

# STANDARDS UPDATE

ISSUE 26: July 2020

## News

### *Revisions to Advice Notes*

The Standards Commission has amended its following three Advice Notes for Councillors on:

- Distinguishing between Strategic and Operational Matters
- The Application of Article 10 of the ECHR
- Bullying and Harassment

The amendments aim to strengthen the provisions concerning respect, bullying and harassment and how these are interpreted. In particular, councillors are urged to consider whether their conduct, when taken together with that of colleagues, could amount to disrespect, bullying or harassment. They are also asked to note that when considering whether there has been a contravention of the Councillors' Code of Conduct, the Standards Commission can consider whether the individual incident forms a course of conduct or amounts to a pattern of behaviour that, when considered as a whole, could amount to disrespect and / or bullying or harassment.



### *Direction under Sections 10 and 11 of the Ethical Standards in Public Life etc. (Scotland) Act 2000*



As part of its oversight role, the Standards Commission has issued a direction under sections 10 and 11 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the Act), requiring the Ethical Standards Commissioner (ESC) to provide information to the Commission about the progress of investigations of complaints about councillors and members of devolved public bodies which have exceeded three months. This is so that the Standards Commission can be assured that investigations are being progressed without any undue delays and also to enable it to plan effectively the resources it may require to undertake its adjudicatory role. The direction also requires the ESC to provide the parties to any complaint with regular progress updates, in order to ensure confidence in the overall ethical standards framework is maintained.

### *Online Hearings*

As noted on page two of this update, the Standards Commission has seven upcoming Hearings. Due to the Covid-19 related restrictions in place, the intention is to hold the first two of these online. The online Hearings will be livestreamed on the Standards Commission's website [Cases page](#), so that members of the public and press can view the proceedings. The Standards Commission will use status alerts banners on the livestream for times when the Hearing is paused or adjourned, for example when the Panel is deliberating in private.

The Standards Commission is hoping to be able to hold the remainder of the Hearings in person, in the area where the Headquarters of the Local Authority (Council) where the Respondent was elected is located. If so, the Standards Commission will adopt social distancing measures. Depending on the size of the venue available, this may mean that public and press access will have to be restricted, with spaces available only for a certain number of individuals on a first come, first served basis. The Standards Commission will publish information on its website [Cases page](#) on any measures it intends to take in advance of each Hearing.



### *Review of the Model Code of Conduct*

Thank you to those who provided comments on the draft revised version of the Model Code of Conduct. We have sent these to the Scottish Government to consider, before it issues a version of the draft revised Code for formal consultation in due course.

# Cases Overview

Since the last briefing in March 2020, nine cases were referred to the Standards Commission by the Commissioner for Ethical Standards in Public Life in Scotland (the ESC) about elected members of Highland, South Lanarkshire, Renfrewshire, Fife (2 separate cases), Aberdeen City (2 separate cases), West Dunbartonshire and Moray Councils. The Standards Commission has scheduled Hearings in seven of these cases and is due to make decisions on whether to hold Hearings on the remaining two cases this week. Details of forthcoming Hearings are detailed below:

## Highland Council - LA/H/3003

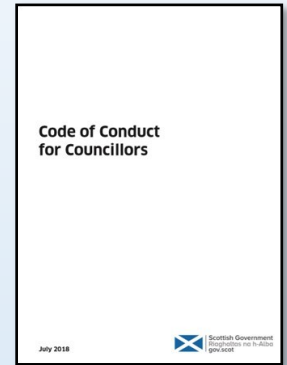
An online Hearing will be held on Wednesday, 8 July 2020. The case concerns an alleged breach of the declaration of interests provision of the Councillors' Code of Conduct.

## South Lanarkshire Council - LA/SL/2252

An online Hearing will be held on Thursday, 23 July 2020. The case concerns an alleged breach of the declaration of interests provision of the Councillors' Code of Conduct.

## Renfrewshire Council - LA/R/2257

A Hearing will be held on Wednesday, 19 August 2020. The case concerns an alleged breach of the respect provision of the Councillors' Code of Conduct.



## Fife Council - LA/Fi/2268

A Hearing will be held on Monday, 24 August 2020. The case concerns an alleged breach of the declaration of interests provision of the Councillors' Code of Conduct.

## Aberdeen City Council - LA/AC/2276

A Hearing will be held on Tuesday, 8 September 2020. The case concerns an alleged breach of the confidentiality provision of the Councillors' Code of Conduct.



## West Dunbartonshire Council - LA/WD/3016

A Hearing will be held on Monday, 14 September 2020. The case concerns an alleged breach of the respect and confidentiality provisions of the Councillors' Code of Conduct.

## Aberdeen City Council - LA/AC/3199

A Hearing will be held on 6 October 2020. The case concerns an alleged breach of the respect and harassment provisions of the Councillors' Code of Conduct.

## Renewal of Interim Suspension

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). 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 the website.

On 4 June 2020, a Panel of the Standards Commission concluded that it would be both proportionate and in the public interest to renew an interim suspension imposed on an elected member of Aberdeen City Council for a further 3 months, while the report from the ESC was awaited.

The ESC's report was received on 16 June 2020 and the Standards Commission subsequently determined to hold a Hearing, which is scheduled to take place on 6 October 2020. The Standards Commission will make a decision before 3 September 2020 on whether the interim suspension should be renewed again so that it remains in place until the matter is determined at the Hearing.

**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:

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