

# STANDARDS UPDATE

## ISSUE 36: December 2022

## News

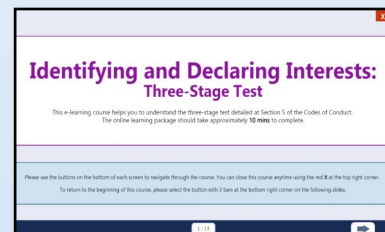
### *New E-Learning Modules*

In order to aid understanding of certain key aspects of the Codes of Conduct, the Standards Commission is intending to publish a series of **interactive training modules**. The first two of these modules, which cover:

- when the Codes apply; and
- identifying and declaring interests: the three-stage test

are available on the [E-Learning Modules page](#) of our website. The modules should take no longer than 10 minutes to complete.

If you have any feedback on these, or any suggestions for topics you would like to see covered in other modules, please email: [enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk).



### *Advice Notes for Councillors*

The Standards Commission has produced a new **Advice Note for Councillors on Conduct during Online Meetings**. It has also produced a **Card for Councillors Attending Community Councils**. The aim of the card is to assist councillors to manage expectations by explaining what they can and cannot do, under the Councillors' Code, when attending community council meetings.

In addition, the Standards Commission has updated its **Advice Notes for Councillors on the Use of Social Media** and on **Bullying & Harassment** to note that councillors should not use social media to encourage others to criticise council officers. A further new **Card for Councillors on Social Media Use** has also been published. All the Advice Notes and the Cards can be found on the [Advice Notes page](#) of our website.

### *New Section-by-Section Guidance*

The Standards Commission has also produced Guidance on both the Councillors' and Model Codes of Conduct in a section-by-section format. This can be found on the [Guidance page](#) of our website.

### *Anyone can make a complaint*



The Standards Commission understands that council officers can sometimes be put under pressure to make complaints. The Standards Commission notes that asking an officer to submit a complaint can place them in a difficult position as council officers have a duty to support the whole council and to remain politically neutral. The Standards Commission's Advice Note for Councillors on the Role of the Monitoring Officer has been revised to include information to this effect. The revised version of the Advice Note can be found on the [Advice Notes page](#) of our website.

It should be noted that any individual can make a complaint to the ESC about a breach of a Code of Conduct, regardless of whether or not they have been directly affected by the alleged conduct. There is, however, no obligation on anyone, including council or public body officers/employees to do so, even if they consider a breach of the Code has occurred. A complaint form and information about the complaint process can be found on the [ESC's website](#).

### *Standards Officers' Workshop*

Our annual workshop for Standards Officers will be held on **Tuesday, 21 March 2023** at the COSLA Conference Centre in Edinburgh 11:00 to 14:00. Tea/coffee will be available from 10:30 and lunch will be provided. If anyone is unable to attend in person, there will be the opportunity to join remotely via Teams. Email: [enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk) to reserve a place and please let us know if you would like to attend in person or remotely. Please advise us of any topics or issues you wish to discuss so that we can include these in the programme.

### *Renewal of Direction on Outcome of Investigations*

Having consulted with key stakeholders, the Standards Commission has extended the Direction on the Outcome of Investigations issued to the Ethical Standards Commissioner (ESC) under sections 10 and 11 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, which expired on 11 November 2022, for a further three months. The Direction requires the ESC to provide the Standards Commission, at the conclusion of every investigation into a complaint about a councillor or member of a devolved public body, with a report outlining the ESC's findings and recommendations as to whether or not there has been a contravention of the relevant Code. The ESC may recommend that no breach has occurred, but no longer makes the final decision on such cases, as was the case prior to the Direction having to be issued.

At their meeting on 7 November 2022, Members of the Standards Commission noted that the views of the Scottish Parliament's Local Government, Housing & Planning and Standards, Procedures & Public Appointments Committees on the renewal of the Direction had also been sought. As letters seeking the Committees' views had only been issued on 7 November 2022, it was not anticipated that responses would be provided before the existing Direction expired. Members agreed that it was important to consider any views the Committees may have and, agreed, therefore, to extend the Direction for three months, before a final decision on whether it should be renewed for a further two years is made.



Ethical Standards in Public  
Life etc. (Scotland) Act 2000

# Cases Overview

Since the last briefing in September 2022, seven cases were referred to the Standards Commission by the Acting Ethical Standards Commissioner (Acting ESC) about elected members of Argyll and Bute, South Ayrshire, North Lanarkshire, Renfrewshire, City of Edinburgh, Moray and Aberdeen City Councils. No action was taken in all seven cases and the written decisions can be found on the [Cases](#) page of our website. The Standards Commission held Hearings in respect of a case concerning a former councillor from Glasgow City Council, along with a case involving a councillor from Angus Council. The outcomes of the Hearings are outlined below. The Standards Commission also received a report on an *ex officio* member of a Health and Social Care Partnership Integration Joint Board, the outcome of which is detailed below. A further two cases have been received in last two days – to date no decision on these has been made.

## Angus Council - LA/An/3546 - Hearing Held - Breach

The complaint concerned the Respondent's conduct at three Council meetings. While the Panel found, on the face of it, that the Respondent had breached the Code by being disrespectful and discourteous towards the complainer at all three meetings, it did not consider that his questions and remarks were sufficiently offensive and gratuitous as to justify a restriction on his right to freedom of expression under Article 10 ECHR.

However, given the quasi-judicial nature of the matter under consideration at one of the meetings (being consideration of a planning application at the Council's Development Standards Committee), the Panel also examined whether the Respondent had failed to comply with Section 7 of the Code. The Panel considered that while the Respondent's decision on the planning matter may have been made solely on the merits of the application, it would have been reasonable for a member of the public watching the meeting in question to conclude that his view on the individual may have inhibited his ability to approach the matter with an open mind. Further, while the Panel had no reason to doubt that the application outcome had not necessarily been affected by the Respondent's conduct, it considered there would have been an impact on the member of the public in question, given it would have been reasonable for him to perceive that he was not being treated fairly. In the circumstances, the Panel found that the Respondent had failed to comply with the requirement in the Code to refrain from demonstrating bias, or to do anything that could be reasonably perceived as demonstrating bias, when making decisions on quasi-judicial matters. The Panel considered that the interference with the Respondent's Article 10 rights was necessary, because of the pressing need to ensure that councils meet their obligations to make quasi-judicial decisions fairly, without bias and on the merits alone, and suspended the Respondent for a period of one month from all meetings of Angus Council's Development Standards Committee.



## Glasgow City Council - LA/G/3563 - Hearing Held - Breach

The Hearing Panel heard that it was not in dispute that, at an online Council meeting, the Respondent displayed a background showing a collage of photos of overflowing bins, rubbish bags and litter, over which the words 'SNP CUTS HURT GLASGOW' were imposed. The Panel noted that there was also no dispute that the Respondent then posted a screenshot of the background on his Facebook account alongside the comment "WARNING! OFFENSIVE CONTENT!" The Panel noted that the meeting had been held, and the Facebook post published, during the run up to the Scottish Parliament Election in May 2021, for which the Respondent was standing as a candidate.

The Panel was satisfied that the background displayed by the Respondent at the meeting could amount to campaigning activity as it clearly implied that a rival political party was responsible for the build-up of rubbish on the city streets at the time.



The Panel concluded that the Respondent's action in displaying the background at the meeting was disrespectful to his fellow councillors, the meeting Chair and Council officers. This was because: the Local Government Act 1986 prohibits local authorities from publishing any material (including any communication) that could be perceived as seeking to influence public opinion or promoting a particular candidate or political party; officers had issued Guidance to all elected members before the meeting, reminding them that facilities and resources could not be used in support of a party or election candidate; the Lord Provost had reminded all attendees of the requirement to comply with the Guidance at the start of the meeting on 1 April 2021; and the Respondent was aware that the meeting was being broadcast live.

The Panel further noted that regardless of whether the Respondent had used a Council issued laptop to attend the meeting or publish the post on Facebook, it was evident that Council facilities, including officers' services, software and webcasting were used at the meeting. The Panel concluded, therefore, that the Respondent had also used council facilities for party political or campaigning purposes. The Panel was satisfied that the Respondent's conduct amounted to a breach of the Code. The Panel noted that the Respondent was no longer a councillor, and as such the only sanction options available to it were censure and disqualification. The decision of the Panel was to censure the Respondent.

## Health and Social Care Partnership IJB

Section 24 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 states that, on receipt of a report from the ESC regarding a complaint about a member of a devolved public body who is (a) also an employee; or (b) an *ex officio* member, the Standards Commission shall send it to the devolved public body. The Standards Commission received a report about an *ex officio* member of a Health and Social Care Partnership Integration Joint Board on 12 December 2022 and sent it to the IJB's Chief Officer. A summary of the complaint and the Acting ESC's findings can be found on the [Cases](#) page of our website.

**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](http://www.standardscommission.org.uk)

EH99 1SP

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



[facebook.com/StandardsCommission](https://facebook.com/StandardsCommission)

