

STANDARDS UPDATE

ISSUE 25: March 2020

News

Impact of Coronavirus (Covid-19) outbreak

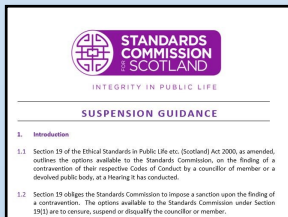
Our office is currently closed due to the Covid-19 outbreak. We are able to access emails, however, so please send any enquiry to enquiries@standardscommission.org.uk.

On receipt of any new breach report referrals from the Ethical Standards Commissioner (ESC), the Standards Commission will continue to make decisions under section 16 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 as normal. If the decision is to hold a Hearing, the Standards Commission will review the Government's guidance / any directives in place at the time. Given that the situation is evolving, the Standards Commission will need to make decisions on the scheduling and management of Hearings on a case by case basis, in accordance with any current advice and directives. It may be that the Standards Commission will identify a potential date, but will advise the parties that it will only be able to confirm that it is definitely proceeding on that date nearer the time. The Standards Commission may also consider asking the public not to attend or restricting public access, if necessary.



The Standards Commission decided to postpone the Standards Officers' workshop due to be held in Edinburgh on 23 March 2020 because of the risks arising from Coronavirus outbreak. It is hoped the event can be rescheduled - delegates will be contacted with an alternative date if and when one is identified.

Suspension Guidance



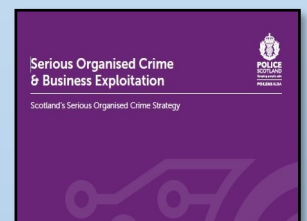
The Standards Commission has produced guidance to provide clarity on the extent of the activities in which a councillor can engage while they are subject to a period of full suspension (either on the finding of a breach of the Councillors' Code of Conduct at a Hearing or as an interim measure while an investigation about their conduct is ongoing). The guidance can be found on the [Advice Notes](#) page of our website.

Please contact enquiries@standardscommission.org.uk if you have any suggestions or feedback on the guidance.

Police Scotland's Guidance on Serious Organised Crime and Business Exploitation

Police Scotland has issued a new Business Exploitation document for Scotland's public sector. This aims to raise awareness of how organised crime groups seek to infiltrate the public sector to give themselves an unfair advantage, obtain contracts, drive out legitimate businesses and launder money.

This may be a useful read for employees, councillors and members of devolved public bodies. Please also email enquiries@standardscommission.org.uk if you would like a copy. For further information about the contents of the document, please email scddivertdeter@scotland.pnn.police.uk.



Regional Training Event

The Standards Commission held a training event on the revised Councillors' Code of Conduct for elected members and officers, in Ayr on 4 February. Thank you to all those who attended and to South Ayrshire Council for hosting the event. We hope delegates found the event as useful and interesting as we did.

Review of the Codes of Conduct

The Standards Commission has been involved in a working group established to review both the Councillors' Code of Conduct and the Model Code of Conduct for members of devolved public bodies. The Working Group has produced a draft revised version of the Councillors' Code and it is anticipated that the Scottish Government will open a consultation on both this, and potential changes to the Model Code, imminently. The Standards Commission will issue information about the substantive changes to the Codes and how to get involved in the consultation as soon as it does so.

The Standards Commission intends to revise its guidance and advice notes on both Codes to reflect the changes made. We will be seeking suggestions on both the content and format of these shortly — so please watch this space!

Cases Overview

Since the last briefing in December 2019, two cases were referred to the Standards Commission by the Commissioner for Ethical Standards in Public Life in Scotland (ESC) about elected members of Comhairle nan Eilean Siar and Fife Council. The outcome of interim suspension decisions and the Comhairle nan Eilean Siar case are outlined below. A decision on whether to hold a Hearing in respect of the Fife case will be taken shortly.

Interim Suspension Decisions

Section 21 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 provides the Standards Commission with the power to impose an interim suspension on receipt of an interim report from the ESC on an ongoing investigation. A decision to impose an interim suspension is not, and should not be seen as, a finding on the merits or validity of any allegations against the councillor or member of a devolved public body concerned. It should also not be viewed as a disciplinary measure. In making a decision about whether to impose an interim suspension, the Standards Commission is not making findings of fact, nor making findings as to whether any allegations are or are not established. It is sufficient for the Standards Commission to act if it is satisfied that there is a *prima facie* case to do so. It should be noted that any differences in the recollections and accounts of witnesses can be explored during the investigation, before being weighed and tested during the adjudication process (should any complaints reach that stage).



On 6 January 2020, the Standards Commission renewed the interim suspension imposed on an elected member of **Perth & Kinross Council** for a further 3 months. On 12 March 2020 the interim suspension was discontinued after a Panel of the Standards Commission decided that it was no longer satisfied that there were sufficient reasons to keep it in place.

On 4 March 2020, the Standards Commission imposed an interim suspension on an elected member of **Aberdeen City Council**. The decision and a policy outlining how the Standards Commission makes any decision under Section 21 and the procedures it will follow in doing so can be found on the [Interim Suspensions](#) page of our website.

Comhairle nan Eilean Siar - LA/CES/2214

The Standards Commission decided, on 20 January 2020, to hold a Hearing. The Hearing was scheduled to take place on 18 March 2020 at the Council Headquarters in Stornoway. The Hearing Panel determined on 17 March 2020, however, that it was unable to proceed with the Hearing due to the restrictions on travelling and meeting with others arising from the Coronavirus outbreak. The Standards Commission noted that there was public interest in the matter and, in particular, in the determination of the question of whether a councillor should have to declare an interest and leave the room, at full Council, when the Council was only being asked to approve a report from a Committee without debate, but which included a matter on which the councillor had declared an interest. The Standards Commission therefore would normally reschedule any Hearing that it had not been able to convene (for example, if a Panel Member or party had been unable to attend due to ill health). The Standards Commission recognised, however, that rescheduling the Hearing in the current circumstances would give rise to issues of fairness and proportionality. This was because it was unlikely that one could be convened before July 2020, at the earliest, due to the current guidance against travel and public gatherings associated with the ongoing Coronavirus epidemic and the requirement for the Standards Commission to give the parties proper and sufficient notice of any Hearing date. Furthermore, the Standards Commission was concerned that the ongoing issues arising from the Coronavirus outbreak could easily result in further delays, particularly given the uncertainty of the situation and the real risk that any convened Hearing may have to be cancelled again. The Panel considered that a virtual Hearing was not feasible, for a range of practical reasons, in the current circumstances.



The Standards Commission noted that the complaint had been made to the ESC in October 2018 and the Respondent had been informed that the investigation had been completed in early Autumn 2019. The Standards Commission noted, however, that the ESC's final report had not been issued and sent to the Standards Commission until 16 January 2020, meaning that the matter had been outstanding against the Respondent for some 17 months. The Standards Commission noted the submissions from the Respondent and the Chief Executive concerning the stress this had caused the Respondent. The Standards Commission noted that the alleged breaches of the Code were of a technical nature (as to when and to what extent an interest had to be registered and declared). There was no suggestion in the ESC report that the Respondent had been attempting to conceal the interest nor any suggestion of any adverse consequences as a result. The Standards Commission also noted the information from the Local Authority to the effect that the Respondent's actions in relation to declaring interests at full Council were in keeping with the Council's Standing Orders. In the circumstances, the Standards Commission considered that it was no longer fair, proportionate and in the public interest to proceed with a Hearing. The Standards Commission determined, therefore, to take no further action on the referral.

Details of the outcome of cases, including full written decisions and information about scheduled Hearings, can be found in the [Our 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:

Room T2.21

0131 348 6666

Scottish Parliament

enquiries@standardscommission.org.uk

Edinburgh

www.standardscommission.org.uk

EH99 1SP

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



facebook.com/StandardsCommission

