councillor Ross explained that it was easier to separate the Quiet Route from the process so that it could be progressed and developed in a way that would not impact upon the other schemes, on which the Council had already proceeded. Councillor Ross confirmed that, to date, the agreed proposed changes to the Quiet Route had not been implemented.

Evidence from Councillor Munro

Councillor Munro confirmed that she owns and lives in a property on Braid Avenue.

Councillor Munro advised that the Transport and Environment Committee meeting on 15 June 2023 concerned city wide issues arising from the Experimental Traffic Regulation Orders and whether the Council had made an error in respect of these. Councillor Munro noted that the Braid Estate Quiet Route was only one of several that were mentioned. Councillor Munro contended that any part of Braid Avenue that was north of Cluny Gardens fell outwith the Braid Estate and, as such, she was not a resident of it.

Councillor Munro advised that, at the meeting on 15 June 2023, members of the Committee were not being asked to take a view or make a decision on the Braid Estate Quiet Route in particular. Councillor Munro advised she did not consider any changes to it could, or would, have an impact on her, given she lived outside the Braid Estate and the area covered by any proposed redesign of the Quiet Route. Councillor Munro noted that the ESC had concluded that she had not sought any personal advantage when taking part in the meeting.

Councillor Munro confirmed that councillors attending the workshop on 9 August 2023 had been invited solely to observe a councillor officer's presentation on options for the redesign of the Scheme. Councillor Munro advised the councillors present had no expectation that they would be asked to make a decision and,

indeed, did not do so. Councillor Munro advised that she did not consider any of the options being presented had any relevance to her property and reiterated that she did not live in the area that was subject to any re-design. Councillor Munro further advised that she believed sincerely that the purpose of her presence and limited contribution at the workshop was simply to reflect the community's views. Councillor Munro contended that she had taken care not to comment on any of the options, or on the broader merits of the Quiet Route, despite the widespread nature of public debate about this in the community, as she was aware of the need to be impartial and to refrain from pre-judging the matter.

Councillor Munro confirmed she attended the Transport and Environment Committee meeting on 7 March 2024 and took part in the decision that was made to remove modal filters along the Quiet Route, in accordance with the third option proposed. Councillor Munro advised that she had been presented with 'facts' at the meeting and had voted in accordance with these and the wishes of the majority of the public as expressed during the public consultation. Councillor Munro acknowledged that there were others who disagreed with the Committee's decision, but contended she was simply voting in favour of what the majority of those responding to the consultation had indicated they wanted.

In response to cross-examination from the ESC's representative, Councillor Munro accepted that the direction of the Quiet Route affected how she was able to drive to her property. Councillor Munro confirmed that there was a discussion about the options for the re-design of the Quiet Route at the workshop on 9 August 2023 and that the notes taken reflected this. Councillor Munro further confirmed that a decision on the Quiet Route was made at the Transport and Environment Committee meeting on 7 March 2024.

The Panel asked whether Councillor Munro agreed the modal filters were used to divert traffic to other routes, meaning that decisions on these would have an impact on the surrounding area, rather than simply on the streets or parts of streets that might be considered as being in the Braid Estate. In response, Councillor Munro stated that the modal filters had an impact on side roads through Braid Estate and that, outwith this, individuals could choose any route they wished to take. Councillor Munro accepted, nevertheless, that the modal filters were employed to direct traffic in certain ways.

The Panel noted that Councillor Munro telephoned the Clerk before the Transport and Environment Committee meeting on 7 March 2024 seeking advice and asked why she had done so. Councillor Munro advised it was because she had been threatened and assaulted verbally by a group that promoted active travel. As such, she had sought advice from officers about her participation in the meeting. The Panel noted that the Committee Clerk responded by email on 6 March 2024, advising Councillor Munro to "err on the side of caution" and to reconsider whether she had "made any public comments that could be perceived as taking a view on the matter or "pre-judging it" before "making the decision" the following day. The Panel noted that, in an email reply of the same day, Councillor Munro stated that she was "happy to make a declaration of interest" stipulating that she lived near the Quiet Route, albeit not in the area outlined in the consultation. The Panel asked, in light of this, why she had not done so. In response, Councillor Munro advised that she had intended to make a declaration of interest but had mixed up her words at the meeting. When asked by the Panel whether she was aware that the Code requires any councillors who have made declarations of interest to then withdraw fully from the meeting room while the matter in which they had an interest was being considered, Councillor Munro advised she had not understood that was the case.

When asked by the Panel whether she had considered whether members of the public might reasonably regard the fact that she lived on the same road as the Quiet Route as being so significant that it would be considered as being likely to influence her discussion or decision-making, Councillor Munro advised she had thought that making a transparency statement was the correct thing to do.

Submissions made by the ESC's Representative

Councillor Ross: The ESC's representative noted that it was not in dispute that, at the time of the Transport and Environment Committee meeting on 15 June 2023 and the councillors' workshop on 9 August 2023, Councillor Ross owned and resided in a home on Midmar Gardens, being a street that runs parallel to Braid Avenue, within the Braid Estate. The ESC's representative noted It was not in dispute that Councillor Ross did not make a declaration of interest and leave the room on either occasion, or during the meeting of the Transport and Environment Committee on 7 March 2024.

The ESC's representative advised it was not in dispute that Councillor Ross attended the Transport and Environment Committee meeting on 15 June 2023, at which a motion to prepare options for consultation for the future of the Quiet Route was considered. The ESC's representative acknowledged that Councillor Ross made a transparency statement in respect of the item, by stating that he lived near the Quiet Route and regularly walked and cycled along it on his way to the Council. The ESC's representative noted, however, that Councillor Ross did not refer to the street on which he lived or to his intention to sell the property.

The ESC's representative noted that Councillor Ross advised that he made a similar transparency statement at the workshop on 9 August 2023, albeit this was not recorded in the note that was made of the meeting. The ESC's representative advised that the ESC accepted that, by the time of the Transport and Environment Committee on 7 March 2024, Councillor Ross no longer had an interest to declare as, by then, he had sold and moved out of his property on Midmar Gardens.

The ESC's representative noted that Section 5 of the Code outlines a three-stage or step test that councillors are required to follow to determine whether they have any declarable interest and the steps they are required to take if so.

The ESC's representative noted the first step a councillor must undertake (as outlined under paragraph 5.5 of the Code) is to identify whether they have a connection to any matter being considered at the meeting they are due to attend. If so, they are then obliged, under the second stage (also outlined under paragraph 5.5), to identify whether such a connection amounts to an interest that requires to be declared. In making this decision, the Code requires councillors to apply the objective test. This is whether a member of the public, with knowledge of the relevant facts, would reasonably regard their connection to the matter as being sufficiently significant as to be likely to influence their discussion or decision-making. If the test is met, then the connection is an interest that requires to be declared. The ESC's representative noted that, under the third stage (as outlined in paragraph 5.6) councillors are required to declare the interest as early as possible in meetings. They cannot participate in consideration of the item in question and must leave the meeting until any discussion and decision-making on the matter has concluded.

The ESC's representative contended that, in this case, Councillor Ross had a connection to Quiet Route being discussed at the meeting on 15 June 2023 and workshop on 9 August 2023 by virtue of him residing (at the time) within the Braid Estate, on a road that ran parallel to one that was the subject of the Quiet Route. The ESC's representative contended that, as a quiet residential street with little traffic would generally be considered desirable, any change to the Quiet Route could have had an impact on Councillor Ross' enjoyment of his then property, its desirability and, in turn, its value.

The ESC's representative noted it was impossible to verify exactly when Councillor Ross decided to sell his property on Midmar Gardens. The ESC's representative noted, nevertheless, that by his own admission, the Respondent was looking for other properties in early 2023. The ESC's representative noted that if Councillor Ross had made and had an offer accepted on another property, then his home on Midmar Gardens could have been put on the market at a much earlier stage. The ESC's representative noted that any purchaser of the property on Midmar Gardens would be similarly impacted, in terms of its amenity, on any decision made in respect of the Quiet Route, meaning its value could be impacted.

The ESC's representative noted that, at its meeting on 15 June 2023, the Transport and Environment Committee was asked to discuss and vote on a motion to review the future of the Quiet Route (which went through the street parallel to Midmar Gardens). The ESC's representative noted that Councillor Ross was recorded, in the minutes, as supporting a motion to:

- Set apart the Quiet Route from the Experimental Traffic Regulation Order process; and
- Ask officers to work with local councillors to re-design it, taking into account improvements suggested by local residents during the consultation process, with a view to presenting options to residents living on or near the Schemes before reporting back to the Committee.

The ESC's representative argued that Councillor Ross clearly fell into the category of being a resident living on or near the Scheme, who could be personally affected by any decision made about its future.

Similarly, the ESC's representative argued that the purpose of the 9 August 2023 workshop was to discuss options for the future of the Quiet Route to be put to local residents. The ESC's representative advised that the workshop was mandated by the Transport and Environment Committee for all ward councillors representing areas impacted by the Quiet Route. The ESC's representative again argued that, given the location of Councillor Ross' then property, he would be considered objectively as being a local resident who could be affected by the options being presented.

The ESC's representative contended that a member of the public, with knowledge of these relevant facts, would reasonably regard Councillor Ross' connection to the matters being discussed at both the meeting and workshop as being so significant that it would be considered as being likely to influence his discussion and any decision-making. The ESC's representative explained this was because any decisions in respect of how and whether the Quiet Route would be retained or amended would have an impact on how traffic in the area was managed. This included Midmar Gardens, being the street on which Councillor Ross resided and was selling.

The ESC's representative contended that this view was supported by the Complainers, who considered that Councillor Ross had a direct personal interest in issues affecting Midmar Gardens and the Braid Estate. The Complainers noted that a new Experimental Traffic Regulation Order was formulated at the 9 August 2023 workshop, with the first point on the summary actions concerning the traffic volumes on Midmar Gardens, (the street on which Councillor Ross resided and, was almost certainly considering selling at the time). The Complainers contended that the decision made at the 9 August 2023 workshop would have materially affected Councillor Ross' property's value. The complainer further contended that Councillor Ross' failure to declare an interest and recuse himself undermined public trust in the Council.

The ESC's representative accepted the fact that Councillor Ross made a transparency statement at the meeting on 15 June 2023 demonstrated he was aware of the objective test. The ESC's representative argued that Councillor Ross should have realised that the nature of his connection was such that the objective test was met and, therefore, that he had a declarable interest and should have withdrawn from the meeting while the item was being considered.

The ESC's representative drew the Panel's attention to the Standards Commission's Guidance on the Code, which states that, at all times when applying the objective test, councillors "*should be aware that it is just that – objective. The test is not what you yourself know about your own motivations and whether the connection would unduly influence you: it is what others would reasonably think, if they were in possession of the relevant facts.*"

The ESC's representative further drew the Panel's attention to the Standards Commission's decision on case LA/E/3651 which concerned, in part, the participation of a then councillor, in a matter concerning an experimental road traffic order, despite the then councillor living in close proximity to the road that would be affected by the order. In that case, the Standards Commission determined that the then councillor's non-

financial interest would be perceived by members of the public, considering the matter objectively, as being sufficiently significant as being likely to influence her potential discussion and decision-making on the matter. The Standards Commission explained that was because it was evident that the decision would have a direct impact on the road on which the then councillor's property was located.

The ESC's representative accepted that any perceived advantage to Councillor Ross from his participation at the meetings and workshop in question was speculative in nature. The ESC's representative further accepted that, by the time of the meeting on 15 June 2023, no work had commenced in respect of any re-design of the Quiet Route.

The ESC's representative contended that, in this case, members of the public, with knowledge of the relevant facts would reasonably regard Councillor Ross' connection (being his residence on Midmar Gardens and intention to sell the property) as being so significant that it would be considered as being likely to influence his discussion or decision-making on any matters concerning the Quiet Route. The ESC's representative advised this was because it was very likely that any discussion at the meetings and workshop in question would have a direct impact on Midmar Gardens. The ESC's representative argued that members of the public would likely consider that a low traffic area could render a property more desirable to prospective buyers and, therefore, that the value of any property impacted by the implementation, continuation or redesign of a Quiet Route could be affected. The ESC's representative contended, therefore, that the objective test was met and that Councillor Ross had an interest that should have been declared. The ESC's representative argued that Councillor Ross' failure to declare such an interest at the Transport and Environment Committee meeting on 15 June 2023 and the councillors' workshop on 9 August 2023 amounted to a breach of paragraphs 5.5 and 5.6 of the Code.

Councillor Munro: The ESC's representative noted the ESC's report mistakenly stated that Councillor Munro lived within the Braid Estate and apologised for the error. The ESC's representative confirmed it was not in dispute that while another part of road on which Councillor Munro lives is within the Braid Estate, the section on which Councillor Munro resides is not. However, the Quiet Route extends along the length of Braid Avenue, the road on which Councillor Munro lives.

The ESC's representative advised that it was not in dispute that Councillor Munro was a member of the Transport and Environment Committee and attended the meetings on 15 June 2023 and 7 March 2024, and the workshop on 9 August 2023.

The ESC's representative noted Councillor Munro made no declaration of interest or transparency statement at either the Transport and Environment Committee meeting on 15 June 2023 or the workshop on 9 August 2023. The ESC's representative confirmed that, as she noted in her evidence, Councillor Munro sought advice from the Committee Clerk before the Transport and Environment Committee meeting on 7 March 2024. The ESC's representative advised that the Committee Clerk responded by email on 6 March 2024, advising Councillor Munro to "err on the side of caution" and to reconsider whether she had "made any public comments which could be perceived as taking a view on the matter or pre-judging it" before "making the decision" the following day.

The ESC's representative noted that a webcast of the meeting recorded that Councillor Munro stated, "I live in my ward – ward 10". When a council officer asked whether, in making such a statement, she was making a declaration of interest (which would mean she would have to withdraw from the meeting), or a transparency statement, Councillor Munro confirmed she would not be withdrawing and that it was a "declaration of transparency". Councillor Munro proceeded to advise that while she did not live in the Braid Estate, she resided in "the area of it" and was "not affected by the [Quiet Route]".

The ESC's representative nevertheless noted that Councillor Munro resides on a road that forms part of the Quiet Route. The ESC's representative submitted this was a connection in respect of the matters being

considered at the Transport and Environment Committee meetings on 15 June 2023 and 7 March 2024, and the workshop on 9 August 2023.

The ESC's representative noted that at the Transport and Environment Committee meetings on 15 June 2023 Councillor Munro both moved an amendment to, and voted in favour of, the motion for council officers to work with councillors to 'redesign the Schemes', which was ultimately carried by the Committee. The ESC's representative accepted that Councillor Munro's contribution to the meeting may not have been influenced by where she lived. The ESC's representative contended, however, that the objective test was met. This was because a member of the public with knowledge of the following relevant facts, would reasonably regard Councillor Munro's connection as being likely to influence her discussion and decision-making:

- The matter being considered concerned a review of the Quiet Route and plan for a future consultation.
- Councillor Munro lived on Braid Avenue, being a road that was part, the subject of the Quiet Route.

The ESC's representative explained this was because any discussion or decision could have a direct impact on the road on which her residence was located, in terms of traffic volumes, footfall, cyclists, parking, road disruption and noise levels.

The ESC's representative submitted that the objective test was also met at the councillors' workshop on 9 August 2023. This was because a member of the public, with knowledge of the relevant facts (being where Councillor Munro resided and the fact that options for the redesign of the route were being presented), would consider her connection as being likely to influence her discussion of the options. The ESC's representative accepted that councillors present at the workshop were being invited, as representatives of the local community, to give feedback on the options developed by council officers. The ESC's representative contended, however, that each of options could have a direct effect, as described above, on Councillor Munro's property.

Turning to the Transport and Environment Committee meeting on 7 March 2024, the ESC's representative noted there was reference in the minutes to the outcome of the public consultation and, specifically, that 'a majority of residents support option three of the Braid Estate proposals'. The ESC's representative noted a revised version of the third option was ultimately approved by the Committee. This adopted the advice given by officers to 'reduce shared pedestrian/cyclist spaces and potential conflicts as much as possible'. The ESC's representative noted the review of the Quiet Route and Braid Estate redesign was led by public engagement and expert officer advice. In that regard, she accepted that some members of the public might conclude that Councillor Munro's discussion or decision-making was not necessarily influenced by the fact that she resided on Braid Avenue. The ESC's representative contended, however, that it remained a fact, nevertheless, that Councillor Munro was (and is) a resident on a road that formed part of the Quiet Route. The ESC's representative argued that her property's close proximity to the Braid Estate and Quiet Road would give rise to the reasonable perception that it was capable of influencing Councillor Munro's discussion and decision-making on the matter. As such, the ESC's representative contended the objective test was met and that Councillor Munro should have declared an interest at the meeting.

The ESC's representative noted it was clear from the Code and specifically stated in the Standards Commission's Guidance that, "transparency statements are not an alternative to declaring an interest when such a declaration would be required". The Guidance noted that councillors were always obliged, under the Code, to apply the objective test to any connection. If, having done so, a councillor determined their connection amounted to an interest, then they must declare that interest and withdraw from the meeting while the item in question was being considered.

The ESC's representative accepted the vote in favour of option three could lead to more through traffic on Councillor Munro's road. The ESC's representative contended this suggested that Councillor Munro had not acted in her own personal interests during the consideration and voting on the matter. The ESC's representative noted, however, that the objective test does not concern whether any connection had unduly

influenced a councillor. Instead, it concerns what others would reasonably think, if they were in possession of the relevant facts.

For the reasons outlined above, the ESC's representative submitted that Councillor Munro should have declared an interest and withdrawn at both the meetings of the Transport and Environment Committee on 15 June 2023 and 7 March 2024, and the workshop on 9 August 2023. The ESC's representative argued that Councillor Munro's a failure to do so amounted to a breach of paragraphs 5.5 and 5.6 of the Code.

Submissions made by Councillor Ross' representative

Councillor Ross' representative noted that, in his report, the ESC described Councillor Ross' alleged conflict as being *"his residence within the Quiet Route, his intention to sell and the subsequent sale of his residence and the fact that the re-design benefited the Respondent financially as a consequence"*. Councillor Ross' representative suggested, however, that the ESC's representative advanced, in her submissions at the Hearing, a different conflict when she suggested the potential benefit to Councillor Ross concerned the amenity and locality of the property (rather than solely a financial interest linked with its sale). The Respondent's representative submitted, therefore, that it would be unfair for the Panel consider, as a relevant fact for the objective test, the Respondent's potential enjoyment of the property and suggested it could only assess whether he had a financial interest that arose from its sale.

Councillor Ross' representative noted the terms of the objective test under paragraph 5.5 of the Code and, in particular, drew the Panel's attention to the fact that it required a member of the public to reasonably regard a councillor's connection to the matter being discussed as so significant that it would be considered as being likely to influence their discussion or decision-making. Councillor Ross' representative submitted, therefore, that in order for the objective test to be met, the connection could not be something limited or insubstantial. It would need to be considered reasonably as being likely to influence the councillor's discussion or decision-making.

Councillor Ross' representative contended that the key was not to consider how a connection could be perceived but, instead, whether the objective test was satisfied. Councillor Ross' representative noted that while an individual may perceive an interest this, in itself, did not mean one existed.

Councillor Ross' representative submitted the test that required to be considered concerned an imaginary person who sits in the shoes of the real person in question. In this regard, he drew the Panel's attention to the House of Lords' decision of *Helow v Secretary of State for the Home Department and another* [2008] UKHL 62. With reference to that case and, in particular, paragraphs 2 and 3 of Lord Hope's judgment, Councillor Ross' representative submitted the following propositions about the nature of the member of the public with knowledge of the relevant facts:

- They always reserve judgment on every point until they have seen and fully understood both sides of the argument.
- They are not unduly sensitive or suspicious and have a measure of detachment.
- Their approach must not be confused with that of any complainer and the assumptions made by the complainer is not to be attributed to the observer unless they can be justified objectively.
- Before they take a balanced approach to any information given, they will take the trouble to inform themselves on all matters that are relevant. They are the sort of person who takes the trouble to read the text of an article as well as the headlines and are able to put whatever she has read or seen into its overall social, political or geographical context.
- They are fair-minded, so will appreciate that the context forms an important part of the material which they must consider before passing judgment. However, they will not shrink from the conclusion, if it can be justified objectively, that the test in paragraph 5.5 is met.

Councillor Ross' representative submitted this set out the basic principles for the test the Panel should apply and argued that, when applied in this case, the objective test was not met. Councillor Ross' representative suggested that the Panel required to consider the nature of the meetings on 15 June 2023 and 7 March 2024, and workshop on 9 August 2023, and consider these in their overall social, political or geographical context. Councillor Ross' representative suggested the Panel also needed to consider whether there was a factual basis for the ESC's representative's assertions that there was a possibility Councillor Ross could benefit either financially or otherwise from his participation in consideration of the items in question at the meetings and workshop. Councillor Ross' representative contended that, in doing so, the Panel should take into account the nature of local democracy and the fact that councillors are elected to represent their local communities. The Respondent's representative noted that councillors often deal with diverse issues, and, as such, it is often difficult for them to assess who may or may not be impacted by any decisions made.

Councillor Ross' representative drew the Panel's attention to paragraph 139 of the Standards Commission's Guidance on the Code, which states that it is impossible to list every type of connection a councillor could possibly have with a matter involving or to be considered by the Council. The Guidance nevertheless listed some common examples, including: *"owning a property that is potentially affected by Council proposals (such as demolition or compulsory purchase), or might be affected by proposals by others (such as an application for a licence or consent)"*. Councillor Ross' representative submitted, therefore, that this suggested a connection in respect of a property required to have a direct link to the matter being considered, such as the potential for it to be affected by a "demolition or compulsory purchase". Councillor Ross' representative argued that the fact a property may be just around the corner from a proposal, or something similar, was not sufficient.

Councillor Ross' representative noted that this interpretation was supported by the Standards Commission's Guidance on the Model Code of Conduct for Members of devolved Public Bodies, which gives an example of a connection as something that *"could have a direct effect on an organisation you, your partner, or someone close to you works for"*. Councillor Ross' representative contended the reference to 'direct' was important as it demonstrated that it could not just be any of the potentially limitless number of matters that could affect, or have an impact upon, a street. Councillor Ross' representative further noted that the Respondents were also not being asked to make quasi-judicial decisions, which might require a stricter assessment of whether a connection could amount to a declarable interest, in terms of the objective test.

Councillor Ross' representative noted the Code provides that councillors can apply to the Standards Commission and ask it to grant a dispensation to allow them to take part in the discussion and decision-making on a matter where they would otherwise have to declare an interest and withdraw (as a result of having a connection to the matter that would fall within the objective test). Councillor Ross' representative acknowledged that Councillor Ross had not sought any such a dispensation. Councillor Ross' representative contended, however, that the reality of Council business and timeframes and, in this case, the short time period between the invitation to the workshop being sent and it being held) meant this was not a practical option).

Councillor Ross' representative reiterated that Councillor Ross did not live on the Quiet Route itself, but on a road that ran parallel to it and contended this was not a connection that was sufficiently substantial to meet the terms of the objective test. Councillor Ross' representative explained this was because a reasonable and objective assessor would recognise that councillors are likely to reside in the ward they represent. He suggested that no evidence had been led to demonstrate there was a direct impact of the Scheme on Councillor Ross' former street or property. Councillor Ross' representative contended that, instead, the suggestion seemed to be that the objective test would be met if a councillor simply lived nearby. Indeed, Councillor Ross' representative suggested that the extent of the Braid Estate was not clear and had not been defined.

Councillor Ross' representative argued that the notion that there was, or could have been, any advantage to Councillor Ross in respect of him participating at the meetings and workshop in question was purely conjecture. Councillor Ross' representative contended that a reasonable observer would know that Councillor Ross did not gain any financial benefit or increased amenity from any decisions made at the two meetings and the workshop in question.

Councillor Ross' representative noted that the matter being considered at the meeting of the Transport and Environment Committee on 15 June 2023 was the motion proposing certain schemes be excluded from the broader Experimental Traffic Regulation Order process and that they be the subject of public consultation. Councillor Ross' representative submitted that, by participating and voting on the motion, Councillor Ross was simply agreeing that local residents should have their say. Councillor Ross' representative reiterated that the decision made at the meeting concerned only the process to be followed. It was not a decision on the substantive nature or extent of the Quiet Route itself. Councillor Ross' representative reiterated that the matter being considered was not quasi-judicial or regulatory in nature.

Turning to the workshop on 9 August 2023, Councillor Ross' representative noted its purpose was for council officers to present options to councillors. While the councillors present were able to ask questions on these, they were not making any decision about which option should be chosen or how to proceed. Councillor Ross' representative noted that Councillor Ross made a transparency statement at the workshop.

Councillor Ross' representative noted that Councillor Ross no longer lived on Midmar Gardens by the time of the Transport and Environment Committee meeting on 7 March 2024. Councillor Ross' representative noted that one Complainer had suggested that Councillor Ross may still have a connection by virtue of driving through the area from his new residence as part of his commute to the Council, but contended that, even if so, this would be far from being a sufficient connection, in terms of the objective test, as to amount to a declarable interest.

Councillor Ross' representative argued that no significant change had been made to the Scheme or Quiet Route, throughout the events in question. Instead, it had only been decided that there would be a consultation. Councillor Ross' representative contended that this was not sufficient to satisfy the objective test. Councillor Ross' representative submitted that Councillor Ross' participation at the two meetings and workshop in question could not have influenced any change and contended that his only motivation was to ensure constituents were able to make their views known.

Submissions made by Councillor Munro

Councillor Munro adopted the arguments made by Councillor Ross' representative in terms of her and Councillor Ross' connections to the matters being considered, as being too unclear, and insubstantial, to meet the objective test.

Councillor Munro contended that the fact she lives on a street that formed part of the Quiet Route did not, in itself, mean the objective test was met, given a connection must be sufficiently significant as to be likely to impact upon a councillor's discussion or decision-making. Councillor Munro advised that she understood, on reflection, why there could have been a perception amongst some members of the community that where she lived may have influenced her. Councillor Munro argued, nevertheless, that a member of the public, with knowledge of the precise location of her residence would not reasonably regard it as being so significant that it would be likely to influence her discussion or decision-making. Councillor Munro explained this was because although her residence was located on a road that formed part of the Quiet Route, it was outside the Braid Estate (which was the focus of the proposed re-design). Councillor Munro emphasised there were no traffic measures on her section of the road, and that nothing discussed or proposed during the period in which the meetings and workshop took place altered, or could have altered, this. As such, Councillor Munro contended that the objective test was not met.

Councillor Munro noted the previous Standards Commission case regarding complaint reference LA/E/3651, as mentioned by the ESC's representative. Councillor Munro contended that her case could be distinguished from that one, as she resided outwith the area covered by the Scheme or any of the proposals for its redesign and, therefore, the matters being considered at the meetings and workshop in question did not have a direct impact on her section of the road.

Councillor Munro reiterated that she had been objective in her decision-making and that this had been based solely on the evidence before her, rather than on any personal interest. Councillor Munro suggested that if the Code was to be interpreted as strictly as suggested by the ESC's representative, then councillors would be unable to participate in any matters that could potentially affect the areas in which they lived. Councillor Munro argued that this, in turn, would mean they would be unable to fulfil their role in representing their communities.

DECISION

The Hearing Panel considered the submissions made both in writing and orally at the Hearing. It concluded that:

1. The Councillors' Code of Conduct applied to the Respondents, Councillors Ross and Munro.
2. Both Respondents had breached paragraphs 5.5 and 5.6 of the Code

Reasons for Decision

1. The Hearing Panel considered carefully the evidence led, and submissions made orally at the Hearing and in writing.
2. The Panel noted that there was no dispute that both Respondents were acting as councillors when attending the two meetings and the workshop that were the subject of the complaint. The Panel was satisfied, therefore, that the Code applied to their conduct at the time of the events in question.
3. **Councillor Ross:** The Panel noted that it was not in dispute that, at a meeting of the Council's Transport and Environment Committee on 15 June 2023, Councillor Ross did not declare an interest in respect of a motion concerning the Council's Travelling Safely Schemes. The Panel noted the motion was to set apart the Quiet Route (among others) from the broader experimental traffic regulation orders process, with council officers being asked to work with local councillors to re-design the Schemes. This was with a view to thereafter presenting options to residents and then reporting back to Committee.
4. The Panel accepted, as entirely possible, Councillor Ross' representative's suggestion that the extent of the Braid Estate was unclear and had never been defined. The Panel nevertheless found that, at the time of the meeting, Councillor Ross lived on Midmar Gardens which was a road parallel to, and one over from, the road (Braid Avenue) that was the subject of the Braid Estate Quiet Route. As such, the Panel was satisfied that he had a connection to the Quiet Route, that was one of the key subjects of the motion being considered. This was regardless of whether his property fell within any defined or accepted boundary in respect of the Braid Estate.
5. The Panel noted that the Code requires councillors to declare interests, in respect of any connection they have to a matter being considered, in circumstances where the objective test is met. The objective test is where a member of the public, with knowledge of the relevant facts, would reasonably regard the councillor's connection to the particular matter as being so significant that it would be considered likely to influence their discussion or decision-making.
6. As such, the Panel noted the test is one of perception. It noted, therefore, that the questions of whether:
 - Councillor Ross' connection actually influenced his discussion or decision-making;
 - The motion was agreed at the meeting;

- Any decision made at the meeting had an actual impact on his property (either positive or negative); and
 - There was any public support for any decision made,
- were not relevant to the question of whether he should have declared an interest.
7. While the Panel accepted that the location of Councillor Ross' then property may not have influenced his decision-making at the meeting, it noted that the objective test is just that – objective. In other words, it is not about what a councillor might know about their own motivations and whether any connection would unduly influence them or affect how they contributed to any discussion. Instead, it is a matter of what others would reasonably think, if they were in possession of the relevant facts.
8. The Panel noted it was submitted, on behalf of Councillor Ross, that an engagement exercise with residents that had been previously agreed, in principle, by other councillors in September 2022, and what was being proposed at the meeting on 15 June 2023 did not, in itself, change the Scheme. The Panel noted, however, that the Transport and Environment Committee was being asked, specifically, to agree a process for deciding how, and in what way, the Quiet Route would continue. The Panel considered this was evident from the minutes of the meeting, which recorded the Committee decided to ask officers to work with local councillors to re-design the Scheme, with a view to presenting options to residents before reporting back to the Committee. The fact that the Committee's consideration of the matter at the meeting had the potential to impact upon the Quiet Route was borne out by the fact three options were then developed and considered at its meeting on 7 March 2024.
9. The Panel further noted that Councillor Ross' representative submitted that the matter being considered was not quasi-judicial or regulatory in nature. The Panel accepted this but noted nonetheless that the requirement to declare interests applies at all meetings; not just at one where decisions on quasi-judicial or regulatory matters are being considered. The Panel noted that a councillor's failure to declare an interest, in accordance with the Code, could result in the Council being the subject of judicial review (even if the matter being considered was not quasi-judicial or regulatory in nature) which, in turn, would have financial and reputational implications for the Council (even if ultimately unsuccessful).
10. The Panel recognised that Councillor Ross made a transparency statement at the meeting, albeit in general terms. The Panel accepted this demonstrated he was not attempting to conceal his connection to the matter being considered. The Panel was nevertheless of the view that, having applied the objective test, Councillor Ross should have concluded that a member of the public with knowledge of the following relevant facts would reasonably regard his connection as being so significant that they would be considered as being likely to influence his discussion or decision-making:
- The property he owned at the time was so close to the Quiet Route that any change to the ways in which traffic was being directed under it, and the resulting impacts (for example in respect of traffic volume, parking and pedestrian and cycle routes) were likely to affect the road on which he lived. and potentially, as a consequence, his enjoyment of his property.
 - That councillors present at the meeting were being asked to consider a motion concerning how the future of the Quiet Route would be planned or determined in light of public concerns. In other words, councillors were not just being provided with information for noting.
11. Indeed, in support of this view, the Panel noted that Councillor Ross had advised, in his evidence, that the community was divided about the road closures involved in the Scheme. The Panel agreed that this tended to suggest that Councillor Ross was aware that the views of residents were shaped by the specific roads on which they lived and how they travelled. Indeed, the Panel noted this was borne out by the responses to the consultations. The Panel agreed, therefore, that Councillor Ross should have been aware that others may reasonably perceive that his input into the matter would likely be shaped by similar personal considerations.

12. The Panel noted that Councillor Ross had advised he was considering selling his property prior to the meeting. The Panel noted, however, that it had not been listed for sale at the time of the meeting. While the Panel accepted any intention to sell could be a relevant fact in terms of the objective test, it agreed the reason for selling would also be one. In this case, the Panel accepted Councillor Ross' evidence that his intention to sell was for the purpose of downsizing and not because of any concerns regarding the Quiet Route.
13. The Panel noted that Councillor Ross' representative had suggested it would be unfair for the Panel to consider, as a relevant fact, the Respondent's potential enjoyment of the property, rather than solely any financial interest resulting from its sale, as this had not been raised or addressed in the ESC's report. The Panel agreed, however, that it was evident from the wording of the report that the ESC's conclusions had been based on the potential impact on the value of the property which, in turn, resulted from how it would be affected by any change to the Quiet Route (in terms of traffic volumes and flow), and views of any prospective purchasers. As such, the Panel was satisfied that it could be perceived that the Respondent's own enjoyment of the property could potentially be affected by such considerations and that it was fair to take this into account, even if such a consideration had not been mentioned specifically in the ESC's report.
14. The Panel agreed with Councillor Ross' representative that councillors are often asked to consider matters that could have any number of potential implications for the areas in which they reside and that this, in itself, would not be sufficient to create a declarable interest in terms of the objective test. The Panel noted Councillor Ross' representative submitted, therefore, that this suggested a connection in respect of a property required to have a direct link to the matter being considered and had quoted the example in the Standards Commission's Guidance of a property potentially being affected by a "demolition or compulsory purchase". The Panel noted, however, that it was stated in the Guidance that this was only one example and that it was not possible to list all circumstances where there may be link and a connection. In this case, the Panel was satisfied in any event that, given its proximity, any changes to the Quiet Route would have a direct impact on not just the general area, but on Councillor Ross' specific road and, therefore, on the property that he owned and resided in at the time. In support of this, the Panel noted that the volume of traffic on Midmar Gardens (Councillor Ross' then road) was specifically mentioned in the options presented for public consultation at the workshop and in the consultation questions.
15. The Panel noted it was not in dispute that Councillor Ross did not declare an interest at an elected members' workshop on 9 August 2023. The Panel noted that, at the workshop, councillors observed a presentation on, and discussed, three re-design options for the Braid Estate section of the Quiet Route.
16. The Panel noted it had been argued on Councillor Ross' behalf that as the purpose of the workshop was for council officers to present options and to answer any questions on these that the elected members present might have, it was effectively a 'for information only' event. While the Panel accepted that elected members in attendance were not being asked to make a formal decision or vote on the options, it nevertheless noted that the invitation stated that feedback and input was being sought (as the options were still under development), and it was recorded in the report prepared for the March 2024 meeting that the councillors present at the workshop "discussed re-design options" for the Quiet Route. The Panel was again satisfied that members of the public, with knowledge of the relevant facts, would reasonably regard Councillor Ross' connection as being sufficiently significant as to be likely to influence his discussion on the options. This was because it was evident that explicit reference was made to Midmar Gardens in all the options presented for public consultation at the workshop (with traffic being diverted away from it to elsewhere in all three). As such, the Panel concluded that Councillor Ross had an interest that should have been declared at the workshop.

17. The Panel noted that, at a meeting on 7 March 2024, the Transport and Environment Committee was invited to make a decision on which of the three options for the Quiet Route should be taken forward. This was evidenced in the minutes, which noted the Committee agreed to support an enhanced version of option three for the Braid Estate section. The Panel noted that, again, it was not in dispute that Councillor Ross did not declare an interest at the meeting.
18. The Panel was of the view that it was likely members of the public would not perceive that Councillor Ross still had a connection to the matter. This was because it accepted that, by the time of the meeting, Councillor Ross had sold his property on Midmar Gardens and had moved away from the area. The Panel was satisfied that members of the public, with knowledge of this relevant fact, would reasonably regard any remaining connection Councillor Ross had to his previous residence as not being so significant, in terms of objective test, that it would be considered likely to influence his discussion or decision-making. This was because the Panel noted it had no evidence before it of any remaining close ties to the property (such as any ongoing relationship between Councillor Ross and his former neighbours) and considered any remaining connection to his former residence could only be limited and of an indirect nature. The Panel was further of the view that simply commuting through the area (if indeed Councillor Ross continued to do so) would also not be a sufficient connection for the purpose of the objective test.
19. The Panel noted that it had been argued on Councillor Ross' behalf that a reasonable observer would know that he had not gained any financial benefit or increased amenity from any decisions made at the two meetings and the workshop in question. The Panel agreed that whether a councillor gained any benefit was immaterial to the objective test, given it only concerned the perception that their connection would be viewed reasonably as being likely to influence their discussion or decision-making. While the Panel did not consider there was any evidence to support the contention that Councillor Ross decided to sell because he was aware that the decisions being made in respect of the Quiet Route could affect his property or its value, it agreed, for the reasons outlined above, that it would be reasonable for members of the public to perceive it could have had such an effect.
20. The Panel noted that Councillor Ross' representative had referred to the provision in the Code that states a dispensation can be sought from, and granted by, the Standards Commission, to allow a councillor to take part in consideration of a matter, in circumstances where they would otherwise be required to declare an interest. The Panel noted in this case a dispensation could have been sought by Councillor Ross at any time from when the traffic management proposals were first mooted, but there was no evidence or suggestion this had been done. As such, the Panel did not consider this to be a relevant consideration for the purpose of determining whether the Code had been breached.
21. The Panel therefore concluded, for the reasons outlined above, that Councillor Ross' failure to declare an interest at the Transport and Environment Committee meeting on 15 June 2023 and the workshop on 9 August 2023 amounted to a breach of paragraphs 5.5 and 5.6 of the Code.
22. **Councillor Munro:** The Panel noted that it was not in dispute that, at a meeting of the Council's Transport and Environment Committee on 15 June 2023, Councillor Munro did not declare an interest in respect of the motion concerning the Council's Travelling Safely Schemes and, indeed, sought to amend it. The Panel was satisfied, for the reasons outlined above, that the item to be considered at the meeting was a substantive one (as opposed to one that was just for noting) and that a decision was made to set apart the Braid Estate Quiet Route to allow council officers to work with local councillors to re-design the Scheme.
23. The Panel found that, at the time of the meeting, Councillor Munro lived on Braid Avenue, a road that was the subject of the Quiet Route. The Panel noted that Councillor Munro's property was located on a part of the road that was not ultimately included in any proposed redesign, (including the options that

were presented at the councillors' workshop on 9 August 2023 that were then the subject of a vote at the Transport and Environment Committee meeting on 7 March 2024). Nevertheless, the Panel noted that the existence of the Quiet Route, and how this impacted the traffic flow, would inevitably also have an impact on the part of the road where Councillor Munro resided. As such, the Panel was satisfied that Councillor Munro had a connection to the Quiet Route that was being considered at the meeting.

24. The Panel noted that the Code requires councillors to declare interests, in respect of any connection they have to a matter being considered, in circumstances where the objective test is met. It again agreed that the test is one of perception and that the questions of whether:

- Councillor Munro's connection actually influenced her discussion or decision-making;
- The motion was agreed at the meeting;
- Any decision made at the meeting had an actual impact on her property (either positive or negative); and
- There was any public support for the decision,

were not relevant to the question of whether she should have declared an interest.

25. While the Panel accepted that the location of Councillor Munro's property may not have influenced her decision-making at the meeting, it again noted that the objective test is just that – objective. In other words, it is not about what a councillor might know about their own motivations and whether any connection would unduly influence them or affect how they contributed to any discussion. Instead, it is a matter of what others would reasonably think, if they were in possession of the relevant facts.

26. The Panel reiterated that a councillor's failure to declare an interest, in accordance with the Code, could result in the Council being the subject of judicial review (even if the matter being considered was not quasi-judicial or regulatory in nature) which, in turn, would have financial and reputational implications for the Council (even if ultimately unsuccessful).

27. In this case, the Panel was of the view that, the following were relevant facts in terms of the objective test:

- That Councillor Munro's property was on the road that was the subject of the Quiet Route (albeit none of the modal filters were on the part where her property was located). As such, any change to the ways in which traffic was being directed and the consequent impacts (for example, in respect of traffic volume, parking, and pedestrian and cycle routes), were likely to affect the part of the road where she lived and, potentially as a result, her enjoyment of her property.
- That councillors present at the meeting were being asked to consider a motion concerning how the future of the Quiet Route would be planned or determined in light of public concerns. In other words, councillors were not just being provided with information for noting.

28. The Panel was satisfied that a member of the public with knowledge of these relevant facts would reasonably regard Councillor Munro's connection as being so significant that it would be considered as being likely to influence her discussion or decision-making. As such, the Panel was satisfied the objective test was met. The Panel determined that Councillor Munro had an interest that she should have declared at the meeting before recusing herself from consideration of the item in question.

29. The Panel noted it was not in dispute that Councillor Munro did not declare an interest at the elected members' workshop on 9 August 2023. The Panel noted councillors at the workshop attended a presentation on, and discussed, three re-design options for the Braid Estate section of the Quiet Route. The Panel was again satisfied that members of the public, with knowledge of the relevant facts, would reasonably regard Councillor Munro's connection as being sufficiently significant as to be likely to influence her discussion of the options. The Panel agreed it was again evident that her part of the road could be affected by any changes that were agreed as a result of one of the proposals being selected and

implemented. As such, the Panel concluded that Councillor Munro had an interest that should have been declared at the workshop.

30. The Panel noted that, at a meeting on 7 March 2024, the Transport and Environment Committee was invited to decide which of the three options for the Quiet Route should be taken forward. This was evidenced in the minutes, which noted the Committee agreed to support an enhanced version of option three. The Panel noted that, again, it was not in dispute that Councillor Munro did not declare an interest at the meeting, albeit she made a transparency statement indicating the ward in which she lived. The Panel noted that when a council officer asked Councillor Munro whether she was making a declaration of interest, which would mean she would have to recuse herself, or a transparency statement, she confirmed that she would not be recusing herself and that it was a 'declaration of transparency'. The Panel accepted this demonstrated Councillor Munro was not attempting to conceal her connection to the matter being considered. The Panel was nevertheless of the view that, having applied the objective test, Councillor Munro should have reached the view that a member of the public with knowledge of the relevant facts (as outlined above) would reasonably regard her connection as being so significant that they would be considered as being likely to influence her discussion or decision-making at the meeting.
31. The Panel noted that Councillor Munro submitted that the options for the proposed re-design terminated before her property and the re-design did not concern her part of the road. The Panel considered, however, that any changes to the Quiet Route would have the potential to impact traffic on the whole road (and any adjacent streets). As such, it did not consider this fact would affect how her connection would be perceived reasonably, in terms of the objective test. In support of this, the Panel agreed that Councillor Munro should have been aware that the views of members of the public on the Quiet Route tended to be based on where they lived and how they commuted. The Panel agreed that Councillor Munro should have realised, therefore, that members of the public could reasonably perceive that her discussion and decision-making on the matter would likely be shaped by similar personal considerations.
32. The Panel noted that the ESC's representative suggested acceptance of option three would lead to more through traffic on Councillor Munro's road and contended this suggested that she had not acted in her own personal interests during the consideration and voting on the matter. The Panel did not accept, however, that this was necessarily the case, given Councillor Munro's contention that her part of the road was unaffected by the redesign of the Quiet Route.
33. The Panel noted that Councillor Munro stated she believed sincerely that the purpose of her presence and limited contribution was simply to reflect the community's view. The Panel agreed, however, that as Councillor Munro was part of the community, she should have been able to understand how her participation in the meetings and workshop in question could potentially be perceived as her taking advantage of her position as an elected member to ensure she was not personally disadvantaged by any changes to the Quiet Route. In any event, the Panel again noted that the Code requires councillors to consider the objective test, in order to avoid any perception that councillors were making decisions in their own personal interests (rather than in the interests of the community as a whole).
34. The Panel further noted that Councillor Munro suggested that if the Code was to be interpreted as strictly as suggested by the ESC's representative, then councillors would be unable to participate in any matters that could potentially affect the areas in which they lived. The Panel refuted this suggestion as it noted the issue in this case was that the matter being considered could directly affect the specific road on which Councillor Munro resided (and potentially, therefore, her enjoyment of her property), rather than being a matter that could simply affect the community at large or in general.
35. The Panel considered, in any event, that the fact Councillor Munro advised both in her email to the Clerk of 6 March 2024, and at the Hearing, that she had intended to make a declaration of interest at the Transport and Environment Committee on 7 March 2024 (albeit she had mixed up her words), indicated

she was aware that members of the public might reasonably regard the fact that she lived on the same road as the one that was subject to the Quiet Route as being so significant that it would be considered as being likely to influence her discussion or decision-making. Indeed, the Panel noted that Councillor Munro had inferred at the Hearing that she had thought she had made such a declaration but had not been aware that, having done so, the Code required her to withdraw fully from the meeting room while the matter in which she had an interest was being considered.

36. The Panel therefore concluded, for the reasons outlined above, that Councillor Munro's failure to declare an interest at the Transport and Environment Committee meetings on 15 June 2023 and 7 March 2024, and the workshop on 9 August 2023 amounted to a breach of paragraphs 5.5 and 5.6 of the Code.

Evidence in Mitigation

Councillor Ross' representative submitted that a censure was the appropriate and proportionate sanction on the basis it was evident there had been no attempt on the part of Councillor Ross to conceal his connection to the area, as he was a well-known in the community. In addition, Councillor Ross' representative noted that Councillor Ross had made transparency statements both at the Transport and Environment Committee meeting on 15 June 2023 and the councillors' workshop on 9 August 2023. Councillor Ross' representative suggested this demonstrated that Councillor Ross had considered carefully the matter before reaching a view that the objective test was not met and that he was not required to declare an interest. While Councillor Ross' representative acknowledged the Panel had reached a different conclusion, he reiterated the making of transparency statements demonstrated that Councillor Ross was being open about his potential connection to the matters being discussed.

Councillor Ross' representative also contended it was clear that Councillor Ross had not been personally impacted by, or gained anything as a result of, his participation at the meeting and workshop in question.

Councillor Munro acknowledged the Panel's decision but advised she believed sincerely that she had been acting to the best of her abilities while trying to fulfil the requirements of her role as a councillor. Councillor Munro reiterated her view that during the period in which the meetings and the workshop were held, no substantive changes were made to the Quiet Route, and that her participation had not had any impact on its re-design. Councillor Munro submitted that censure would be the appropriate sanction in the circumstances.

SANCTION

The decision of the Hearing Panel was to censure the Respondents, Councillors Ross and Munro.

The sanction was made under the terms of section 19(1)(a) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Reasons for Sanction

1. In making its decision on sanction, the Panel had regard to the Standards Commission's Policy on the Application of Sanctions. A copy of the policy can be found on the Standards Commission's website, here: <https://www.standardscommissionscotland.org.uk/cases/hearing-rules>
2. The Panel began by assessing the nature and seriousness of the breach of the Code. The Panel noted that the requirement for councillors to declare interests is a fundamental requirement of the Code as it gives the public confidence that decisions are being made in the public interest, and not the personal interest of any councillor or their friends, family or associates. A failure to comply with the Code's requirements in this regard can erode confidence in elected members. It can also erode public confidence in the Council, damage its reputation and, potentially, leave its decisions open to legal challenge.
3. The Panel noted it had found that Councillor Ross failed to declare an interest at the Council's Transport and Environment Committee meeting on 15 June 2023, and at the councillors' workshop on 9 August

2023; and that Councillor Munro failed to declare an interest at both that meeting and workshop, and at a Transport and Environment Committee meeting on 7 March 2024. While the Panel acknowledged that these failures all concerned the same interest (namely where the councillor resided), it nevertheless noted that they had occurred over a relatively long period, during which both Respondents would have had the opportunity to reflect on the Code's requirements. The Panel noted, in this regard, that it is a councillor's personal responsibility to identify and declare certain interests and to thereafter withdraw from the decision-making process. As such, the Panel considered it could not be said that the conduct was limited in duration.

4. The Panel further considered the failure on the part of the Respondents to apply the objective test properly and to consider that their participation in the meetings and workshop in question could be perceived as likely to influence their discussion and decision-making, had the potential to have an adverse impact on the public's confidence in the Council's handling of the Quiet Route and, in turn, on its reputation. The Panel concluded, therefore, that the breaches of the Code were serious in nature, albeit they originated from the failure to apply the objective test properly in respect of the same (respective) connection.
5. The Panel then considered the aggravating and mitigating factors as set out in the Policy on the Application of Sanctions, beginning with those in mitigation. The Panel noted that mitigating factors are those which may lessen the severity or culpability of the breach.
6. The Panel acknowledged that the Respondents had, at different points, made transparency statements in respect of where they resided (albeit they had not identified the specific streets and Councillor Munro did not do so until the Transport and Environment Committee meeting on 7 March 2024). The Panel was satisfied, therefore, that there was no evidence that either Respondent attempted to conceal where they lived or their connection to the matter.
7. The Panel noted that the making of a transparency statement is entirely separate from a declaration of interest. While it agreed the Respondents should have been aware of this, it nevertheless considered that, in making the transparency statements, it appeared the Respondents had some awareness of the requirements of the Code.
8. The Panel was satisfied that Councillor Ross had considered his connection in terms of the objective test. The Panel noted his conclusion that the objective test was not met appeared to be based on his view that the matters being considered were procedural in nature, and did not concern, or result in, any substantive decision on the extent or redesign of the Quiet Route. While the Panel noted it had reached a different conclusion about the objective test, it accepted Councillor Ross had, in good faith, sought to meet the requirements of the Code.
9. The Panel accepted Councillor Munro's evidence and submissions to the effect that she had sought to carry out her duties to the best of her ability. The Panel noted that Councillor Munro sought advice about the Code before the Transport and Environment Committee meeting on 7 March 2024 (albeit not at an earlier stage). While the Panel noted this had still not led to her declaring an interest at the meeting on 7 March 2025, it at least meant she made a transparency statement.
10. The Panel further noted that both Respondents had co-operated fully with the investigative and Hearing processes. It was also pleased to note that there was no evidence of any previous contraventions of the Code by either Respondent.
11. While the Panel was satisfied that decisions were taken at the meeting and workshop in question that affected how decisions on the Quiet Route were to be made, it accepted that neither Respondent participated in any substantive decisions on its redesign. As such, the Panel was satisfied that, other than

the issue of how their participation could be perceived reasonably and the impact this might have on public confidence in the Council and its decision-making on the matter, their participation would have had only minimal impact, in terms of loss or harm or other potential consequence of the breach, to others.

12. The Panel was also satisfied that it did not have evidence before it that would lead it to conclude that the interests of the Respondents affected their discussion or decision-making during the meetings and workshop in question. The Panel noted that it had been suggested by the Complainers that Councillor Ross' intention to sell his property influenced his decision-making regarding the Quiet Route. The Panel accepted, as credible, the evidence of Councilor Ross that this had not been the case and that his decision to sell the property and to move was based on family considerations. The Panel accepted the Respondents' contentions that their participation and contributions were based on what they considered to be in the best interests of the community, which included ensuring a process was put in place to give the public the opportunity to express their views.
13. The Panel agreed it had no evidence before it to demonstrate that either Respondent benefitted or gained, financially or personally, from their failure to declare their interests. It noted, nevertheless, that there could be such a perception, given the decisions made at the meetings and workshop in question ultimately led to the a preferred option being chosen for the redesign of the Quiet Route, under which that traffic continued to be diverted away from roads or part of the roads to which they had a connection.
14. The Panel then proceeded to consider whether there were any aggravating factors; being ones that may increase the severity or culpability of the breach.
15. The Panel noted that the Respondents had agreed, as part of their acceptance of office as councillors, that they would abide by the terms of the Code, which clearly included the requirement to declare interests. The Panel was further concerned to note that the Respondents did not declare their interests despite both admitting, in their evidence, that they were clearly aware of the divisive nature of debate about the merits of the Quiet Route in their community, and that individual views on this tended to depend on where they lived and their preferred methods of travel.
16. The Panel was particularly concerned to note that, even after having received the ESC's report outlining the Code's requirements, Councillor Munro had shown only very limited insight or awareness at the Hearing of what was expected of her. The Panel was concerned that Councillor Munro did not appear to understand or accept the objective test was one of perception and, instead, had sought to emphasise that she had voted in accordance with the wishes of the majority of the public (being an irrelevant consideration).
17. The Panel was also not satisfied that Councillor Munro appreciated the distinction between making a declaration of interest and a transparency statement and the different effect of these, including that a councillor who has made a declaration of interest must withdraw from the relevant discussion or decision-making. The Panel noted that Councillor Munro indicated she had not been aware that the Code required her to withdraw fully from the meeting room while the matter in which she had a declarable interest was being considered. The Panel was concerned this was the case, particularly given that a council officer had questioned whether she was making a transparency statement or a declaration of interest at the Transport and Environment Committee on 7 March 2024. The Panel agreed this should have put Councillor Munro on notice that there was a difference between the two and that she should have asked what this was, if she was unclear.
18. The Panel accepted that, while some in the community may well have known where the Respondents lived, it noted that councillors were no longer obliged to disclose their addresses on their publicly available Register of Interests. The Panel agreed that the whole purpose of Section 5 of the Code was to ensure, for transparency reasons, that councillors declare publicly any interests they have before recusing themselves

and, as such, they should not rely on any assumptions that members of the public might be aware of any such interests. The Panel agreed that this allows the public to have confidence that councillors are not taking part in the consideration of, and decision-making on, matters that could benefit them personally.

19. Having considered carefully the nature and seriousness of the breach, as well as the aggravating and mitigating factors identified and outlined above, the Panel considered a censure, being the Panel's severe and public disapproval of the Respondents' failure to comply with the Code, was the appropriate sanction in the circumstances. This was because the Panel was satisfied, in this case, that given the nature of the matters being considered at the meetings and workshop in question, the Respondents' participation was unlikely to and, indeed, did not have any substantial impact on the nature and extent of the Quiet Route. Given it had also found no evidence that either Respondent attempted to conceal where they lived or their connection to the matter, the Panel was further satisfied they had not been attempting to seek an advantage for themselves.

RIGHT OF APPEAL

The Respondents have a right of appeal in respect of the decision on breach, as outlined in Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Date: 23 March 2026



**Lezley Stewart
Chair of the Hearing Panel**