



**STANDARDS
COMMISSION
FOR
SCOTLAND**

INTEGRITY IN PUBLIC LIFE




The Standards Commission for Scotland

ANNUAL REPORT 2021/22



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“The Standards Commission is unswerving in its belief that adherence to the key principles and Codes of Conduct is crucial to allow the public to have trust in elected politicians and those appointed to the boards of public bodies. It is essential that individuals in public life make decisions in the public interest, and not of themselves, their friends or family, or even their political party.”

“Adherence to the key principles helps ensure that standards of public debate do not fall below an acceptable level. Being respectful does not prevent politicians or others in public life from criticising each other’s views, proposals and decisions. Rather, it allows space for differing opinions to be heard and enables an environment in which courteous, free and varied public debate can take place.”

SECTION 1: INTRODUCTION

Overview

In a year where the conduct of politicians has been under the spotlight, the Standards Commission has worked hard to promote the key principles of public life and ensure adherence to the Codes of Conduct in place for all councillors and members of devolved public bodies in Scotland.

The Standards Commission is unwavering in its belief that adherence to the key principles and Codes of Conduct is crucial to allow the public to have trust in elected politicians and those appointed to the boards of public bodies. Holders of public office, including politicians, should demonstrate the key principles of leadership, selflessness, integrity, objectivity, accountability, openness, honesty, duty (public service) and respect in their own behaviour. It is essential that individuals in public life make decisions in the public interest, and not in the interests of themselves, their friends or family, or even their political party.

In the first report of the Committee on Standards in Public Life in 1995, Lord Nolan noted that holders of public office are required to demonstrate leadership by actively promoting and robustly supporting the key principles and by challenging poor behaviour wherever it occurs. This definition of leadership recognises that being in a position of power is not all about making decisions. It is about leading by example to ensure that the high ethical standards the public are entitled to expect are met and promoted.

The Standards Commission notes that adherence to the key principles and commitment to high ethical standards in general are essential to ensure the public has trust and confidence in those in public life. A democracy cannot function properly if the public do not trust public institutions and bodies, as delivery of public policies and services depends largely on the response from the public.

A lack of trust in politicians and others in public life can also have an adverse effect on participation. Members of the public may be discouraged from standing for office if they have no faith in those in charge. We need as many people as possible to participate in a democracy, to ensure all views and interests are represented.



Adherence to the key principles also helps ensure that standards of public debate do not fall below an acceptable level. Differences of opinion and policy are both normal and vital – there would be no progress without these differences and without challenges to the status quo. There is, however, a marked difference between, on the one hand, respectfully arguing a case and, on the other, attacking an individual who holds a different view. Being respectful does not prevent politicians or others in public life from criticising each other's views, proposals and decisions. Rather, it allows space for differing opinions to be heard and enables an environment in which courteous, free and varied public debate can take place.

The Standards Commission is clear, though, that politicians and those in public life are, themselves, entitled to respect. Individuals in public life should expect that not everyone will agree with their views and decisions, and understand that members of the public have a right to make their own opinions known. However, politicians and other individuals in public life should not have to face violence, personal abuse or otherwise be made to feel unsafe. A successful democracy relies on there being individuals who are willing to stand for office.

Increasing political polarisation, along with the immediate and often adversarial nature of social media, have contributed to a deterioration in the standards of public debate. The Standards Commission is of the view that everyone has a part to play in promoting a culture of respect, in order to protect our democracy and allow it to succeed.

Key Achievements 2021/22

With that in mind, I am pleased to present the Annual Report of the Standards Commission, which covers the period from 1 April 2021 to 31 March 2022.

The Standards Commission's Strategic Plan for 2020/24 identifies the following four key objectives:

1. To have a positive impact on ethical standards in public life.
2. To pursue continuous improvement in the ethical standards framework and the way we do our work.
3. To pursue and develop strong relationships with our stakeholders.
4. To ensure all stakeholders have easy access to high quality information about the organisation, its work, and any initiatives.

The full Strategic Plan for 2020-24 can be found at: www.standardscommissionscotland.org.uk/corporate-info/strategic-and-business-plans

This report summarises the progress the Standards Commission has made towards delivering and achieving the stated aims in the second year of the Plan.

Key achievements in the year included:

In 2021/22, the Standards Commission produced, issued and published Guidance and Advice Notes on the revised Codes of Conduct for councillors and members of devolved public bodies that were issued by Scottish Ministers in December 2021. The Guidance and Advice Notes are aimed at assisting councillors and members in understanding the requirements of their respective Codes, to ensure compliance and to reduce the risk of inadvertent contraventions. They contain case illustrations to help councillors and members apply the provisions to the situations they may find themselves in, along with examples of factors they may wish to consider when applying the requirements of the Codes.

The Standards Commission also produced and published standard training presentations on the main changes to the Codes and on their key provisions. These presentations can be downloaded from the Standards Commission's website and used by officers of councils and devolved public bodies to help train or induct their councillors and members on the revised Codes.

The Standards Commission continued, throughout the year, to engage with its stakeholders, to share best practice and to discuss and resolve any issues affecting the ethical standards framework. This included working with the Acting Ethical Standards Commissioner to improve the processes for the investigation and adjudication of complaints about councillors and members of devolved public bodies and to ensure, where possible, there was consistency in the interpretation of the Codes of Conduct. It also provided training events and workshops to help promote awareness and understanding of the revised Codes.

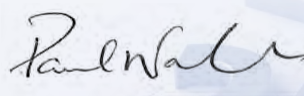
Looking Forward

The Standards Commission's Business Plan for 2022/23 outlines the objectives for the forthcoming year that will contribute to the achievement of these aims. In particular, the Standards Commission intends to support these aims by:

- ▶ Reviewing the oversight Directions issued previously to the Ethical Standards Commission under Sections 10 & 11 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the Ethical Standards Act) and renewing these or taking any other action as required following review.
- ▶ Developing and publishing interactive training material on specific aspects of the Codes of Conduct or ethical standards framework.
- ▶ Continuing to promote Hearings to be held and Hearings decisions in the media and on its website and social media platforms.
- ▶ Updating the case examples and illustrations in its Guidance, Advice Notes and standard presentations in light of feedback and enquiries received and any decisions made.

A copy of the Business Plan can be found at: <https://www.standardscommissionscotland.org.uk/corporate-info/strategic-and-business-plans>

The Standards Commission will continue to work closely with its stakeholders in the forthcoming year to achieve its objectives and promote the ethical standards framework.



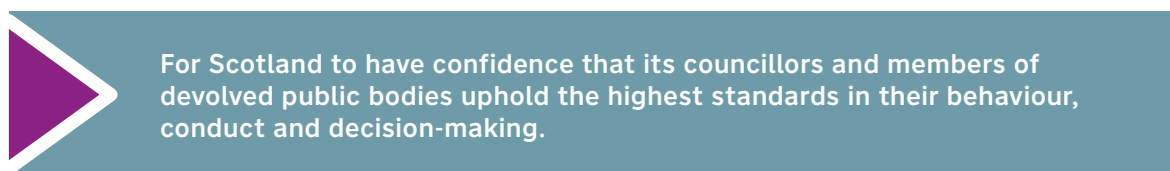
Paul Walker, Convener

SECTION 2: ABOUT US

The role of the Standards Commission is to:

- ▶ encourage high ethical standards in public life including the promotion and enforcement of the Codes of Conduct;
- ▶ to issue guidance to councils and devolved public bodies; and
- ▶ adjudicate on alleged breaches of the Codes of Conduct, and where a breach is found, to apply a sanction.

The Standards Commission's vision is as follows:



In pursuing its vision, the Standards Commission will demonstrate the following values:



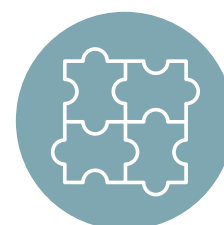
FAIR

we are objective, transparent, consistent and proportionate



APPROACHABLE

we are collaborative, considerate, respectful and helpful



PROACTIVE

we will initiate, promote, deliver and learn

SECTION 2: KEY PRINCIPLES

The Ethical Standards Act required Scottish Ministers to issue a Code of Conduct for councillors and a Model Code of Conduct for members of devolved public bodies. The Codes as issued are based around nine key principles, which underpin the standards expected of those in public life.



DUTY

Holders of public office should uphold the law and act in accordance with the law and the public trust placed in them. They should act in the interests of the council or public body.



SELFLESSNESS

Holders of public office have a duty to act solely in terms of the public interest. They must not act in order to gain financial or other material benefit for themselves, family or friends.



INTEGRITY

Holders of public office must not place themselves under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence them in the performance of their duties.



OBJECTIVITY

Holders of public office must make decisions solely on merit when carrying out public business.



ACCOUNTABILITY AND STEWARDSHIP

Holders of public office are accountable for their decisions and actions to the public. They have a duty to consider issues on their merits, taking account of the views of others and must ensure that the council or public body uses its resources prudently and in accordance with the law.



OPENNESS

Holders of public office have a duty to be as open as possible about decisions and actions they take, giving reasons for their decisions and restricting information only when the wider public interest clearly demands.



HONESTY

Holders of public office have a duty to act honestly. They must declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.



LEADERSHIP

Holders of public office have a duty to promote and support these principles by leadership and example, to maintain and strengthen the public's trust and confidence in the integrity of the council and its councillors or the public body and its members in conducting public business.



RESPECT

Holders of public office must respect all other holders of public office and employees of the council or public body and the role they play, treating them with courtesy at all times.

SECTION 3: PERFORMANCE SUMMARY

INTRODUCTION

This section highlights the work undertaken in 2021/22 towards our strategic objectives, as outlined in our Strategic Plan for 2020-2024.

STRATEGIC OBJECTIVE 1 – ‘IMPACT’



The Standards Commission’s Strategic Plan for 2020-24 states that it will have a positive impact on ethical standards in public life by:

- ▶ Collaborating with others who seek to ensure integrity in public life;
- ▶ Taking all opportunities to be a strong and consistent voice for the importance of the ethical standards framework and compliance with the Codes of Conduct; and
- ▶ Obtaining and undertaking detailed analysis of qualitative and quantitative evidence on our work to promote the Codes of Conduct so that we evaluate our impact in a meaningful way.

In 2021/22, the Standards Commission had a positive impact on ethical standards in public life by producing and publishing educational and training material designed to increase both awareness of, and compliance with, the Codes of Conduct for councillors and members of devolved public bodies in Scotland; and through the use of its statutory powers of oversight.

Promotional and Educational Work

Following the conclusion of the consultation on the proposed revised Councillors’ and Model Codes of Conduct in 2020/21, the Standards Commission worked, in early 2021/22, with the Scottish Government and other key stakeholders to analyse the responses received and to amend the draft provisions in light of the feedback and suggestions made. Once amended versions of the Codes had been drafted, the Standards Commission produced draft revised Guidance on both Codes. The Standards Commission published the draft Guidance on its website and invited feedback and comments on both the content and format.

In particular, the Standards Commission sought the views of councillors, members of devolved public bodies, senior officers and employees of councils and devolved public bodies, including Monitoring and Standards Officers, the Ethical Standards Commissioner (ESC), COSLA, SOLACE and SOLAR.

Having taken into account the views and comments received from stakeholders, the Standards Commission published and issued its revised Guidance in early December 2021. The Guidance is intended to assist councillors and members in interpreting the provisions in the Codes. It contains case illustrations (some of which are based on cases from Scotland, Northern Ireland and Wales, and some of which are hypothetical) to help councillors and members apply the Code to the situations they may find themselves in, along with examples of factors they may wish to consider when applying the requirements of the Codes. The Standards Commission made it clear that it will continue to review the Guidance on a regular basis to ensure it is relevant and fit for purpose and, as such, any feedback, comments, suggestions for improvements and further hypothetical cases are welcome.

The Standards Commission also revised and published its Advice Notes for councillors on a variety of topics, including: distinguishing between their strategic and any operational role; the role of the Monitoring Officer; Article 10 of the European Convention on Human Rights (the right to freedom of expression); bullying and harassment; how to declare interests; and being appointed to arm's length external organisations. In addition, the Standards Commission produced and issued new Advice Notes for councillors on the use of social media, and gifts and hospitality. These Advice Notes are aimed at further assisting councillors in understanding the requirements of their Code, in order to ensure compliance and to reduce the risk of inadvertent contraventions.

Similarly, the Standards Commission also revised and published its Advice Notes for members of devolved public bodies on various matters, including on: the role of the Standards Officer; Article 10 of the European Convention on Human Rights (the right to freedom of expression); bullying and harassment; how to declare interests; being appointed to health and social care integration joint boards, social media; and relations with employees. The Standards Commission produced and issued new Advice Notes for members on distinguishing between their strategic and any operational role, and gifts and hospitality.

The Standards Commission also published Advice Notes for the public on both the Councillors' and Model Codes of Conduct, along with a British Sign Language video outlining and explaining the main provisions in the Councillors' Code of Conduct. These provide information, in a user-friendly format, about what the Codes cover and the process for making a complaint about a potential contravention. The Standards Commission also worked with Disability Equality Scotland to produce an EasyRead guide on its role and remit, a copy of which is available on the Standards Commission's website.

The Standards Commission promoted the revised Codes and its Guidance and Advice Notes through news articles on its website, social media posts and in communications with councils and devolved public bodies. The Standards Commission

produced, disseminated and published quarterly 'Standards Updates'. These briefing notes contain news and information on matters concerning the ethical standards framework, including events being held and work being undertaken. Details of projects the Standards Commission is involved in and information it gathered from workshops and training sessions are included, along with details of recent Hearings, including the outcome and any learning points for councillors and members of devolved public bodies.

The Standards Commission continued to use its website and social media platforms to promote awareness of the ethical standards framework, the provisions in the Codes of Conduct and the Standards Commission's role, remit and work (including any forthcoming events and decisions made at Hearings). We issued at least four social media posts a week and increased our followers on Twitter by a further 20%.

In addition, the Standards Commission published news articles and monthly blogs on its website on topical issues relating to the ethical standards framework and the key principles of public life. These included ones on the importance of integrity, transparency and respect. A blog on highlighting the impact of a loss of trust in politicians and why that matters was featured on the Committee on Standards in Public Life's website. An article by the Executive Director on the importance of respect in politics was published in *The Times* on 16 November 2021.

The Standards Commission also supported councillors and members in respect of meeting the standards expected of them by holding training events on the Codes of Conduct. Online training workshops were held in September 2021 for elected members of Renfrewshire Council and for elected members of Angus Council on 23 February 2022. The Standards Commission presented online training events on the revised Model Code of Conduct for Glasgow Colleges' Regional Board on 24 January 2022 and, in conjunction with the College Development Network, for all college board members and board secretaries on 22 March 2022.

Use of Statutory Powers of Oversight

Complaints that a councillor or a member of a devolved public body (the Respondent) has contravened their Code of Conduct are made to, and considered by, the Ethical Standards Commissioner (the ESC).

While the ESC's office is independent, the Standards Commission can issue statutory directions under the Ethical Standards Act to provide it with assurance that the ESC's office is acquitting its functions in accordance with its founding legislation.

Directions were issued by the Standards Commission in 2020/21 for the first time, requiring the ESC to:

- ▶ submit progress reports where an investigation was to take more than three months to conclude (the Progress of Investigations Direction);
- ▶ send reports on all complaints that had been investigated to the Standards Commission for it to make a final decision, regardless of whether or not she considered there had been a breach of the Code (the Outcome of Investigations Direction). The Direction required the ESC to advise the parties that the Standards Commission would determine the complaint; and
- ▶ undertake an investigation into every complaint about a councillor and member received on or after 2 March 2021 save in specific circumstances set out in the Direction (the Eligibility Direction). As part of this direction, the Standards Commission requested a list of all complaints received in the period from 12 November 2020 to 1 March 2021.

The Outcome of Investigations Direction was aimed at ensuring there was a clear separation between the investigatory and adjudicatory functions of the two organisations and to reduce any concerns about fairness of process or that there were inconsistencies in how the Codes were being interpreted. The Direction allowed any disputed evidence or representations on how the provisions of the Codes should be interpreted to be tested fully at a Hearing (if one was to be held), where evidence is taken on oath or affirmation and where the participants and the Panel can question

witnesses and respond to submissions made.

The implementation of the Direction also made the procedures for the adjudication of complaints about councillors and members of devolved public bodies more consistent with the approach taken in respect of complaints about MSPs.

Having received, on 12 April 2021, the information requested in the Eligibility Direction, the Standards Commission found that there had been failings in the handling of the majority of complaint cases rejected by the ESC as ineligible as either:

- ▶ an investigation should have been carried out but was not, or;
- ▶ some investigation had been carried out before rejection, and so a report should have been made to the Standards Commission, for it to determine what action should be taken.

The Standards Commission found that reports on the complaints in question had not been submitted for it to make the final decision on whether the complaint should be upheld, as required by the Outcome of Investigations Direction. As such, the Standards Commission concluded there had been a contravention of the Direction. The Standards Commission lodged a formal complaint with the Scottish Parliamentary Corporate Body about the ESC's failure to comply with the Direction and to fulfil her statutory duties in respect of investigating complaints.

Having received the audited annual report and accounts and the independent auditor's report for the ESC's office for 2020/21, Audit Scotland published a report by the Auditor General, on 20 December 2021, drawing the Scottish Parliament's attention to significant concerns about the operation of the ESC's office in 2020/21 and the impact on the effectiveness of the ESC's key statutory functions. The Auditor General noted that the report on the ESC's audit 2020/21 found that, based on legal advice obtained by the ESC's office, the operation of the investigation process and the assessment process did not comply with the required legislation.

The Standards Commission was pleased to note that the Acting ESC instituted a series of remedies, which included ensuring compliance with all Directions issued by the Standards Commission under sections 10 and 11 of the Ethical Standards (Scotland) Act.

STRATEGIC OBJECTIVE 2 – ‘IMPROVEMENT’



The Standards Commission’s Strategic Plan for 2020-24 states that it will pursue continuous improvement in the ethical standards framework and the way it does its work by:

- ▶ Helping to identify resolve, or mitigate, any tensions in the ethical standards framework and governing legislation so that breaches of the Codes of Conduct are dealt with in the most effective and proportionate manner;
- ▶ Working with others to ensure there is consistency in terms of the standards expected of all individuals in public life; and
- ▶ Influencing the content and format of the Codes of Conduct to ensure they remain fit for purpose and are as accessible and user-friendly as possible.

The Standards Commission pursued continuous improvement in the ethical standards framework and the way it undertook its work in 2021/22, by participating in the working group responsible for reviewing and revising the Codes of Conduct for councillors and members of devolved public bodies and by identifying and seeking a change to legislative provisions governing the automatic disqualification of councillors. The Standards Commission also sought to improve its own policies and processes for dealing with complaints about potential breaches of the Codes and its methods for promoting high ethical standards. This included seeking and acting on feedback from stakeholders and service users.

Codes of Conduct and Legislative Amendments

In 2021/22, the Standards Commission continued to participate actively in a working group established by the Scottish Government to review and revise the Councillors’ Code of Conduct and the Model Code of Conduct for Members of Devolved Public Bodies. This involved working closely with representatives from the Government’s Local Government Division and its Public Bodies Team, the ESC, COSLA, SOLAR and other key stakeholders to analyse and amend provisions in the draft revised Codes, in light of feedback and suggestions arising from the Government’s consultation on the proposed revised Codes. The Standards Commission also

used intelligence and suggestions it collated from cases referred to it for adjudication, enquiries received and discussions held at its annual workshops with Council Monitoring Officers and Standards Officers of devolved public bodies to suggest further amendments to strengthen and improve the provisions in the Codes.

The focus on the work was to make the Codes as clear and accessible as possible, to encourage engagement and promote high ethical standards while, at the same time, ensuring their provisions did not prevent councillors and members of devolved public bodies from undertaking their roles in an effective and professional manner. The updated revised Codes were scrutinised and approved by the Scottish Parliament, before being issued on behalf of Ministers on 7 December 2021. The Councillors’ Code was effective from that date. The Scottish Government wrote to all devolved public bodies that fall within the scope of the ethical standards framework requesting that their Members adopt the revised Model Code.

The revised Codes can be found on the Standards Commission’s website at:

<https://www.standardscommissionscotland.org.uk/codes-of-conduct>

The Standards Commission sought a change to the automatic disqualification provisions for councillors in the Local Government (Scotland) Act 1973. Currently, Section 31 of the Act provides for circumstances in which councillors will

be disqualified automatically from their role, regardless of whether they are acting in a public or private capacity. In particular, Section 31(c) states that a conviction resulting in a custodial sentence for a period of not less than three months (without the option of a fine) will result in automatic disqualification.

The Standards Commission noted that while the Act reflected sentencing practice in 1973, modern sentencing guidelines discourage the use of custodial sentences of under 12 months. This can mean that circumstances may arise where a councillor who has been convicted of a crime which falls outwith the current automatic disqualification provisions in the Act and outwith

The Standards Commission undertook a review in 2021/22, by way of a lesson learned report, of its response to the coronavirus pandemic

the remit of the Standards Commission (if the councillor is acting in a purely private capacity), can continue to serve as an elected member. This would be despite their

actions falling far short of the standards the Standards Commission considers the public would reasonably expect of an elected representative. While the Standards Commission accepts that that there will be crimes of a less serious nature (certain driving offences, for example) that would not necessarily have any adverse impact on public confidence, it is of the view that the nature of some categories of conviction should result in automatic disqualification.

Having consulted with the Home Office and Welsh Senedd about proposals to amend analogous legislation in England and Wales, the Standards Commission wrote to the Minister for Social Security and Local Government proposing that the Act be amended so that the automatic disqualification criteria also apply to any councillor who is the subject of notification requirements set out in the Sexual Offences Act 2003 (commonly referred to as 'being on the sex offenders register'); or a Sexual Risk Order. The Minister replied confirming that the Government will take forward a review of s.31 of the 1973 Act as soon as practicable.

Improvements to Policies and Processes

Adjudication work: The Standards Commission also sought to improve its procedures for adjudicating on complaints alleging breaches of the Codes by councillors and members of devolved public bodies. Work in this regard included introducing a procedure under which a Hearing Panel, having found a breach of the respect or bullying and harassment provisions in a Code of Conduct, can consider any impact statement received from someone affected by the Respondent's conduct, when determining the sanction to be applied. In doing so, the Standards Commission will be mindful of, and will take into account, the fact that the information in any such a statement has not been given under oath or tested.

The Standards Commission continued to seek feedback from those participating and watching Hearings held in 2021/22. The Standards Commission made some amendments to its standard letters and the format of its written decisions of Hearings in light of feedback received and suggestions made.

Lessons learned from the coronavirus pandemic: The Standards Commission undertook a review in 2021/22, by way of a lesson learned report, of its response to the coronavirus pandemic. The aim of the review was to identify any improvements that could be made to how the Standards Commission's Hearings, training events, workshops and meetings were conducted going forward.

It was noted that the Standards Commission's experiences of holding online Hearings during the pandemic were generally positive, with no reduction in the level of participation and very few technical issues having arisen. The main advantage identified with holding Hearings online (rather than in person) was that doing so saved travel time and costs and, as such, represented better value for money. In addition, the adopted practice of livestreaming Hearings on the Standards Commission's website potentially afforded members of the public greater access to the proceedings.

The Standards Commission identified, however, that there were disadvantages with holding Hearings online, which included:

- ▶ the possibility that technical problems could occur;
- ▶ that research undertaken by analogous bodies suggested that holding Hearings online could detract from the seriousness of the process;
- ▶ that while the vast majority of councillors and members of devolved public bodies were accustomed to using technology to join online meetings, this was not necessarily the case for all potential witnesses;
- ▶ that not all members of the public may be comfortable, or able, to view online Hearings.
- ▶ while it was straightforward for Panel Members to use breakout rooms for private deliberations, it was more difficult for them to communicate in an open session when the Hearing was online (for example, to alert the Chair if they were concerned that a party was badgering a witness or making submissions that were irrelevant to the matters in question, or to alert the Chair that they wished to ask a question).
- ▶ while written productions and video / audio evidence could be shared using the share screen option, it was not as easy to review these on a screen as in person;
- ▶ online Hearings were considered to be more tiring or draining than in-person proceedings.

In addition, the Standards Commission noted that complaints being considered at Hearings often concerned, or stemmed from, local issues and, as such, was of the view that the importance of holding them in the locality should not be ignored.

Having considered all the advantages and disadvantages outlined above, it was agreed that:

1. Where possible, the Standards Commission would hold Hearings in person in all cases, other than in ones where there was little dispute between the parties as to the facts of the matter, the alleged breach was accepted by the Respondent and where no witnesses (other than the Respondent) were to give evidence (where the suitability of an online Hearing would be explored).

2. The possibility of livestreaming should be explored even where a Hearing was held in person and members of the public and press were able to attend.
3. In order to reduce costs and travel time, the Standards Commission should continue to hold pre-Hearing meetings online.

The Hearing Rules were revised to reflect this decision.

The Standards Commission also reviewed how its Members and staff communicated with each other and with external stakeholders. The Standards Commission continued to move towards being an entirely paperless office, with all communications in 2021/22 being by email or telephone and with all meetings being held online. It was agreed that going forward, decisions about whether to hold training events, workshops and meetings with stakeholders online or in person would be made on a case by case basis, depending on nature of the event, the potential number of attendees and the desired level of participation.

The Standards Commission introduced a hybrid working policy for staff to complement its existing flexible working arrangements.

Access to Training and Educational Material:

The Standards Commission made amendments to the layout of its website in 2021/22 to ensure that all training and educational material, including its Guidance, Advice Notes, Standards Updates, monthly blogs and standard presentations on the Codes of Conduct, was readily accessible.

STRATEGIC OBJECTIVE 3 – ‘STAKEHOLDERS’



The Standards Commission’s Strategic Plan for 2020-24 states that it will pursue and develop strong relationships with its stakeholders by:

- ▶ Identifying and seeking ways of working with all individuals and organisations who are potentially affected by the ethical standards framework;
- ▶ Improving our engagement with devolved public bodies to help them to increase awareness amongst their members of the provisions in the Codes of Conduct and how to complain about any failure to adhere to these;
- ▶ Working with chairs and conveners of devolved public bodies and local authority committees to try to prevent issues and breaches of the Codes from arising at meetings; and
- ▶ Actively seeking feedback on our educational material, policies and procedures and collaborating with other regulators and partner bodies across the UK to share experiences and inform best practice

The Standards Commission pursued and developed strong relationships with its stakeholders in 2021/22 by consulting on its educational and training material, and by engaging with them in working groups and at events.

Educational and Training Material

As previously noted, the Standards Commission participated in the working group established by the Scottish Government to review and revise the Councillors’ Code of Conduct and the Model Code of Conduct for Members of Devolved Public Bodies.

The Standards Commission was keen to engage with its stakeholders to ensure the Guidance and educational materials it produced in support of both Codes were accessible, relevant and helpful. After the Government’s consultation had concluded and the proposed revised Codes were laid before the Scottish Parliament for scrutiny and approval, the Standards Commission sent its proposed revised Guidance in support of both Codes to its stakeholders. The Standards Commission explained to its stakeholders, which included the Ethical Standards Commissioner, the Scottish Government, councils, devolved public bodies, Audit Scotland, NHS Education for Scotland, COSLA, SOLAR, SOLACE,

the Improvement Service and the College Development Network, that it was seeking suggestions, views and comments on both the content and the format of the Guidance. The Standards Commission noted that it would also review and update its advice notes for councillors and members of devolved public bodies on particular topics relating to the Codes, in light of the revised versions.

Having reviewed and discussed any suggestions with stakeholders, the Standards Commission finalised and published the revised Guidance and Advice Notes in December 2021, at the same time as the new versions of the Codes were issued. The Standards Commission included examples provided by stakeholders (both hypothetical or real), as anonymised case studies, in the Guidance and Advice Notes to help councillors and members relate the Codes’ provisions to real life situations and scenarios that they might find themselves in.

The Standards Commission advised stakeholders that it welcomed ongoing feedback on the guidance and Advice Notes and continued to make improvements to the content throughout the remainder of the year in order to ensure they were accessible and relevant, and added value by assisting councillors and members to interpret and comply with the provisions in the Codes.

The Standards Commission also produced and published standard training presentations on the main changes to Codes and their key provisions. These presentations can be downloaded from the Standards Commission's website and used by officers of councils and devolved public bodies to help train or induct their councillors and members on the revised Codes.

Workshops and Training events

The Standards Commission held its annual workshop for council Monitoring Officers both online and in person, on 25 October 2021. Topics discussed included ongoing issues and trends such as conduct on social media and in online meetings, the revised Councillors' Code and how the Standards Commission could best add value in terms of its educational and training material.

An online workshop was hosted by the Standards Commission for the chairs of all devolved public bodies on 24 November 2021. The purpose of the workshop was for attendees to:

- ▶ share experiences and discuss any trends in respect of the ethical standards framework and the interpretation of the Codes of Conduct (based on the Model Code for Members of Devolved Public Bodies).
- ▶ review and discuss how to promote and encourage compliance with the respect, bullying and harassment, and confidentiality provisions in the Codes.
- ▶ review and discuss the relationship between board members and officers, including how to ensure there was a clear distinction between strategic and operational matters.
- ▶ discuss the then impending changes to the Model Code and their impact.

The Standards Commission held its annual workshop for Standards Officers on 23 March 2022. Discussion topics included the key changes to the revised Model Code of Conduct and how it was to be adopted. Attendees also discussed how to promote and encourage awareness of the provisions in the Code amongst members of devolved public bodies. In addition, attendees shared their experiences of behaviours and compliance with the existing Code.

The Standards Commission's Executive Director presented on the role of the Standards Commission and the revised Model Code at two induction workshops for Ministerial appointees run by the Scottish Government. The Executive Director also presented on the key changes to the Councillors' Code at the SOLAR Autumn conference.

Other engagement

The Standards Commission continued, throughout the year, to engage with its stakeholders, to share best practice and to discuss and resolve any issues affecting the ethical standards framework. This included engagement with the Scottish Government, the Home Office, the Improvement Service, SOLAR, Audit Scotland, the College Development Network and the Northern Ireland Public Services Ombudsman.

The Standards Commission worked closely with the Acting Ethical Standards Commissioner to:

- ▶ improve the process for the investigation and adjudication of complaints about councillors and members of devolved public bodies;
- ▶ ensure, where possible, consistency in the interpretation of the Codes of Conduct; and
- ▶ discuss and resolve any matters arising from the directions issued by the Standards Commission under the Ethical Standards Act and the recommendations made by Audit Scotland in its 2020/21 audit of the ESC.

The Standards Commission produced and published standard training presentations on the main changes to the Codes and their key provisions

STRATEGIC OBJECTIVE 3 – ‘CLARITY’



We will ensure that all stakeholders, including members of the public, have easy access to high quality information about the organisation, its work and any initiatives it is undertaking by:

- ▶ Ensuring all case related decisions are clearly explained and well-reasoned; and
- ▶ Using digital technology to ensure all educational material and information about good practice and Hearings are published and disseminated as widely as possible.

Adjudication Procedures

Investigation Reports

On receipt of the case report from the Ethical Standards Commissioner (ESC) following the conclusion of an investigation into any complaint about a councillor or a member of a devolved public body, the Standards Commission has three options, under Section 16 of the Ethical Standards Act. These are:

- ▶ to direct the ESC to carry out further investigations;
- ▶ to hold a Hearing; or
- ▶ to do neither (i.e. to take no action).

The Standards Commission has published a policy outlining the factors it will consider when making such a decision on a report referred by the ESC. A copy of the policy can be found on the Standards Commission’s website at: www.standardscommissionscotland.org.uk/cases

The Standards Commission will write to the Respondent, the ESC, the Chief Executive of the relevant council or devolved public body (copied to the Monitoring Officer or Standards Officer), and the individual or individuals who made the complaint to advise them of its decision in respect of the report.

Interim Suspensions

Section 21 of the Ethical Standards Act provides the Standards Commission with the power to impose an interim suspension on a councillor or member of a devolved public body following receipt of an interim report from the ESC about an ongoing investigation. In determining whether

to impose an interim suspension, a Panel of the Standards Commission will consider the following:

- ▶ whether the allegations being investigated by the ESC could potentially amount, if established, to a breach of the applicable Code of Conduct; and
- ▶ whether the further conduct of the ESC’s investigation is likely to be prejudiced if such an action is not taken; or
- ▶ that it is otherwise in the public interest to take such a measure.

Any decision by the Standards Commission to impose an interim suspension is not, and should not be seen as, a finding on the merits of any complaint or the validity of any allegations against a councillor or member of a devolved public body, nor should it be viewed as a disciplinary measure. Information about any decisions, made under Section 21 of the Ethical Standards Act and the policy outlining how the Standards Commission makes any decision under that section can be found on the Standards Commission website at: <https://www.standardscommissionscotland.org.uk/cases/details-of-alleged-breach>

Appeals

Appeals can be made, under Section 22 of the Ethical Standards Act, to the sheriff principal of the sheriffdom in which the relevant council or devolved public body has its principal office against any decision by the Standards Commission to:

- ▶ find a breach of a Code of Conduct;
- ▶ to impose a suspension or disqualification, as a result of the finding of breach; and
- ▶ to impose an interim suspension.

Making and Publishing Decisions

The Standards Commission seeks to ensure that all stakeholders, including members of the public, have easy access to high quality information about the organisation and its adjudicatory work.

The Standards Commission publishes information on its website about its adjudication procedures and how it makes decisions on cases that have been referred by the ESC. Information that is published includes the Hearing Rules and all case-related policy and procedure documents.

The Standards Commission publishes:

- ▶ written records of the decision and reasons for the decision in ‘do neither’ cases;
- ▶ information about forthcoming Hearings, including the name of the Respondent, the name of the Respondent’s Council or public body, and the Hearing date, time and venue;
- ▶ a written record of the decision and reasons for the decision made at each Hearing in respect of breach and, if applicable, the sanction applied;
- ▶ press releases about decisions made at Hearings; and
- ▶ a link to the livestream of the Hearing if it is to be held online.

Cases referred to the Standards Commission in 2021/22

Impact of Directions

The Standards Commission issued a direction to the ESC on 12 November 2020, requiring the ESC to report to the Standards Commission on the outcome of every investigation into a complaint about a councillor or a member of a devolved public body. The direction requires the ESC to set out the findings of the investigation into the complaint or complaints and the ESC’s conclusions as to whether they consider there has been a breach of the applicable Code of Conduct. The direction applied to all complaints received on or after 12 November 2020.

The result of the direction is that the Standards Commission now makes the final decision on the disposal of all complaints about councillors and members of devolved public bodies that have been investigated by the ESC (before the direction was issued, the ESC only reported to the Standards Commission on cases where they considered there had been a breach of the applicable Code of Conduct).

The Standards Commission wrote to the ESC, in early March 2021, noting that the ESC had not reported on the outcome of any investigations since 30 October 2020, despite the direction having been issued on 12 November 2020. The Standards Commission advised that it was concerned that the ESC was circumventing the direction by rejecting complaints about councillors and members of devolved public bodies as ineligible or inadmissible. The Standards Commission advised, therefore, that it had reached the view that it was both necessary and appropriate to issue a direction on the eligibility of complaints. The eligibility direction required the ESC to carry out an investigation into every complaint about a councillor and member of a devolved public body received on or after 2 March 2021 unless:

- ▶ the councillor or member of a devolved public body in question has either (a) died prior to the complaint having been made; or (b) was an incapable adult within the meaning of the Adults with Incapacity (Scotland) Act 2000;
- ▶ the conduct that has or is alleged to have contravened the applicable Code occurred (or in the case of a course of conduct ended) more than one year before the complaint was received; or
- ▶ where, on the face of it, the conduct referred to in the complaint would not, even if it could be established to have occurred, constitute a contravention of the applicable Code.

The Acting ESC, appointed on 20 April 2020, complied with both directions, meaning that the number of cases referred to the Standards Commission in 2021/22 was higher than in previous years.

Referrals

The Acting ESC referred 26 reports to the Standards Commission between 1 April 2021 and 31 March 2022. The table below shows the decisions taken by the Standards Commission in respect of reports referred by the ESC.

Table 1: Decisions taken by Standards Commission on Reports received between 1 April 2021 and 31 March 2022

Decision	No. of Reports resulting in a decision	No. of Councillors or Members involved in the Reports	
		Councillors	Members
Hold a Hearing	7	8	0
Do neither	19	20	0
TOTAL	26	28	0
Direct the ESC to carry out further investigations	2*	2*	0

* In two cases, the Standards Commission's initial decision was to direct the ESC to carry out further investigation. Following receipt of a report outlining the outcome of the further investigation undertaken by the ESC, the Standards Commission decided to 'do neither' (i.e. to take no further action) in both cases.

Hearings held in 2021/2022

A Hearing was held in 2021/22 in respect of a breach report received from the ESC before 1 April 2021. As a result, the Standards Commission held a total of five Hearings between 1 April 2021 and 31 March 2022. All five Hearings were held online in compliance with the working from home guidelines in place at the time. The online Hearings were livestreamed on the Standards Commission's website. A further three Hearings on reports received on or before 31 March 2022 are scheduled to be held in 2022/23.

Decisions made at Hearings

Table 2 outlines the decisions made at the five Hearings held in 2021/22.

Table 2: Outcomes of Hearings conducted and concluded by the Standards Commission between 1 April 2021 and 31 March 2022

Decisions	No. of Hearings	No. of Respondents involved in Hearing
Finding of breach	1	1
Finding that, on the face of it, the Respondent's conduct amounted to a breach of the applicable Code but that a breach finding and imposition of a sanction was not proportionate and justified in light of the Respondent's right to freedom of expression under Article 10 of the European Convention on Human Rights	3	4
Finding of no breach	1	1
TOTAL	5	6

Sanctions Imposed at Hearings

The sanctions available to the Standards Commission if it determines, at a Hearing, that a breach of a Code of Conduct has occurred are:

- censure;
- suspension; and
- disqualification.

Having found a breach, the Standards Commission is obliged, under Section 19 of the Ethical Standards Act, to impose a sanction. The Standards Commission has published a policy outlining the factors it will consider when deciding the sanction to be imposed. A copy of the policy can be found on the Standards Commission's website at: www.standardscommissionscotland.org.uk/cases/hearing-rules.

A **censure** means the Standards Commission recognises the Respondent has breached the Code and formally records the Standards Commission's severe and public disapproval of the Respondent's conduct.

A **suspension** can be full or partial, and can be for a period of up to one year. A full suspension means that the Respondent is not entitled to attend any meetings of the council or devolved public body, any of its committees and sub-committees, and also any meetings of any other body of which the Respondent is a representative or nominee of the council or devolved public body. 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). This guidance can be found on the Standards Commission's website at: www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings.

A partial suspension means that the Respondent is not entitled to attend certain specified meetings or committee of the council or devolved public body. For example, they may be suspended from meetings of a council's licensing committee for a period of three months.

Disqualification means that the Respondent (if a councillor) is prohibited for a period not exceeding five years from being a councillor and from being nominated for election or being elected as a councillor. This has the effect of vacating that councillor's office.

In cases where the Respondent is a member of a devolved public body, disqualification means they are removed from membership of the body and are prohibited from being a member of the body for a period not exceeding five years. The Standards Commission, on removing and disqualifying a member from one specific devolved public body, can also direct that the individual is removed and disqualified from any other devolved public body of which they are a member.

The table below outlines the sanctions imposed by the Standards Commission at the Hearings held between 1 April 2021 and 31 March 2022.

Table 3: Sanction decisions made at Hearings between 1 April 2021 and 31 March 2022

Sanction	No. of Hearings	No. of respondents involved in the Hearings
Censure	0	0
Suspension – full	0	0
Suspension – partial	0	0
Disqualification	1	1
No breach and, therefore, no sanction	4	5
TOTAL	5	6

Do Neither Decisions in 2021/22

The Standards Commission will ‘do neither’ (i.e. it will decide not to hold a Hearing or direct further investigation be undertaken) following receipt of a report from the ESC if it concludes that further investigation is not required and that it may not be in the public interest or proportionate to hold a Hearing.

The table below outlines the timescales involved in making decisions to ‘do neither’ on reports referred by the ESC.

Table 4: ‘Do neither’ decisions made between 1 April 2021 and 31 March 2022

Report Reference	Date report received from ESC	Date of decision to take no further action	Date Written Decision issued	Time between report received and written decision issued (in days)
LA/CES/3453	29/06/2021	01/07/2021	02/07/2021	3
LA/Mo/3469	30/06/2021	05/07/2021	07/07/2021	7
LA/E/3517	21/09/2021	24/09/2021	27/09/2021	6
LA/E/3504	21/09/2021	24/09/2021	27/09/2021	6
LA/AN/3520	28/10/2021	01/11/2021	03/11/2021	6
LA/DG/3543	05/11/2021	09/11/2021	09/11/2021	4
LA/AB/3573	16/11/2021	17/11/2021	18/11/2021	2
LA/FI/3526	01/12/2021	07/12/2021	08/12/2021	7
LA/DG/3577	06/12/2021	08/12/2021	09/12/2021	3
LA/AC/3545	09/12/2021	14/12/2021	15/12/2021	6
LA/AC/3592	25/01/2022	27/01/2022	28/01/2022	3
LA/DG/3514	21/02/2022	07/04/2022	07/04/2022	2*
LA/NA/3586	02/03/2022	04/03/2022	07/03/2022	5
LA/G/3637	03/03/2022	07/03/2022	08/03/2022	5
LA/G/3548	03/03/2022	07/03/2022	08/03/2022	5
LA/SL/3575	08/03/2022	14/03/2022	14/03/2022	6
LA/AB/3533	16/03/2022	21/03/2022	21/03/2022	5

* Initial decision taken 07/03/2022 to hold Hearing. New information received from Respondent 05/04/2022.

Number of days represents time between new information being received and a written decision being issued.

Direct Further Investigation Decisions in 2021/22

The Standards Commission will direct the ESC to carry out further investigation if:

- ▶ it is unclear from the report as to what the ESC's findings or conclusions are, including which sections of the Code the ESC considers may have been breached and why; or
- ▶ the Standards Commission considers there are any material facts that have not been sufficiently explored or that insufficient attempts have been made to obtain and analyse evidence that may have a direct bearing on the question of whether there has been a breach; or
- ▶ the Standards Commission is not satisfied that all aspects of the complaint that could amount to a breach of the Code have been investigated and covered in the report.

The table below outlines the timescales involved in making decisions to direct further investigation on reports referred by the ESC.

Interim Suspension Decisions in 2021/22

The Standards Commission received no interim reports from the ESC in 2021/22 and, as such, no interim suspension decisions were made.

Appeals

In 2021/22 one appeal against a decision to disqualify a councillor for 16 months for a breach of the Councillors' Code of Conduct, made by the Standards Commission at a Hearing, was made

and determined. In refusing the appeal in its entirety, the Sheriff Principal confirmed that the original decision by the Standards Commission to disqualify the councillor was neither excessive nor unreasonable. The councillor then appealed to the Court of Session. While the Court of Session agreed with the Standards Commission's assessment that a disqualification was an appropriate sanction and that the disqualification ought not to be brief, it determined that, due to the timing of the election, the disqualification period should be to 10 months, reduced to account for the period already served.

Timescales

The Standards Commission usually aims to hold Hearings no earlier than six weeks and no later than 12 weeks after the date on which the decision to hold a Hearing is made. This timescale allows sufficient notice to be given to the parties (being the ESC and the Respondent) and anyone else who wishes to attend or observe the Hearing (including the media and members of the public). It also allows the parties time to prepare, which includes submitting any relevant and material evidence, and asking witnesses to appear.

The Standards Commission has to consider, and balance, a number of factors when scheduling Hearings. These include the availability of its part-time Members (who form the Hearing Panels), the parties and suitable premises (if the Hearing is to be held in person). In addition, as the Standards Commission only employs four members of staff (full-time equivalent 3.1), it has to allow a sufficient gap between Hearings in order for the team to prepare fully for each.

Table 5: Direct further investigation decisions made between 1 April 2021 and 31 March 2022

Report Reference	Date first report received from ESC	Date of decision to direct further investigation	Date second report received	Date of decision to take no further action	Date Written Decision issued	Time between second report received and written decision issued (in days)
LA/H/3515	08/12/2021	14/12/2021	25/02/2022	02/03/2022	07/03/2022	10
LA/E/3589	27/01/2022	02/02/2022	15/03/2022	17/03/2022	21/03/2022	6

The Rules provide that a Panel may, at its own discretion or on the application of any of the parties, postpone or adjourn a Hearing. Before any postponement or adjournment is granted, the Panel will consider both the public interest in the expeditious disposal of the case; and any inconvenience or prejudice to the parties and to witnesses. In making such a decision, the Panel will also be mindful of the fact that delays to Hearings can lead to the quality of available evidence being eroded, as memories can fade with time. A policy outlining how the Standards Commission deals with adjournment requests and

the factors it will consider in deciding whether the request should be granted can be found on the Standards Commission website at: <https://www.standardscommissionscotland.org.uk/cases/hearing-rules>

Standards Commission's Timescales 2021/22

Information about the timescales involved in the Hearings held in 2021/22 is outlined in the table below.

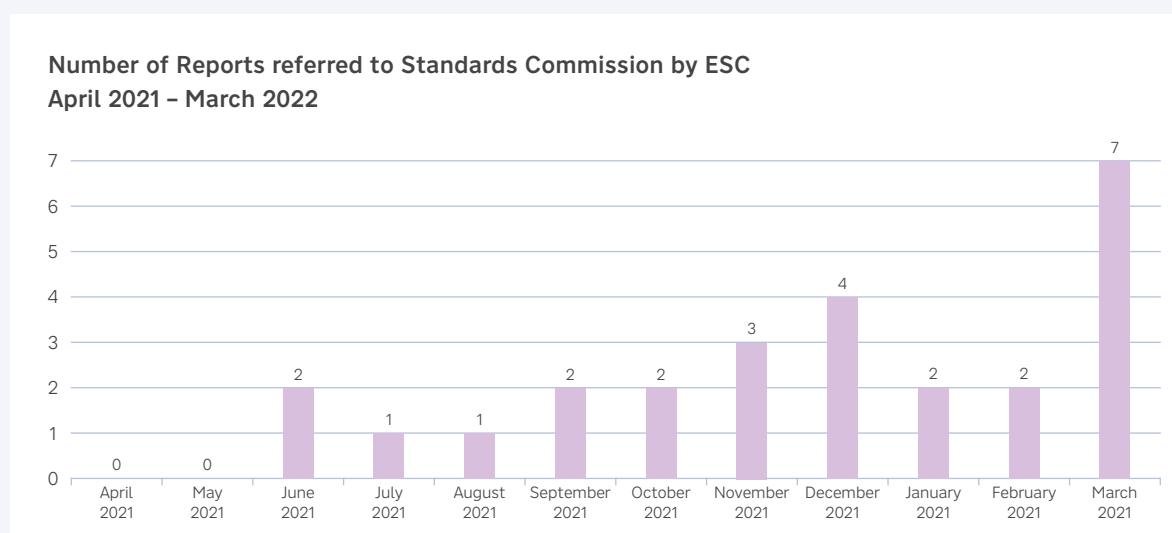
Table 6: Standards Commission's Hearings Timescales 2021/22

Report Reference (s)	Date report received	Date of decision to hold a Hearing	Hearing Date	Time between date of decision to hold a Hearing and start of Hearing (in weeks)
LA/AC/3495	20/07/21	26/07/21	05/10/21	10
LA/PK/3477	04/08/21	09/08/21	18/10/21	10
LA/AC/3497	13/10/21	20/10/21	06/12/21	7
LA/Mo/3516	17/11/21	21/11/21	16/02/22	12

A further Hearing, report references LA/R/2257 & 3262, was held in May 2021, after a Sheriff Principal considered an appeal lodged by the Respondent against a decision made earlier by a Panel of the Standards Commission, at a Hearing on 10 September 2020. The Sheriff Principal did not consider, or make any finding, on the Panel's

decisions on breach and sanction, but determined that the Hearing on 10 September 2020 should not have proceeded in the absence of the Respondent. The rescheduled Hearing was then adjourned twice at the request of the Respondent.

The number and timings of referrals made by the ESC, by month, is outlined in the graph below.



SECTION 4: GOVERNANCE & FINANCIAL OVERVIEW 2021/22

This section provides an overview of the Standards Commission's governance arrangements in 2021/22 and its financial performance.

External Audit

Audit Scotland reported on its review of the Standards Commission's governance arrangements and audit of the Standards Commission's 2021/22 annual report and accounts. Audit Scotland's review identified one key audit risk, which required specific audit testing. This was the consideration of the risk of management override of controls in order to change the position disclosed in the financial statements.

Audit Scotland's main findings were that the Standards Commission had appropriate financial planning and monitoring arrangements in place. It further found that appropriate governance arrangements were in place supporting the scrutiny of decisions made by the Standards Commission.

The Audit Report confirmed that the audit procedures did not uncover evidence of management override of controls and that the draft financial statements and working papers were prepared to a good standard. The Audit Report further confirmed that the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework.

The 2021/22 Audit Report will be incorporated in the Standards Commission's audited Annual Accounts, which require to be laid before the Scottish Parliament no later than 31 December 2022.

Internal Audit

The Standards Commission's internal auditor, the SPCB's Head of Internal Audit, reviewed the Standards Commission's governance arrangements. The overall aim of the review was to provide assurance to the Executive Director (as Accountable Officer) and the Standards

Commission via its Audit & Risk Committee that the strength and resilience of the existing governance arrangements are robust and to identify any improvements that could be made to ensure that best practice was achieved.

The internal auditor reported that the overall internal audit conclusion was that satisfactory assurance could be taken from the areas reviewed and the associated frameworks of governance, risk management and control, subject to the implementation of agreed recommendation.

Risk Management

The Standards Commission identifies and proactively manages risks that could impact on its ability to meet its strategic and business objectives. The Standards Commission's Risk Management Policy provides details of the organisation's approach to the management of risk and notes that the aim of the risk management framework is to:

- ▶ Provide the Standards Commission and others with assurance that threats are constrained and managed and that opportunities are appropriately exploited to the benefit of the organisation;
- ▶ Give confidence to those who scrutinise the Standards Commission about the robustness of its corporate governance arrangements; and
- ▶ Enable the Standards Commission to make informed decisions across its functions.

The Standards Commission agreed its Risk Register at the start of the operational year to ensure that risks to the implementation of the strategic and operational objectives were identified going forward. The Risk Register contained a score for each risk, which reflected the likelihood of it occurring and the impact should it occur, in light of the controls in place and actions taken.

The Standards Commission's Audit & Risk Committee reviewed the Risk Register, including the rating value for each risk and the risk tolerance level at each of its three meetings in 2021/22. A report of the review was thereafter provided for consideration by Members at the next available meeting of the Standards Commission.

During 2021/22, the Standards Commission identified the principal risks and uncertainties for the organisation as being, firstly, a loss of confidence in the overall ethical standards framework as a result of:

- ▶ Delays at the investigation stage;
- ▶ A lack of consistency between the Standards Commission and the ESC in their respective approaches to interpreting the Codes and dealing with complaints;
- ▶ The Standards Commission's decisions being inconsistent, unfair, poorly reasoned, disproportionate and / or unclear;
- ▶ A failure by the Standards Commission to adhere to the timescales outlined in its Service Standards and Hearing Rules; and
- ▶ Advice and guidance about the content of, and how to interpret, the Codes of Conduct provided by the Standards Commission to stakeholders being incorrect, insufficient or inadequate.

Work the Standards Commission undertook to mitigate this included holding regular discussions with the ESC on how certain provisions in the Codes should be interpreted. The Standards Commission assisted the Acting ESC with the recruitment of three new investigators to help prevent any undue delays at the investigation stage. The Standards Commission carried out a review of the sanction decisions it had made over the past five years to identify trends and ensure consistency and clarity in reasoning. It also sought feedback on all Hearings and considered any received as part of a standard review at the Standards Commission meeting following the Hearing, so that improvements could be made to policies and processes as appropriate. This review also included analysis and discussion on what went well or otherwise, and what could have been

done differently. A process document to support how the Standards Commission made decisions on cases referred to it by the ESC was developed and published. The aim of the process document is to ensure transparency, by identifying the various scenarios that could arise and by outlining the steps that will be taken by the Standards Commission in its decision-making process.

The number of complaints made and the consequent number of cases referred to the Standards Commission by the ESC is outwith the control of the Standards Commission; however the volume of referrals by the ESC impacts on the resources required to enable the Standards Commission to undertake its statutory functions. While the Standards Commission puts in place controls and identifies actions to mitigate the risks associated with this, it acknowledges that this will always have the potential to impact on its operational effectiveness and its ability to predict the operating budget.

The Audit & Risk Committee was, therefore, able to assure the Standards Commission that all risks had been effectively managed.

Financial Performance

The financial information provided is a summary extracted from the Standards Commission for Scotland's Annual Accounts 2021/22. For further information about the Standards Commission's financial position, a full copy of the Annual Accounts 2021/22 can be found on its website at <http://www.standardscommissionscotland.org.uk/corporate-info>.

The Standards Commission's net expenditure on operating activities for the year ending 31 March 2022 amounted to £320,000 (2020/21, £307,000). The expenditure was divided between staff costs of £228,000 (2020/21, £243,000) and other administrative costs of £92,000 (2020/21, £64,000).

Staff costs include all remuneration paid to both staff and Members. Staff costs reduced by £15,000 as a result of fewer Hearings being held in 2021/22 than in 2020/21, thus reducing the remuneration paid to Members.

An overspend of £18,000 against the agreed budget of £302,000 was the result of the costs of legal advice in respect of an appeal made in 2021/22 against a decision made by the Standards Commission. The legal costs also include a provision of £28,000 in respect of expenses to be reimbursed to the pursuer. The overspend was

partly offset by lower staff costs and lower than expected Hearing related costs (including Member and staff travel and expenses), as all Hearings were held online rather than in person across the country. Savings were also made on public relations, hospitality and catering costs.

Statement of Comprehensive Net Expenditure

	2021-22	2020-21
	£'000	£'000
Administration costs		
Staff costs	228	243
Other Administration costs	92	64
Gross Administration costs	320	307
Net Operating costs	320	307

All amounts relate to continuing activities. There have been no gains or losses other than those recognised in the Statement of Comprehensive Net Expenditure.

Other Administration Costs

	2021-22	2020-21
	£'000	£'000
Fees for legal advice and representation	73	42
Audit Fee	3	3
Information technology costs	1	2
Printing and promotion costs	5	10
General administration costs	4	2
Recruitment	-	2
Members' travel and expenses	-	1
Staff travel and expenses, and staff and members' training costs	6	2
	92	64


SECTION 5: SUMMARY OF CASES

Decisions And Hearings

Summaries of all Decisions and Hearings conducted by the Standards Commission in 2021/22 can be found below. The full written decisions are published online at:

www.standardscommissionscotland.org.uk/cases/case-list

CASE	
LA/CES/3453 – Comhairle nan Eilean Siar	
Date of Referral	29 June 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	2 July 2021
Written Decision	LA/CES/3453
Complaint	The complaint alleged that the Respondent had used disrespectful language while commenting about another councillor.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported that the Respondent had used disrespectful language while commenting about another councillor (Councillor A) in an email to a constituent that amounted to a personal attack on Councillor A. 2. The Acting ESC noted that the Respondent had advised that the remark had been made in a private email to the constituent and he had not intended it to be made public. The Respondent had explained that the constituent had inadvertently sent the email as an attachment to another councillor and that it had been passed subsequently to other councillors. The Acting ESC further reported that the Respondent had apologised timeously to Councillor A, and that Councillor A had accepted the apology in full. 3. In making a decision about whether to hold a Hearing, the Standards Commission took into account both the public interest and proportionality considerations. The Standards Commission noted that there was some limited public interest in holding a Hearing, however, it considered that doing so may result in the wider circulation of the offensive comment which, in itself, may not be in the public interest. 4. On the question of proportionality, the Standards Commission noted that the allegation concerned a single instance of the use of an offensive (albeit not egregious) word, in a private email which was not meant to be made public. Having taken into account the nature of the potential breach, the genuine expression of contrition by the Respondent and the generous acceptance of the apology by Councillor A, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral. It nevertheless reminded the Respondent of the importance of adhering to the respect provision in the Code, in order to ensure public confidence in the role of a councillor and the council itself was maintained.
Sanction	Not applicable



CASE	
LA/Mo/3469 – Moray Council	
Date of Referral	30 June 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	7 July 2021
Written Decision	LA/Mo/3469
Complaint	The complaint alleged that the Respondent had made a disrespectful, inappropriate and gender-based comment during an online meeting.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported that the Respondent had made a disrespectful, inappropriate and gender-based comment, directed at another councillor (Councillor X), during an online meeting of Moray Council’s Education, Communities and Organisational Development Committee. The comment was as follows: “Just to say to Councillor X the Fitlife card for Christmas is a very good gift for his wife, and possibly a lot better than the iron and ironing board combination he got her last year.” 2. In the Respondent’s submissions on the Acting ESC’s report he contested the conclusion that his comment was gender-based, instead stating that it was intended to be a joke regarding his colleague’s unwillingness to part with his cash. The Respondent expressed regret for any offence caused and indicated that, with hindsight, he accepted his comment was perhaps unfortunate and ill-judged. 3. In assessing the public interest in holding a Hearing, the Standards Commission noted that the potential impact or consequence of the alleged breach was that the comment, given its potentially gender-based nature, could cause offence to not only those taking part in the Committee Meeting, but also any members of the public who may have been viewing the public broadcast. Indeed, the making of an informal comment of that nature, even if no offence was intended, in the setting of a Council’s committee meeting has the potential to lower the tone of political discourse and to bring both the role of a councillor and the council itself into disrepute. 4. It further noted that while the Respondent did not accept his conduct could potentially amount to a breach of the Code and had not apologised when asked to do so at the meeting, he had nonetheless accepted that it was inappropriate and ill-judged, thus limiting the need for a Hearing where consideration of the appropriateness or otherwise of the comment may have been discussed. 5. The Standards Commission noted that while the allegation concerned the making of a comment that potentially could be seen as sexist or as having sexist overtones, it was not abusive or egregious in nature, and had not been delivered in an aggressive manner. 6. Having taken into account the nature of the potential breach, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. It determined, therefore, to take no action on the referral. The Standards Commission agreed the Respondent should be reminded of the importance of adhering to the respect provisions in the Code, in all settings, in order to ensure public confidence in the role of a councillor and the council itself was maintained.
Sanction	Not applicable



CASE	LA/E/3517 – City of Edinburgh Council
Date of Referral	21 September 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	27 September 2021
Written Decision	LA/E/3517
Complaint	The complaint alleged that the Respondent had made disrespectful and discourteous comments online.
Decision	<ol style="list-style-type: none"> 1. The complaint related to a tweet by the Respondent in relation to an Edinburgh Evening News article entitled “An Edinburgh journey that took three times longer than it should have done thanks to city council”. The article was also re-tweeted by the Respondent and his comment read, “Women drives the wrong way across City & doesn’t understand how google maps works. What a scoop!” 2. The Acting ESC concluded that the Respondent, in mocking the article and alleging that its author did not understand Google Maps, had behaved in a disrespectful and discourteous manner and the tweet amounted to a contravention of paragraph 3.2 of the Code. The Acting ESC noted, nevertheless, that the Respondent was entitled to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR) and concluded that as the tweet did not contain a comment that was considered to amount to offensive abuse (notwithstanding any personal offence it had caused), the Respondent’s conduct, in posting it, did not justify a restriction on his right to freedom of expression. 3. Having taken into account the nature of the potential breach and the high likelihood of the Respondent’s conduct being protected by an enhanced right to freedom of expression under Article 10 of the European Convention on Human Rights, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.
Sanction	Not applicable



CASE	
LA/E/3504 – City of Edinburgh Council	
Date of Referral	21 September 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	27 September 2021
Written Decision	LA/E/3504
Complaint	The complaint alleged that the Respondent had made disrespectful and discourteous comments online.
Decision	<ol style="list-style-type: none"> 1. The complaint related to a tweet by the Respondent which referred to a news article (which was re-tweeted by the Respondent) reporting on an incident concerning a cyclist being seriously hurt when their bike hit a wire tied to fences across a path in Edinburgh. The Respondent, in his tweet, mentioned the Council’s “Spaces for People” project. 2. While it was considered that the Respondent could have expressed himself in a clearer fashion, the tweet itself was not considered by the Acting ESC to be a gratuitous personal comment towards any of the complainers, nor a comment that amounted to offensive abuse (notwithstanding any personal offence that may have been caused by the tweet). 3. The Acting ESC was satisfied that, despite the way the tweet may have sounded or was perceived, the Respondent’s intention was not to link those campaigning against the Spaces for People project with the criminal behaviour described in the news article. 4. Having taken into account the nature of the potential breach and, in particular, the high likelihood that the Respondent’s conduct would be protected by his enhanced right to freedom of expression under Article 10 of the European Convention on Human Rights, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral. The Standards Commission agreed that the Respondent should be reminded of the importance of adhering to the respect provisions in the Code, in all settings – including social media – in order to ensure that public confidence in the role of a councillor and the council itself is maintained.
Sanction	Not applicable



CASE	LA/AC/3495 – Aberdeen City Council
Date of Referral	20 July 2021
Date of Hearing	5 October 2021 (online)
Date of Decision	8 October 2021
Written Decision	LA/AC/3495
Complaint	The complaint alleged that the Respondents had behaved in a disrespectful manner towards another councillor at a council meeting.
Decision	<ol style="list-style-type: none"> 1. The Hearing Panel heard that it was not in dispute that at a council meeting, which was livestreamed via a webcast, Respondent A referred to the complainer, a fellow councillor, as the “resident sex offender” and suggested that “maybe it is time he realises what everyone else is saying and goes now.” At the same meeting, Respondent B referred to the complainer as a “convicted sex offender” and further stated that his presence was unwelcome. The Panel noted that it was not in dispute that the complainer had been convicted of sexual assault at Aberdeen Sheriff Court. The complainer had subsequently been suspended for 12 months by the Standards Commission. 2. While the Panel accepted that the complainer had been convicted of a sexual offence, it concluded that remarks to the effect that he was unwelcome at the meeting, or as a councillor, would have made him feel uncomfortable at work and offended. As such, the Panel was satisfied that the conduct of the Respondents amounted, on the face of it, to a contravention of the requirement in the Code for councillors to treat each other with respect. 3. The Panel noted, however, that the Respondents’ remarks concerned matters of public interest, namely whether the contribution of a councillor who had been convicted of a sexual offence was welcome and whether that councillor should resign. In such circumstances, the Panel considered that both Respondents would attract the enhanced protection of freedom of expression afforded to politicians, including local politicians, under Article 10 of the European Convention on Human Rights. 4. The Panel determined that the conduct of the Respondents, in making comments to the effect that the complainer, as someone who had been convicted of a sexual offence and was not welcome / should resign, was not sufficiently gratuitous as to justify a restriction on their right to freedom of expression. As such, the Panel concluded that a breach of the Code could not be found. 5. The Panel nevertheless emphasised that the requirement for councillors to behave in a respectful manner towards each other is a fundamental requirement of the Code, as it ensures a minimum standard of debate. The Panel noted that a failure to reach this standard has the potential to undermine the reputation of a Council and, in addition, the public’s confidence in elected members. The Panel welcomed the fact that the Lord Provost had made this point during the meeting in question after the Respondents’ remarks had been made.
Sanction	Not applicable



CASE	
LA/PK/3477 – Perth & Kinross Council	
Date of Referral	4 August 2021
Date of Hearing	18 October 2021 (online)
Date of Decision	21 October 2021
Written Decision	LA/PK/3477
Complaint	The complaint alleged that the wording used in an email by the Respondent could be interpreted as giving occasion for suspicion or appearance of improper conduct.
Decision	<ol style="list-style-type: none"> 1. The Hearing Panel noted that it was not in dispute that the Respondent sent an email to a constituent (which was copied to the complainer), stating, that in relation to a planning matter to be considered at a forthcoming meeting of the Council's Planning and Development Management Committee meeting, the Respondent had included the comment: "colleagues who may be persuaded to ask questions etc on my behalf". The Panel noted that while the complainer was a member of the Planning and Development Management Committee at the time of the email, the Respondent was not. 2. The Panel noted that the Acting ESC argued that the use of the word "persuaded" could give rise to suspicion, or the appearance of improper conduct. The Panel was not convinced, however, that the Respondent's use of the word "persuaded", would necessarily be interpreted as him suggesting that his colleagues on the committee could be pressured or influenced into reaching a certain decision or into doing something wrong. 3. The Panel noted that it may have been helpful for the Respondent, in his email, to have explained that any committee member, having been approached to ask a question at an upcoming committee meeting, would have to be careful not to pre-judge or be seen to be pre-judging the matter. 4. The Panel considered a member of the public, with knowledge of the relevant facts, would be aware that there was nothing to prevent the Respondent or anyone else from asking a committee member to raise a question at the meeting. The Panel did not consider, therefore, that it was reasonable to conclude that an informed member of the public would have any occasion for suspicion or perceive the appearance of any improper conduct. As such, the Panel determined that the Respondent had not breached paragraph 7.4 of the Code.
Sanction	Not applicable


CASE	
LA/AN/3520 – Angus Council	
Date of Referral	28 October 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	3 November 2021
Written Decision	LA/AN/3520
Complaint	The complaint related to the Respondent’s conduct during a meeting of the Council’s Civic Licensing Committee.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported that the complainer, who was present as an objector to an application being considered by the Committee, alleged that while the Respondent, as Chair of the meeting, initially allowed her to speak, he had then refused to let her speak further. The complainer alleged that when she asked if she could speak, the Respondent said “no” and told her, in a ‘demanding’ or rude manner, that she should not repeat anything she had said at a previous meeting. The complainer further alleged that when the Respondent apologised, at the end of the meeting, for its lengthy duration, he had implied this was the result of her behaviour. 2. The Acting ESC reported he was satisfied that the Respondent had refused to let the complainer speak during the meeting, on at least one occasion, however, advised that he had not found the complaints that the Respondent’s tone was rude or demanding, or that he had stated or implied that the length of the meeting was due to the complainer, to be proven. The Acting ESC considered that the Respondent was acting in accordance with the Council’s Standing Orders when he advised the complainer that she could not speak. The Acting ESC further considered that there was no suggestion that material considerations were not taken into account, that the process was unfair, or that any bias had been demonstrated. 3. In assessing the public interest, the Standards Commission noted that a breach of the respect and / or fairness and impartiality provisions in the Code could have the potential to lower the tone of political discourse and to bring the role of a councillor, the role of a Chair, the Council’s committee system and the Council itself into disrepute. In this case, however, the Standards Commission was of the view that, on the face of it, there was no evidence of any such breach of the Code. 4. In considering proportionality, the Standards Commission noted that the Acting ESC had reached the conclusion that the Respondent’s conduct did not amount to a breach of the Code. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion. 5. Having taken into account the above factors, and in particular the fact that it is not satisfied that the conduct as established could amount to a breach of the Code, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.
Sanction	Not applicable






CASE	
LA/DG/3543 – Dumfries and Galloway Council	
Date of Referral	5 November 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	9 November 2021
Written Decision	LA/DG/3543
Complaint	The complaint concerned a post the Respondent shared on Facebook.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported that the Respondent shared a post on Facebook which described the leader of the Scottish Conservative party as a “parasite politician” due to his parliamentary voting record in respect of devolved matters. 2. The Acting ESC reported the use of the term of “parasite politician”, as a descriptor, could be considered discourteous or disrespectful. He noted, nevertheless, that the Respondent was entitled to freedom of expression under Article 10 of the European Convention on Human Rights. The Acting ESC advised that he was satisfied, in the context, that the description was not a personal and gratuitous comment, but instead was political criticism of the leader of the Scottish Conservatives. As such, the Respondent’s conduct, in sharing it, did not justify a restriction on his right to freedom of expression that a finding of a contravention of paragraph 3.2 of the Code would involve. 3. The Acting ESC further reported that the Respondent had indicated that while he believed the post was intended to be satirical in nature, he nevertheless acknowledged, with hindsight, that it could have caused offence. 4. The Standards Commission noted that even if the Respondent’s conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that he would enjoy the enhanced protection to freedom of expression afforded by Article 10, given the post concerned a matter of public interest. 5. The Standards Commission agreed with the Acting ESC that it was very unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent’s right to freedom of expression. 6. Having taken into account the nature of the potential breach and the likelihood of the Respondent’s conduct being protected by his enhanced right to freedom of expression, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral. The Standards Commission agreed that the Respondent should be reminded of the importance of adhering to the respect provisions in the Code, in all settings including social media, in order to ensure public confidence in the role of a councillor and the council itself is maintained.
Sanction	Not applicable

CASE	
LA/AB/3573 – Argyll & Bute Council	
Date of Referral	16 November 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	18 November 2021
Written Decision	LA/AB/3573
Complaint	The complaint concerned an article the Respondent shared on Facebook.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported the complaint alleged that in sharing an article entitled “Stop Chinese Whispering online, headteacher tells parents”, the Respondent had permitted an “inaccurate malicious representation” of a council employee. Two further comments by a third party were made on the Respondent’s post: “In this date (sic) and age, a Head Teacher who uses this kind of language brings shame on this school, community and his Argyll & Bute Council employers. Time for the school to be inspected by HMIE! For the sake of the pupils, parents, community and staff, this cannot be allowed to ‘rumble on’ any more”; and “How long is A&B Council going to do nothing about this?” 2. The Acting ESC noted that the complaint also concerned the Respondent’s response to these comments, which was “Hopefully not for much longer. I have no words!”. The complainer alleged that, in the response, the Respondent had misinterpreted the language used by the headteacher and implied that the headteacher was racist and used racist language. 3. The Acting ESC was of the view that it had not been established that the Respondent’s response or actions in sharing the article lacked respect or courtesy. He further noted that the content of comments and posts from third parties were outwith the control of the Respondent. 4. The Standards Commission considered that even if the Respondent’s conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that she would enjoy the enhanced protection to freedom of expression afforded by Article 10, given the post and comments in question concerned a matter of public interest. 5. The Standards Commission was of the view that it was very unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent’s right to freedom of expression. 6. Having taken into account the nature of the alleged breach, and the likelihood of the Respondent’s conduct being protected by her enhanced right to freedom of expression, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined to take no action on the referral. It nevertheless reminded councillors of the need to comply with the Code when using social media. The Standards Commission noted that councillors should be careful to ensure, when posting comments, that they could not reasonably be perceived to be endorsing the opinions or views of others when they do not intend to do so.
Sanction	Not applicable



CASE	
LA/Fi/3526 – Fife Council	
Date of Referral	1 December 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	8 December 2021
Written Decision	LA/Fi/3526
Complaint	The complaint concerned two tweets and subsequent press articles containing quotes by the Respondent.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported there was no dispute that the Respondent had posted the tweets and supplied the press with the quotes ascribed to her. The first quote given by the Respondent to the press appeared to be directed towards colleagues she had previously accused of bullying, and concerned the overall culture of the Council. 2. The second quote was a general statement remarking that while the Respondent’s Council lacked a formal complaints procedure for elected member conduct, she was grateful to have had an opportunity to be heard, and that bullying should not have to be tolerated by anyone. The Acting ESC found the first part of the statement to be factually correct and concluded therefore that it was not disrespectful. 3. The Acting ESC further reported that the Respondent had provided evidence to support her concerns about the behaviour of some members of the party group in question. As such, there appeared to be a basis for her opinion, regardless of whether her concerns had been investigated or established. 4. The Standards Commission noted that the Respondent’s tweets and press quotes were not directed at any specific individual and did not describe or refer to an individual’s conduct. Instead, they amounted to broad statements highlighting the Respondent’s experiences and her opinions in respect of the adequacy of the system for dealing with allegations of bullying against elected members. The Standards Commission further noted that the Respondent’s tweets and quotes were not offensive or gratuitous in tone or nature. 5. The Standards Commission noted that even if the Respondent’s conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that she would enjoy the enhanced protection to freedom of expression afforded by Article 10 of the ECHR, given that the subject matter of the comments concerned a matter of public interest, being issues of bullying within politics, both at a national and a local level. 6. Having taken into account the above factors, and in particular the fact that it is not satisfied, on the face of it, that the conduct as established could amount to a breach of the Code, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined to take no action on the referral.
Sanction	Not applicable


CASE	LA/DG/3577 – Dumfries and Galloway Council
Date of Referral	6 December 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	9 December 2021
Written Decision	LA/DG/3577
Complaint	The complaint concerned a quote given by the Respondent to a local newspaper regarding the issue of fly-tipping in the locality.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported the complaint related to a quote given by the Respondent to the effect that anyone guilty of fly-tipping should be publicly flogged, which featured in an article published in the Dumfries and Galloway Standard. The complainer considered the Respondent’s statement to be unacceptable, believing the Respondent to be calling for the introduction of illegal and medieval punishments. 2. While the Standards Commission accepted that certain members of the public might find the Respondent’s quote shocking, it noted that the Respondent was entitled to express his opinion and that he had not directed his comment at, or been disrespectful towards, any specific individual. 3. The Standards Commission noted that even if the Respondent’s conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that he would enjoy the enhanced protection to freedom of expression afforded by Article 10 of the ECHR, given that the subject matter of the comment concerned a matter of political interest, being issues of fly-tipping in the local area. 4. The Standards Commission agreed with the Acting ESC that it was very unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent’s enhanced right to freedom of expression. 5. The Standards Commission was not satisfied, on the face of it, that the conduct as established could amount to a breach of the Code and concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.
Sanction	Not applicable



CASE	
LA/AC/3497 – Aberdeen City Council	
Date of Referral	13 October 2021
Date of Hearing	6 December 2021 (online)
Date of Decision	13 December 2021
Written Decision	LA/AC/3497
Complaint	The complaint alleged that the Respondent had behaved in a disrespectful manner towards a constituent.
Decision	<ol style="list-style-type: none"> 1. The Hearing Panel heard that it was not in dispute that the Respondent made an unannounced visit to a constituent's property, during the Covid-19 pandemic, in respect of a neighbourhood dispute that had been ongoing for over a year. 2. Having listened to an audio recording made of the meeting, the Panel determined that while it may not have been the Respondent's intention, some of the comments made to the constituent were accusatory and confrontational. The Panel was of the view that the Respondent should have been more careful in her choice of words, given her position of authority and responsibility. The Panel was satisfied, on balance, that when considered as a whole, the Respondent's conduct amounted, on the face of it, to a contravention of the requirement under paragraph 3.2 of the Code for councillors to treat members of the public with courtesy and respect. 3. The Panel noted, however, that the Respondent's remarks had been made in context of her visiting a constituent to discuss another constituent's concerns about a neighbourhood dispute that involved council land and the use of CCTV. The matter in question was already the subject of engagement by the police, council services and at least four separate households. In the circumstances, the Panel considered that the Respondent would attract the enhanced protection of freedom of expression afforded to politicians, under Article 10 of the European Convention on Human Rights, when they are discussing matters of public concern. 4. The Panel determined that the Respondent's conduct was not sufficiently offensive or gratuitous as to justify a restriction on her right to freedom of expression. As such, the Panel concluded that a breach of the Code could not be found. The Panel nevertheless emphasised that the requirement for councillors to behave in a respectful and courteous manner towards members of the public is a fundamental requirement of the Code, as it protects the public and ensures that public confidence in the role of an elected member and the council itself is not undermined.
Sanction	Not applicable




CASE	LA/AC/3545 – Aberdeen City Council
Date of Referral	9 December 2021
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	15 December 2021
Written Decision	LA/AC/3545
Complaint	The complaints concerned quotes given by the Respondents (two councillors) that appeared in a press article.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported the complaints related to quotes given by the Respondents that appeared in an article in the Press & Journal concerning protests that took place in Glasgow in respect of deportation proceedings being undertaken by the Home Office. The complainer considered the Respondents’ comments to be unacceptable as they demonstrated support for individuals blocking UK Government officials from carrying out their duties. 2. The Acting ESC found there was nothing in the article that could be construed as being disrespectful or discourteous. The protest referred to in the article was a peaceful, non-violent protest with no arrests and no criminal activity, and the quotes from the Respondents were simply intended to demonstrate that they welcomed everyone in their community and hoped that others would too. 3. The Standards Commission noted the Respondents were fully entitled to express their opinions and agreed with the Acting ESC that their quotes were neither discourteous nor disrespectful in either content or tone. 4. The Standards Commission agreed with the Acting ESC that it was highly likely that the Respondents would enjoy the enhanced protection to freedom of expression afforded by Article 10 of the ECHR, given that their quotes concerned matters of political interest. It was very unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondents’ enhanced right to freedom of expression. 5. The Standards Commission was not satisfied that the conduct in question could amount to a breach of the Code and that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.
Sanction	Not applicable.



CASE	
LA/AC/3592 – Aberdeen City Council	
Date of Referral	25 January 2022
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	28 January 2022
Written Decision	LA/AC/3592
Complaint	The complaint concerned the Respondent’s conduct during an online meeting of the Community Planning Aberdeen Board.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported that it was not in dispute that during the recording of the online meeting, which was streamed on YouTube, the Respondent could be heard saying that he was ‘listening to folk who could bore for Scotland’. The Respondent was off-screen talking to someone who was not a meeting attendee. When the Respondent was later called to contribute and another elected member explained that he had been overheard, the Respondent apologised, explaining that he had dropped out and re-joined the meeting and had failed to mute his microphone. 2. The Acting ESC further reported the Respondent had advised that his comment had been directed at the council leader, not anyone else present at the meeting. There was insufficient evidence to support a conclusion that the comment was directed at any council employee. As such, the Acting ESC did not consider paragraph 3.3 of the Code had been breached. 3. The Acting ESC found as the Respondent did not intend for his private conversation to be overheard and had subsequently apologised, and given the nature of the comment was not so offensive to be disrespectful or discourteous, his conduct would not amount to a breach of the Code. In any event, it was likely that the Respondent would be protected by the enhanced right to freedom of expression afforded by Article 10 of the European Convention on Human Rights (ECHR), as his comment had been made the context of a matter of public concern; namely a meeting at which the Council’s response to the pandemic was being discussed. 4. The Standards Commission agreed with the Acting ESC that it was very unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent’s right to freedom of expression. 5. The Standards Commission was not satisfied that the conduct could amount to a breach of the Code and that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral. The Standards Commission nevertheless reiterated that the requirement in the Code for councillors to conduct themselves with courtesy and respect helps ensure public confidence both in their role and the council itself. This includes when they are in meetings and engaged in online activity.
Sanction	Not applicable


CASE	
LA/Mo/3516 – Moray Council	
Date of Referral	17 November 2021
Date of Hearing	16 February 2022 (online)
Date of Decision	21 February 2022
Written Decision	LA/Mo/3516
Complaint	The complaint alleged that the Respondent had made disrespectful comments online.
Decision	<ol style="list-style-type: none"> 1. The Hearing Panel heard that the Respondent had posted four tweets relating to a fellow politician moving to another political party. The Panel found that the Respondent had made personal comments about the politician and his wife (the complainer) in the publicly available tweets. 2. The Panel noted that the tweets included making a comparison between the complainer and an activist suspended by another political party for mocking, on Twitter, the First Minister's experience of suffering a miscarriage. The Panel considered that making a comparison between the complainer and someone who had supported such an offensive view was a wholly inappropriate and discourteous personal comment. 3. The Panel was of the view that the Respondent's conduct in doing so was unacceptable, because it lowered the standard of public debate and, further, had the potential to erode public confidence in the role of an elected member. 4. The Panel found that certain of the Respondent's comments met the threshold for a breach of the respect and courtesy provision in the Code. However, the Panel was satisfied that the Respondent's comments had been made in the context of tweets about political matters and, as such, concerned matters of public interest. In the circumstances, the Panel considered that the Respondent would attract the enhanced protection to freedom of expression afforded to politicians, including local politicians, under Article 10 of the European Convention on Human Rights. The Panel accepted that the Courts have held that the less egregious the conduct in question, the harder it would be for a Panel, when undertaking its balancing exercise, to justifiably conclude that a restriction on an individual's right to freedom of expression is required. 5. The Panel noted that that, in a political context (which includes matters of public concern), a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated. The Panel further noted that the Courts have further held that comments in the political context, that amount to value judgements, are tolerated, even if untrue, so long as what was expressed was said in good faith and there was some reasonable (even if incorrect) factual basis for making such comments. 6. The Panel considered that the comments the Respondent made in respect of the complainer and her husband were value judgements. The Panel had no reason to doubt such value judgements had been made in good faith, even if they were accurate or not. 7. The Panel was of the view that the Respondent's comment in respect of the comparison with the activist were not sufficiently offensive, polemical and gratuitous as to justify a restriction on her right to freedom of expression. This was because the Panel was ultimately satisfied that the Respondent was attempting to draw an analogy in terms of her opinion about the extremity of the complainer's views, albeit she had done so in a clumsy manner. As such, the Panel concluded that a breach of the Code could not be found. 8. The Panel nevertheless emphasised that the requirement for councillors to behave in a respectful and courteous manner towards members of the public is an absolutely fundamental requirement of the Code, because it protects the public and ensures that public confidence in the role of the elected member and the council itself is not undermined.
Sanction	Not applicable



CASE	
LA/H/3515 – Highland Council	
Date of Referral	8 December 2021*
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made following completion of further investigation
Date of Decision	7 March 2022
Written Decision	LA/H/3515
* The Standards Commission directed the Acting ESC to carry out further investigation 14 December 2021. The Acting ESC concluded his further investigation 25 February 2022.	
Complaint	The complaint alleged that the Respondent shared the complainer’s personal mobile number with the press, without the complainer’s knowledge or consent.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC advised that he had two competing accounts of the alleged conduct, with no additional evidence at hand to support either position and, as such, he was not able to prefer either account. 2. Having previously directed the Acting ESC to undertake further investigation into the matter, the Standards Commission noted that the complainer had not provided any other evidence to support her assumption that the Respondent was responsible for disclosing her mobile telephone number. 3. In the absence of any other evidence, and given it was very unlikely that further substantive evidence would emerge before or during a Hearing, the Standards Commission determined in the circumstances it was not proportionate to hold a Hearing based on such an assumption. The Standards Commission noted that the option to take no action had been included in the Ethical Standards in Public Life etc. (Scotland) Act 2000 to ensure that neither the ethical standards framework, nor the Standards Commission, was brought into disrepute by spending public funds on unnecessary administrative or legal processes in cases that did not, on balance, warrant such action. 4. Therefore, and for the reasons outlined above, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.
Sanction	Not applicable



CASE	LA/NA/3586 – North Ayrshire Council
Date of Referral	2 March 2022
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	7 March 2022
Written Decision	LA/NA/3586
Complaint	The complaint related to an incident which is alleged to have taken place in relation to an ongoing dispute about parking and access in respect of, a public lane.
Decision	<ol style="list-style-type: none"> 1. The complainer alleged that the Respondent intimidated her during a discussion about where she parked her car and alleged the Respondent was “improperly influenced” by a local business owner to revise the regulations relating to the access to the lane in question. 2. The Standards Commission noted the Acting ESC had found that the Respondent was uninvolved in the decision to revise the regulations so there was no question that he could be “improperly influenced” by the local business owner. 3. The Standards Commission further noted that the Acting ESC had reported that, other than her contention that the Respondent had called her into the lane to discuss the parking issue, the complainer had not provided any other indication as to why she considered his behaviour to be intimidatory. 4. Having taken into account the above factors, and in particular the fact that it was not satisfied, on the face of it, that the conduct in respect of either issue could amount to a breach of the Code, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.
Sanction	Not applicable



CASE	
LA/G/3548 – Glasgow Council	
Date of Referral	3 March 2022
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	8 March 2022
Written Decision	LA/G/3548
Complaint	The complaint concerned a tweet the Respondent posted during the Eurovision Song Contest Final.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported the Respondent posted the following comment from a Twitter account from which she was identifiable as a councillor: “it’s ok Europe we hate the United Kingdom too. Love Scotland.” 2. In considering proportionality, the Standards Commission noted that the Acting ESC, in his report, had reached the conclusion that the Respondent’s conduct did not amount to a breach of the Code. Having reviewed the evidence before it, the Standards Commission was of the view that this was a reasonable conclusion. This was because even if the Respondent’s conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that she would be entitled to the protection of freedom of expression afforded by Article 10 of the ECHR, as the comment had been made in the context of the Eurovision Song Contest; being a matter of a public interest. The Standards Commission further agreed with the Acting ESC that it was very unlikely, for the reasons given above, that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent’s right to freedom of expression, that a finding of a breach of the Code and imposition of a sanction would entail. 3. The Standards Commission noted that the Acting ESC reported that, following the tweet, the Respondent made a public apology to anyone she had offended. 4. Having taken into account the above factors, and in particular the fact that it was not satisfied, on the face of it, that the conduct as established could amount to a breach of the Code, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral. 5. The Standards Commission nevertheless reiterated that the requirement in the Code for councillors to conduct themselves with courtesy and respect helps ensure public confidence both in their role and the council itself. This includes when they are in meetings and engaged in online activity.
Sanction	Not applicable



CASE	LA/G/3637 – Glasgow Council
Date of Referral	3 March 2022
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	8 March 2022
Written Decision	LA/G/3637
Complaint	The complaint concerned a tweet the Respondent posted in which she referred to the Prime Minister, Boris Johnson, as “a racist”.
Decision	<ol style="list-style-type: none"> 1. The Standards Commission noted the question of whether the Prime Minister was a racist was a matter of public concern and noted that the issue had been, and continued to be, the subject of political and media comment. As such, the Standards Commission considered that a comment on the matter, as made by another politician, could not be categorised to be gratuitous. 2. The Standards Commission was of the view that the Respondent’s comment amounted to a value judgement. And accepted, given the media coverage and public debate on the issue, that such a value judgement had been made in good faith, whether if it was accurate or not. 3. As such, even if the Respondent’s conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that they would be entitled to the protection of freedom of expression afforded by Article 10 of the ECHR. 4. The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing and determined, therefore, to take no action on the referral.
Sanction	Not applicable



CASE	
LA/SL/3575 – South Lanarkshire Council	
Date of Referral	8 March 2022
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	14 March 2022
Written Decision	LA/SL/3575
Complaint	The complaint related to an incident which was alleged to have taken place in a street where the complainer and the Respondent’s parents lived.
Decision	<ol style="list-style-type: none"> 1. The complainer made a number of allegations against the Respondent, including that he had abused his power as a councillor, had raised his voice and had used abusive language. 2. The Standards Commission noted that the Acting ESC had interviewed a number of witnesses to the alleged incident, the overwhelming majority of whom had confirmed that the Respondent did not refer to himself as the “local councillor”. Two independent witnesses provided accounts that contradicted the complainer’s version of events and supported the version provided by the Respondent and other witnesses. 3. The Standards Commission noted that the Code applies to elected members at all times when: they are acting as councillors; have referred to themselves as councillors; and / or in circumstances where they could reasonably be perceived to be acting as a councillor. In this case, the Standards Commission was satisfied that the two independent witnesses had confirmed that the Respondent had not referred to himself as a councillor during the incident in question. The Standards Commission was of the view that, unless the Respondent had done so, it would not be reasonable for anyone to have perceived him as acting in anything but a private capacity during the incident. This was because the incident did not take place on council premises and did not occur when the Respondent was engaged in or carrying out council business. 4. In the circumstances, the Standards Commission determined that the Code would not have applied to the Respondent at the time of the events in question and, as such, it was not proportionate to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.
Sanction	Not applicable




CASE	LA/AB/3533 – Argyll and Bute Council
Date of Referral	16 March 2022
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made on referral
Date of Decision	21 March 2022
Written Decision	LA/AB/3533
Complaint	The complaint alleged that the Respondent removed another political party’s poster from a pole to which it was affixed.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported although the complainer had not seen the Respondent removing any poster or posters, he advised that he knew of two witnesses who had. 2. The Respondent stated that he saw the “poster” on the ground and picked it up with the intention of taking it home and disposing of it. 3. In removing such an item and taking it home to dispose of, the Acting ESC did not consider that the Respondent acted in an intentionally disrespectful manner, or without courtesy. Additionally, there was no evidence that the Respondent had damaged or defaced the item. 4. The Standards Commission was not satisfied, on the face of it, that the conduct as established could amount to a breach of the Code and concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.
Sanction	Not applicable

CASE	
LA/E/3589 – City of Edinburgh Council	
Date of Referral	27 January 2022*
Date of Hearing	Not applicable – ‘do neither’ (i.e. no action) decision made following completion of further investigation
Date of Decision	21 March 2022
Written Decision	LA/E/3589
* The Standards Commission directed the Acting ESC to carry out further investigation 2 February 2022. The Acting ESC concluded his further investigation on 15 March 2022.	
Complaint	The complaints alleged that the Respondent had deliberately misrepresented a local resident’s group at a council meeting and implied the complainer was the only person concerned about the safety issues on the complainer’s street.
Decision	<ol style="list-style-type: none"> 1. The Acting ESC reported the complaint related to an allegation that the Respondent had deliberately misrepresented a local residents’ group’s (the Group) position on cycle lanes in Edinburgh at a meeting of the council. The complainer is the chair of the Group. 2. There was some disparity between the complainer’s comments at the council meeting, and the Respondent’s interpretation of those comments. Specifically, the Acting ESC highlighted that the complainer had advised that the Group wanted to “work for the safety of all road users”. The complainer had not, as suggested by the Respondent, stated that the Group would be changing its position and campaigning to improve safety in cycle lanes rather than removing them altogether. The Acting ESC considered that in attributing such a position to the complainer, the Respondent had distorted the intended meaning of the complainer’s statement to the council meeting, and as such had misrepresented the complainer’s comments. 3. In considering whether such misrepresentation was deliberate, the Acting ESC noted that the complainer and the Respondent had directly opposing positions on that point – the complainer believing that the Respondent falsely attributed a comment to him because it suited the Respondent’s political agenda, and the Respondent stating that he honestly believed the complainer had a change of heart given the positive manner in which he answered the question posed during his deputation. The Acting ESC was unable to conclude, on the balance of probabilities, that the Respondent deliberately misrepresented the complainer. 4. Furthermore, the Acting ESC noted that even if he had been able to establish that the Respondent had deliberately misrepresented the complainer, that would not have amounted to a breach of the 2018 Code. The Acting ESC considered that such a misrepresentation in these particular circumstances, whether deliberate or not, would not amount to disrespect under the 2018 Code, noting, that in a political setting, that it is often the case that councillors may misrepresent the comments of their political opponents to add weight or credence to their own arguments. 5. Having considered the Initial Report, the Standards Commission considered that it was necessary to direct the Acting ESC to undertake further investigation into certain aspects of the matter. The Acting ESC advised that the findings of the Further Investigation Report did not cause him to change his conclusion, as detailed in the Initial Report. 6. During the course of his further investigation, the Acting ESC advised that details of another incident relating to the Respondent were emailed to his office. As the Acting ESC considered that the email detailed a separate complaint, he proposed that a supplementary report be prepared and referred to the Standards Commission.



CASE	
LA/E/3589 – City of Edinburgh Council	
Decision	<p>7. The complaint detailed in the Supplementary Report related to an allegation by the complainer that the Respondent had incorrectly implied, in a tweet, that the complainer was the only person concerned about the safety issues allegedly associated with the City of Edinburgh Council’s “Spaces for People” scheme measures as implemented on the complainer’s street. In applying the facts of the complaint to the 2021 Code, the Acting ESC noted that it was often the case that councillors misrepresented the positions of their opponents in order to add weight to their own arguments. In any case, the news article attached to the Respondent’s tweet did refer to the claims of multiple residents. The Acting ESC considered, therefore, that anyone viewing the Respondent’s tweet would have access to the full article which contained the complainer’s comments and views, and reference to the claims of multiple residents. As such, the Acting ESC concluded that a breach of the 2021 Code could not be found.</p> <p>8. Having considered the Initial Report, the Further Investigation Report and the Supplementary Report, the Standards Commission was not satisfied, on the face of it and for the reasons given by the Acting ESC, that the conduct as established, taken either separately or as one course of conduct, could amount to a breach of the 2018 and 2021 Codes. The Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.</p> <p>9. The Standards Commission nevertheless reiterated that the requirement in the Code for councillors to conduct themselves with courtesy and respect helps ensure public confidence both in their role and the council itself. This includes when they are in meetings and engaged in online activity.</p>
Sanction	Not applicable





CASE	
LA/DG/3514 – Dumfries and Galloway Council	
Date of Referral	21 February 2022*
Date of Hearing	Not applicable – final ‘do neither’ (i.e. no action) decision made in light of new information
Date of Decision	7 April 2022
Written Decision	LA/DG/3514
* The Standards Commission’s initial decision on 7 March 2022 was to hold a Hearing. A new Section 16 decision was made on 7 April 2022.	
Complaint	The complaint concerned an exchange alleged to have taken place between the complainer and Respondent relating to the local development trust.
Decision	<ol style="list-style-type: none"> 1. Having taken into account both public interest and proportionality considerations, and in particular the serious nature of the allegation, the Standards Commission decided to hold a Hearing. 2. Following receipt and review of the complainer’s complaint form, the Standards Commission noted that the complainer had stated that the Respondent was acting as a representative of a local development trust during the alleged exchange – and not as a councillor. This corroborated the Respondent’s stance that he was not acting as a councillor during the alleged exchange. As such, the Standards Commission elected to reconsider its initial decision to hold a Hearing. 3. In light of the new information, the Standards Commission determined it to be highly unlikely that a Hearing Panel would find that the Respondent was acting, or could reasonably be perceived as acting, as a councillor during the alleged exchange. It therefore followed that it was highly unlikely that the Code applied to the Respondent at the time of the alleged exchange, and that a breach of the Code was unlikely to be found at any Hearing. The Standards Commission therefore determined it was neither proportionate nor in the public interest to hold a Hearing, and that a “no action” decision would be more appropriate in the circumstances. 4. The Standards Commission noted that it was unfortunate that the new information contained in the Complainer’s complaint form had only come to light after it had made its initial decision to hold a Hearing, when the complaint form had been provided by the Acting ESC.
Sanction	Not applicable



CASE	LA/R/2257 & 3262 – Renfrewshire Council
Date of Referrals	27 April 2020 and 16 July 2020
Date of Hearing	3 May 2021 (online)
Date of Decision	10 May 2021
Written Decision	LA/R/2257 & 3262
Complaint	The complaints alleged that the Respondent had bullied, and behaved in a disrespectful manner towards, colleagues and officers.
Preliminary Matters	<p>The Hearing Panel noted that at an Appeal Hearing on 4 February 2021, a Sheriff Principal considered an appeal lodged by the Respondent against a decision made earlier by a Panel of the Standards Commission, at a Hearing on 10 September 2020 on the same two complaints, to find the Respondent in breach of the Councillors’ Code of Conduct and to disqualify him. The Sheriff Principal did not consider, or make any finding, on the Panel’s decisions on breach and sanction, but determined that the Hearing on 10 September 2020 should not have proceeded in the absence of the Respondent, who had informed the Standards Commission that he was self-isolating from 9 September 2020 (having been in close contact with an individual who had tested positive for Covid-19). As such, the Sheriff Principal remitted the matter back to the Standards Commission for a new Hearing Panel to consider afresh the two reported complaints.</p> <p>The Panel noted that while the Respondent, the Acting ESC’s representative and the witnesses had been asked to join the new Hearing, held online on 3 May 2021, at 0900 so that the Standards Commission could check connectivity before the Hearing commenced at 0930, the Respondent had not appeared. The Panel noted that the Respondent had already indicated to the Standards Commission’s Executive Director, by text message on 28 April 2021, that he did not intend to attend the Hearing. After waiting until 0935 to see whether the Respondent would appear, the Panel adjourned to determine whether or not to proceed with the new Hearing in his absence.</p> <p>Having considered carefully several matters, the Panel reached the view that, on balance and in the particular circumstances of the case:</p> <ul style="list-style-type: none"> • the public interest in the expeditious disposal of the matter; • the need to maintain the integrity of the ethical standards framework; and • the overall interests of all the parties (including the Respondent), • outweighed the risk of prejudice or unfairness to the Respondent. <p>As such, the Panel decided it should proceed with the Hearing in the Respondent’s absence.</p>

CASE	LA/R/2257 & 3262 – Renfrewshire Council
Decision	<ol style="list-style-type: none"> 1. In the first complaint, the Panel found that the Respondent had made a number of serious and unfounded allegations about the allocation of a council property to the family member of another councillor. The allocation was the subject of a review by the Council's Chief Auditor and then Audit Scotland, who concluded that the Council property was appropriately let and that there was no influence, or opportunity for influence, over the selection process, by any elected member. Despite this, and without any evidence to the contrary, the Respondent had embarked upon a course of conduct in which he made wholly unwarranted accusations of corruption and cronyism, and of covering up criminal activity, towards the other councillor, the Chief Executive and senior Council staff. 2. The Panel accepted that the Respondent was entitled to raise concerns about the allocation of council housing, particularly if he was doing so on behalf of a constituent. However, having heard evidence, reviewed emails sent to other councillors, senior officers and a journalist over a period of some seven months in 2019, and watched a video recording of comments made in public at a Council meeting, the Panel was satisfied that the Respondent had sought repeatedly to allege serious wrongdoing by a widening number of individuals. The Panel noted that the Respondent had not produced any evidence to support his claims at any stage. 3. The Panel was satisfied that the Respondent's accusations amounted to offensive and abusive personal attacks and were persistent and unwarranted. The Panel also considered that, in copying in all elected members to some of the emails, in sending one to a newspaper and in making comments at full Council meetings, the Respondent had sought to inflict reputational harm. 4. In the second complaint, the Panel was satisfied that the Respondent had made a number of gratuitous and unwarranted personal comments to a second councillor in an email. In addition, the Panel found that the Respondent had made threatening and intimidating remarks in that email in making reference to someone going to the councillor's house and inflicting personal harm on him. 5. The Panel found that the Respondent's actions contravened the Councillors' Code, which states that elected members must treat officers and their colleagues with respect, that they must avoid any conduct that amounts to bullying and harassment; and that they should refrain from raising matters relating to the conduct or capability of officers in public. 6. The Panel concluded that the Respondent's behaviour amounted to a contravention of paragraphs 3.2, 3.3, 3.5, 3.6, 3.7, and paragraphs 2 and 20 of Annex C of the Code.





CASE	LA/R/2257 & 3262 – Renfrewshire Council
Sanction	<p>The Panel disqualified the Respondent from being, or from being nominated for election as, or from being elected, a councillor for a period of 16 months. In reaching its decision, the Panel:</p> <ol style="list-style-type: none"> 1. Noted that despite being provided with an opportunity to do so and repeatedly reminded of this opportunity on a number of occasions, the Respondent failed to offer any submissions in mitigation. 2. Was especially concerned that the Respondent had continued to subject senior officers to repeated and unmerited abuse, despite them having agreed to review the housing allocation matter. The Panel was concerned about the scale and seriousness of the allegations made, particularly in the context of the Respondent having not provided any evidence to support his accusations and the officers having no right of public reply. 3. Noted that there had been two previous contraventions of the Code by the Respondent. The Respondent had been suspended for three months in October 2016 and then for seven months in October 2017, both for breaches of the respect provisions in the Code. The Panel further noted that there was no evidence of any understanding, reflection, insight and/or acceptance by the Respondent in relation to his actions. The Panel considered this failure was exacerbated particularly when the earlier contraventions were taken into account and led it to the conclusion that the Respondent had failed to learn from the previous two suspensions. There was no evidence that the Respondent had made any attempt to moderate his behaviour or indeed to consider how it could impact others. 4. Noted that the breaches of the Code arose from a course of conduct, of a repeated nature, that took place over a lengthy period of time, having occurred as part of deliberate conduct. The Panel was satisfied, on the balance of probabilities, that the nature of the emails and in-person attacks were such that the conduct was intended to be disrespectful, to cause offence and to harass. 5. Considered it was likely that the Respondent’s behaviour would have seriously undermined public confidence in local government and had a significant detrimental impact on working relationships within the Council. The Panel did not consider, therefore, that a more lenient sanction than disqualification was appropriate in the circumstances.
Further Appeal to Sheriff Principal	<p>At a Hearing on 31 August 2021, the Sheriff Principal considered an appeal made by the Respondent against the decision on sanction noted above.</p> <p>The Sheriff Principal refused the Respondent’s appeal, which was submitted on the grounds that the sanction was excessive and unreasonable.</p> <p>The Sheriff Principal stated that there was “no error which entitles this court to interfere with the conclusion of the [Standards Commission] and that they have exercised their discretion in a reasonable manner”.</p>
Appeal to Court of Session	<p>At a Hearing on 2 March 2022, the Court of Session considered an appeal made by the Respondent against the decision in the Further Appeal to the Sheriff Principal noted above.</p> <p>The Court determined that the disqualification period should be to 10 months, reduced to account for the period already served.</p> <p>Nonetheless, the Court stated that it agreed with the Panel’s assessment that a disqualification was an appropriate sanction and noted: “that these were serious breaches; that the appellant had no basis for the allegations he was making; that they constituted gratuitous personal abuse; that the breaches were deliberate in nature, intended to be disrespectful, to cause offence and to harass; that the appellant had no insight, and had failed to learn from two prior suspensions imposed for breaching the code, thus raising issues about the prospect of repetition; that the breaches included not just discourtesy, disrespect and abuse towards other councillors, but involved intimidation and harassment of council employees; and that the breaches had the potential to disrupt working relations and pose a threat to the council’s reputation and to the role of elected representatives. In short, the panel was fully entitled to reach the conclusion that the only appropriate sanction was disqualification, and that the disqualification ought not to be brief”.</p>



INTEGRITY IN PUBLIC LIFE

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