

STANDARDS

INTEGRITY

RESPECT

The Standards Commission for Scotland

ANNUAL REPORT 2018/19



INTEGRITY IN PUBLIC LIFE



Integrity in public life

Contents

1	Executive Summary	04
2	Standards Commission for Scotland	08
	<i>Key Principles</i>	09
3	Performance Summary	13
	<i>Meeting Our Strategic Objectives</i>	14
4	Case Statistics	18
5	Summary of Hearings	23
6	Governance and Financial Overview	35

Executive Summary

Whilst robust debate is a feature of public life, particularly in environments where party politics exist, this should not be a shield for sexism, bullying or harassment to hide behind.



I am pleased to present the Annual Report of the Standards Commission for Scotland ('the Standards Commission'), which covers the period from 1 April 2018 to 31 March 2019.

The Standards Commission's objectives are outlined in our Strategic Plan 2016-20, and this Report summarises the progress we have made towards delivering and achieving the stated aims in the penultimate year of the Plan. The Standards Commission's Strategic Plan for 2016-20 can be accessed on our website at: www.standardscommissionscotland.org.uk.

Overview

The past year was another busy one for the Standards Commission, but I am pleased to report that we achieved all our operational objectives within our agreed budget.

In terms of our adjudicatory remit, we held and concluded eight public Hearings in 2018/19 to determine whether there had been a breach of a Code and, if so, to impose a sanction (further details on these can be found in Sections 4 and 5 of this Report). We noted that while there are many more board members than councillors in Scotland, the vast majority of the cases referred to the Standards Commission in the past five years have concerned allegations of breach by councillors, as opposed to members of public bodies, with all the Hearings held in 2018/19 being about councillors. This was despite anecdotal and on-the-record evidence from elsewhere suggesting that significant failings have occurred, in the recent past, on boards of devolved public bodies.

In order to try to determine whether the lack of complaints about members of devolved public bodies was the result of a high level of adherence to the Codes of Conduct or whether instances of poor conduct were simply going unreported, the Standards Commission, conducted a survey in 2018/19 of members and chairs of the boards of public bodies (including national, regional, NHS boards, Health & Social Care Integration Joint Boards, further education colleges and regional transport partnerships). We received a substantial (299) number of responses to the survey and were pleased to note that the majority of the board members we surveyed said they are not aware of any failings that could give rise to a complaint. The responses suggested, however, that there was a reluctance amongst board members to complain even where possible breaches occur, which raised concerns that unacceptable behaviour, including bullying, harassment and disrespect, may be going unchallenged. In total, 16% of board members reported having witnessed – or experienced – poor behaviour including bullying and disrespect. We were particularly concerned about the responses coming from health boards and integration joint boards, which show the highest incidence of disrespectful behaviour (25%). While it was not clear why this is the case, members of these bodies also reported the lowest sense of collective responsibility and the least satisfaction with training on the Codes when compared to other public bodies.

Overall, almost half of the respondents to our survey across all public bodies, said that they would be reluctant to complain formally. The reasons given ranged from fear of losing their role to concerns that no action will be taken. Even more worryingly, some stated they would rather resign than speak up.

Why this matters, in our view, is because the culture of a board can play a pivotal role in whether individuals feel comfortable making complaints and calling out behaviour they believe is unacceptable. Whilst robust debate is a feature of public life, particularly in environments where party politics exist, this should not be a shield for sexism, bullying or harassment to hide behind.

If the #MeToo movement has taught us anything, it is that poor behaviour should not be tolerated or ignored. If ‘bad’ behaviour is going unchecked, then public bodies in Scotland are not promoting a culture of respect and inclusivity. The consequence will be competent but undermined, members will leave and able candidates could be discouraged from applying.

Even more specifically, the Scottish Government’s guidance to members and chairs on public boards, encourages ‘constructive challenge’. If dissenting opinions are being dismissed or suppressed, the challenge role that Board members are expected to play on public bodies, is diminished and could lead to failings in oversight and even service delivery.

Our task now as a Commission, along with Board Chairs and Ministers, is to promote a Board culture which is respectful but also where members are assured of their right to challenge and complain where conduct falls short of the standards expected. We have proposed successfully to Government to include in the Codes of Conduct specific provision that bullying and harassment is unacceptable and that any such behaviour would be found to be a breach.

Key Achievements

The Standards Commission continued its work in promoting the highest standards of conduct and increasing awareness of, and compliance with, the ethical standards framework. This included running a workshop for members of health & social care integration joint boards to help ensure they were aware of how to identify, manage and declare any conflicts of interest; that they know how to comply with any confidentiality requirements; and that, where they are members of more than one organisation, they fully understood the capacity in which they were acting and how to act in the best interests of each body.

We also held two regional roadshows in Perth and Airdrie for elected members on the Councillors' Code of Conduct. The roadshows provided attendees with the opportunity to ask questions on how certain provisions in the Code should be interpreted and to advise them about decisions made at recent Hearings. In addition, it provided attendees with an opportunity to discuss illustrations and examples, which were aimed at helping them to relate the obligations under the Code to the scenarios they face and the situations they could find themselves in.

We also sought to assist councillors and members of devolved public bodies to comply with the provisions in their respective Codes of Conduct by answering queries and circulating quarterly professional briefings, which provide an overview of work being undertaken and key learning points from Hearings held. We have continued to use our website and social media to promote our work and the ethical standards framework. This included producing and uploading videos explaining the key principles of public life and developing and disseminating a British Sign Language video explaining our role and remit, and how a complaint about a councillor or member of a devolved public

body can be made. You can follow us on Twitter, using the handle [@standardscot](https://twitter.com/standardscot) and on Facebook at www.facebook.com/StandardsCommission/.

Other work to promote adherence to the Codes of Conduct included:

- issuing an Advice Note for Councillors on how they can distinguish between their strategic role and any operational work.
- updating our guidance and producing an Advice Note for elected members, which is aimed at increasing awareness of, and compliance with, the new provision in respect of bullying and harassment.
- disseminating a flowchart for councillors on how to identify and make declarations of interests,
- providing a card for elected members, describing the extent to which they can assist constituents, to help them manage their constituents' expectations and why certain actions could lead the councillor in question to be in breach of the Councillors' Code.

In terms of our Hearings work, we have continued to work towards making our adjudication procedures even more transparent by:

- outlining how the Standards Commission makes any decision to hold a Hearing, or part of it, in private; and the procedures it will follow in doing so.
- publishing a policy on how the Standards Commission will decide to impose an interim suspension on a councillor or member of a devolved public body, on receipt of an interim report from the Ethical Standards Commissioner (ESC) about an ongoing investigation.
- adding a flowchart to our Rules, which provides an overview of the process that will be followed at our Hearings.

We have continued to streamline our internal procedures, which has resulted in the average time taken from receipt of a report from the ESC to the issuing of the written decision (following the conclusion of a Hearing) reducing from 16 weeks in 2016/17, and 12 weeks in 2017/18, to 10.5 weeks in 2018/19. The average cost per Hearing is 55% lower than it was in 2016/17.

New Members

The Standards Commission was pleased to welcome two new Commission Members, Mr Paul Walker and Ms Ashleigh Dunn, who commenced in post on 7 May 2018 and 4 March 2019, respectively.

Mr Walker is a University of Glasgow graduate, and has also a MBA degree from Strathclyde University. Now a CEDR Accredited Mediator and a member of the Chartered Institute of Arbitrators, he has brought relevant experience to the Standards Commission from his work in judicial and quasi-judicial environments, including as a member of the General Teaching Council for Scotland's "Fitness to Teach" panel and the Law Society of Scotland's Rules, Waivers and Guidance Sub-Committee.

Ms Dunn is an experienced Executive Director in public services and charity Trustee, specialising in organisational and leadership development. She is a graduate of the University of Edinburgh and a Chartered Fellow CIPD. Ms Dunn has over 20 years' experience in NHS management, across the UK, holding a number of Executive posts. Her last role in health was as Head of Leadership Development for NHS Scotland.

Ms Dunn was appointed following the end of tenure of another Member, Mrs Lindsey Gallanders, in February 2019. I would like to take this opportunity to thank Mrs Gallanders for her substantial contribution to the Standards Commission, which has helped ensure it made significant progress during her tenure.

Looking Forward

In addition to the Standards Commission's work in promoting the importance of having a respectful culture, we intend in the next year to work with the Scottish Government to review the Codes of Conduct to ensure that they remain relevant and fit for purpose.

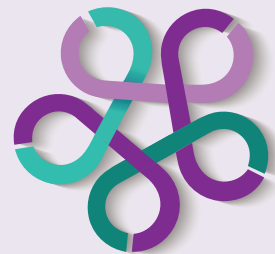
The Standards Commission welcomed the appointment of the new ESC, Caroline Anderson, following the end of the previous ESC's tenure. We look forward to discussing matters of common interest and in particular how we can make the process from making a complaint to final adjudication as streamlined as possible and to further decrease the timescales involved.

We consider it is difficult to measure the impact of our work as, even if we are successful in our activities in promoting the ethical standards framework and in holding Hearings to adjudicate on potential breaches of the Codes of Conduct, there may not necessarily be a decrease in the number of complaints received by the ESC or cases referred for adjudication. So we intend to undertake some research into whether the holding of a Hearing has any substantive impact in terms of increased awareness of the provisions in the Code amongst, or requests for training from, other members of the Respondent's Council/devolved public body.

The Standards Commission will develop its Strategic Plan for 2020/24 in the forthcoming year. We will formally consult on this in due course but, in the meantime, would welcome any suggestions on how the Standards Commission can continue to improve and promote the ethical standards framework.



Professor Kevin Dunion OBE
Convener



About Us

Principles of Public Life

In 1995, the Committee on Standards in Public Life (the Nolan Committee) identified seven principles of conduct underpinning public life and recommended that public bodies should draw up Codes of Conduct incorporating these principles.

The seven Nolan Principles were:

- **Selflessness**
- **Integrity**
- **Objectivity**
- **Accountability**
- **Openness**
- **Honesty**
- **Leadership.**

The then Scottish Executive took the Nolan Committee recommendations one step further with the introduction of the Ethical Standards Act, which brought in statutory Codes of Conduct for Councillors and Members of Devolved Public Bodies.

The Scottish Executive also identified nine key principles underpinning public life in Scotland, which incorporated the seven Nolan principles and introduced two further principles, which are:

- **Duty (Public Service)** and
- **Respect.**

The Codes of Conduct are based on the nine key principles of public life.

Councillors

The Councillors' Code of Conduct applies to all the elected members of every Council in Scotland.

Following a review of the original Councillors' Code of Conduct that was led by the Scottish Government and a consultation exercise, a revised Councillors' Code of Conduct was approved by the Scottish Parliament and introduced with effect from July 2018. It is available online at: www.gov.scot/Publications/2010/12/10145144/0

The Standards Commission provides guidance to Councillors on the revised Code of Conduct. The latest version of this was published and issued to Councillors and Councils in December 2018. The Standards Commission's Guidance on the Councillors' Code of Conduct is available online at: www.standardscommissionscotland.org.uk/guidance/guidance-notes

Members of Devolved Public Body Boards

Each Devolved Public Body covered by the framework is required to have its own Code that is based on the Model Code of Conduct approved by the Scottish Parliament. These individual Codes are also approved by Scottish Ministers.

The Devolved Public Bodies covered by the framework are listed in Schedule 3 to the 2000 Act. Details of all those covered by the Codes of Conduct can be found on the Scottish Government's website at: www.gov.scot/publications/public-bodies-covered-by-the-ethical-standards-framework/

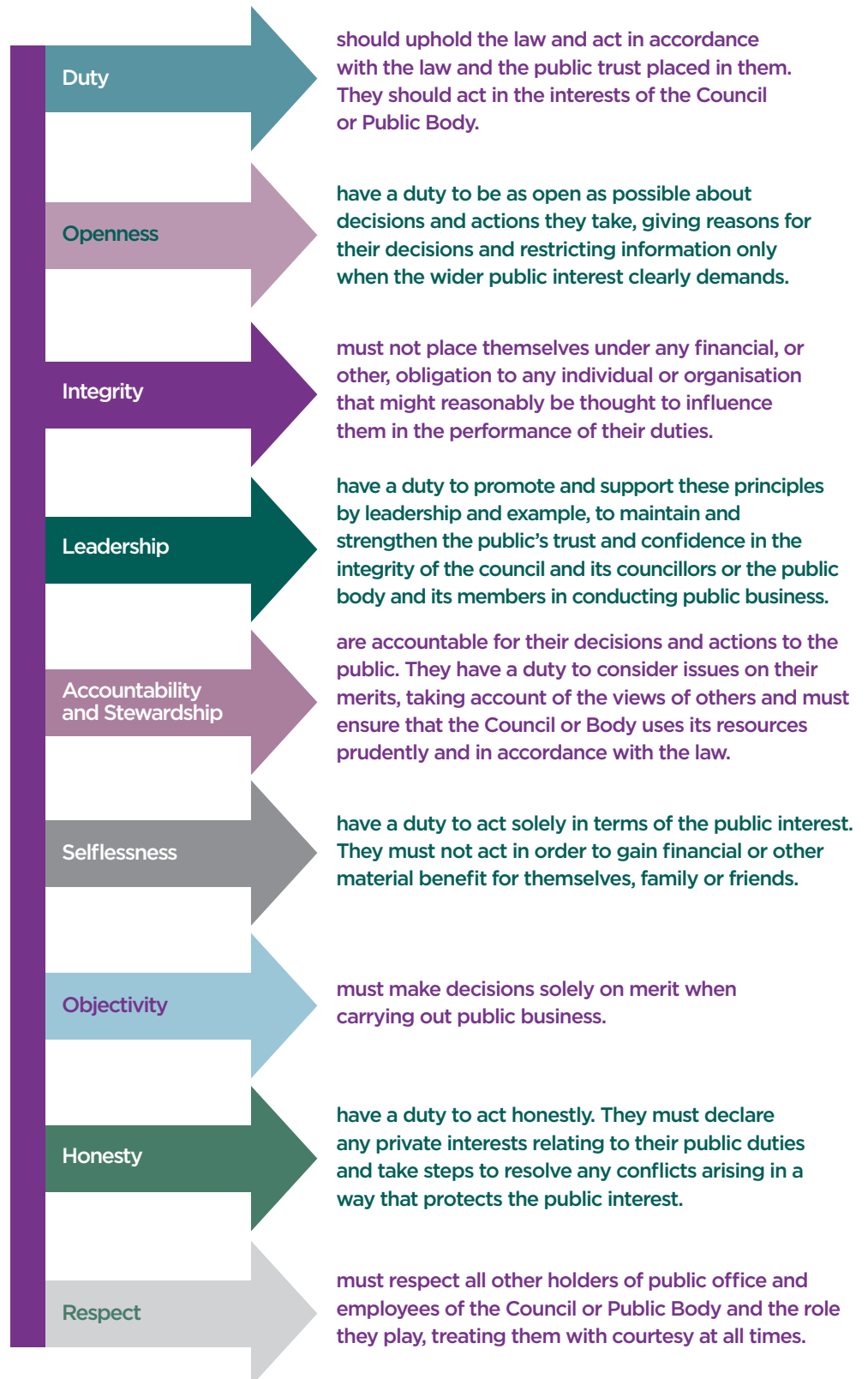
The list of Devolved Public Bodies is under constant revision as bodies are created, abolished and merged.

Following a review of the original Model Code of Conduct that was led by the Scottish Government and a consultation exercise, a revised Model Code of Conduct was approved by the Scottish Parliament and introduced with effect from 3 February 2014. It is available online at: www.scotland.gov.uk/Publications/2014/02/4841

The Standards Commission also provides guidance to Members of Devolved Public Bodies. The Standards Commission's Guidance on the Model Code for Devolved Public Bodies was issued in December 2014 and is available online at: www.standardscommissionscotland.org.uk/guidance/guidance-notes

Key Principles

The Ethical Standards in Public Life etc. (Scotland) Act 2000 ('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. Holders of public office:





Who we are

The Standards Commission is an independent body separate from both the Scottish Government and the Scottish Parliament. Our purpose is to encourage high ethical standards in public life through the promotion and enforcement of Codes of Conduct for Councillors and those appointed to the Boards of Devolved Public Bodies.

The Commission consists of a Convener and four Commission Members who are appointed by the Scottish Parliament, and supported by a team of three staff.



Kevin Dunion OBE
Convener



Ashleigh Dunn



Michael McCormick



Tricia Stewart



Paul Walker



Why we exist

We are a statutory body established under The Ethical Standards in Public Life etc. (Scotland) Act 2000 ('the Ethical Standards Act').

This legislation provides a framework to encourage and, where necessary, enforce high ethical standards in public life.

The Ethical Standards Act created a framework whereby Councillors and Members of Devolved Public Bodies are required to comply with Codes of Conduct. It provides that complaints about breaches of these Codes are to be investigated by the Commissioner for Ethical Standards in Public Life in Scotland (ESC) and adjudicated upon by the Standards Commission.



What we do

We have two key strands of work:

- A proactive educational role around the ethical standards framework, including publishing Guidance on the relevant Codes of Conduct; and
- An adjudicatory role in holding Hearings to decide on alleged breaches of the Codes of Conduct, and where a breach is found, to then determine the appropriate sanction.



What we do not do

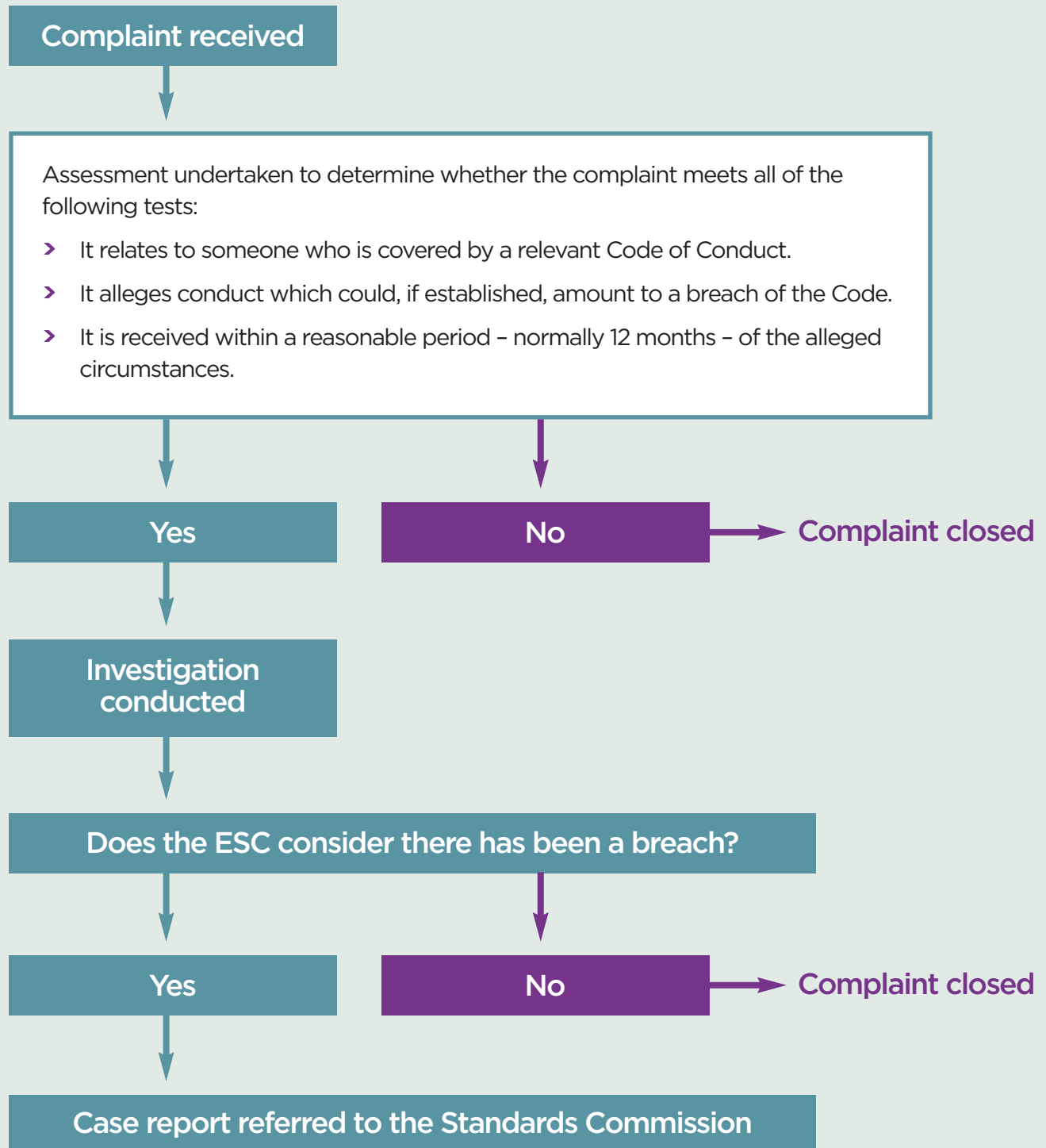
We do not investigate complaints. Complaints must first be investigated by the ESC, which is a separate organisation.

A breakdown of the separate roles undertaken by the ESC and Standards Commission is provided on the following page.

We do not determine, or deal with, complaints about Members of Parliament, Members of the Scottish Parliament or officers of Councils and Devolved Public Bodies. We also do not determine, or deal with, complaints about Councils and Devolved Public Bodies as entities.

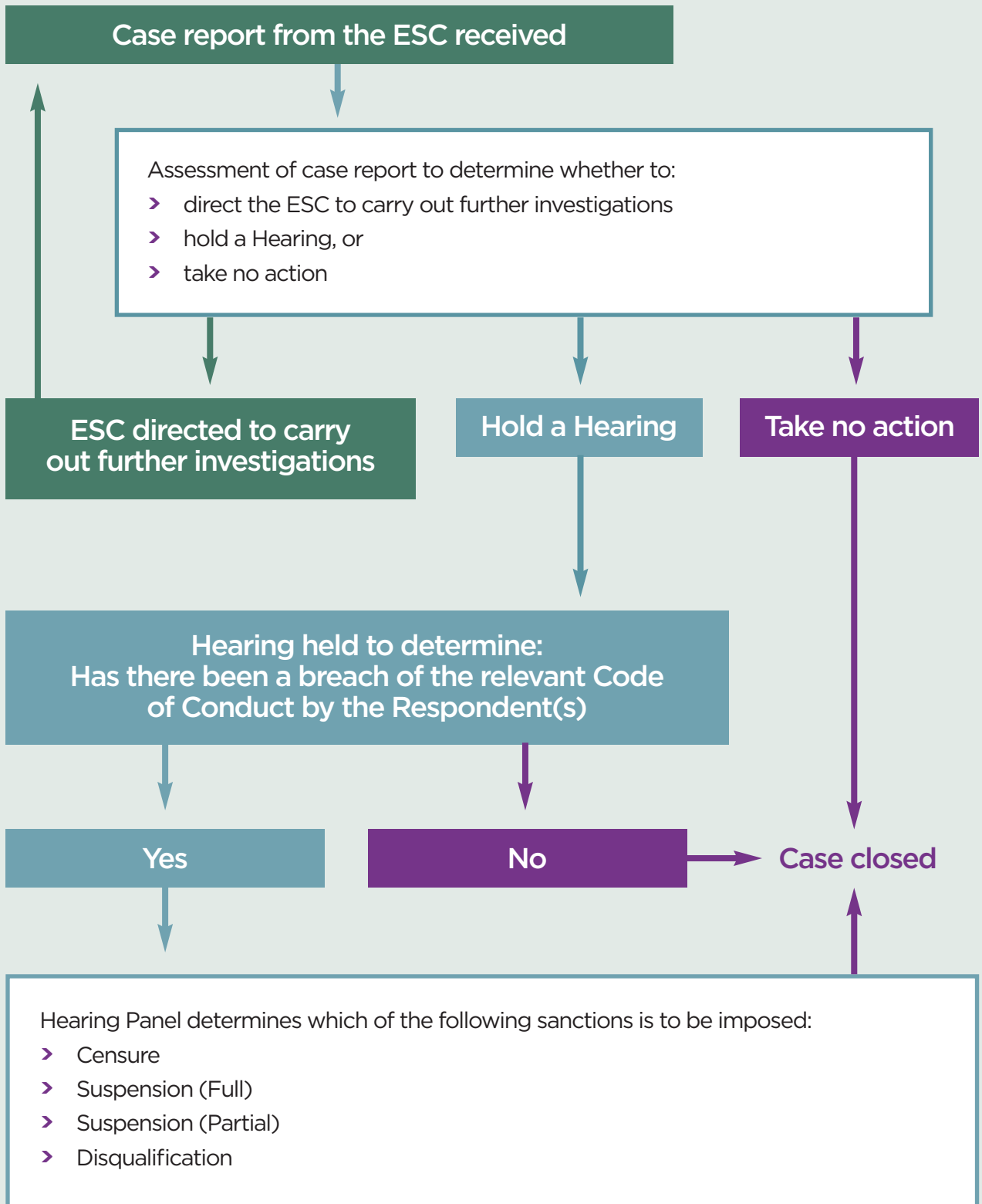
Commissioner for Ethical Standards in Public Life in Scotland (ESC)

Overview of complaint investigation process



Standards Commission for Scotland

Overview of process following referral of report by ESC



Performance Summary

This section highlights the work undertaken in 2018/2019 towards our strategic objectives, as outlined in our Strategic Plan for 2016 to 2020.

Strategic Objectives



Survey of all Members of Devolved Public Bodies undertaken to establish whether the lack of complaints about members of devolved public bodies was the result of a high level of adherence to the Codes of Conduct or whether poor conduct, including disrespectful behaviour, was taking place but going unreported.



Achievement of all statutory objectives and aims outlined in the 2018/19 Business Plan within budget.



Workshop held for Members and Standards Officers of Health & Social Care Integration Joint Boards.

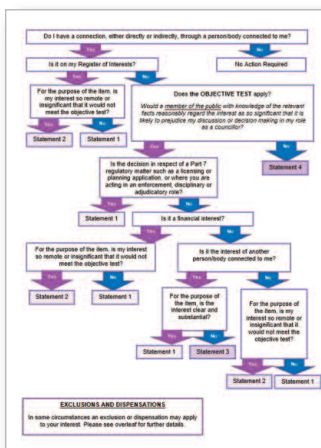
Strategic Objective 1

To provide guidance and support to assist councillors and members of devolved public bodies to act in accordance with the Codes of Conduct.

The Standards Commission identified that actions to achieve this objective would include producing, issuing and promoting relevant, accessible and comprehensive guidance and educational materials for councillors and members of devolved public bodies on the Codes of Conduct and the standards expected of them. It also included providing advice on the interpretation of the Codes to members of the public and stakeholders, including officers of councils and staff of devolved public bodies.

In working to meet this objective in the past year, we:

- produced, issued and published an Advice Note for Councillors on Bullying and Harassment.
- produced and issued a card for elected members describing the extent to which they can assist constituents, in order to help them manage constituents' expectations and raise awareness that agreeing to take certain actions could lead them to be in breach of the Councillors' Code of Conduct.
- published and disseminated a flowchart for Councillors on identifying and making declarations of interest.



- produced, issued and published Advice Notes (for the public and for elected members) on the Role of a Monitoring Officer.
- produced, issued and published an Advice Note for Councillors on Distinguishing between Strategic and any Operational Work.
- held regional roadshows, in Perth and Airdrie, for elected members and senior officers, on the Councillors' Code of Conduct.



Airdrie Roadshow

- held a training workshop for members and Standards Officers of Health & Social Care Integration Joint Boards.
- updated our Guidance on the Councillors' Code of Conduct to reflect amendments made to the Code and to include examples of decisions made at recent Hearings.
- dealt with all enquiries received within the timescales outlined in our Service Charter.
- revised and published training presentations on the Codes of Conduct, which included case illustrations and scenarios.
- issued a dispensation request in respect of Edinburgh and South-East Scotland City/Region Deal partnership.

Strategic Objective 2

To promote the Ethical Standards Framework and recognition and understanding of the Standards Commission's role among the public and stakeholders.

Actions to achieve this objective were identified as promoting the role of the Codes of Conduct in public life, including proactively engaging with the media about the role of the Standards Commission. The Standards Commission further noted that it would engage and consult with councils, devolved public bodies, the ESC and other stakeholders to identify trends and emerging issues to ensure guidance and training materials continued to be fit for purpose.

Our promotional work in 2018/19 included:

- publishing and sharing the results of a survey we undertook of all members of devolved public bodies in Scotland, which was intended to establish whether the lack of complaints about members of devolved public bodies was the result of a high level of adherence to the Codes of Conduct (based on the Model Code of Conduct), or whether poor conduct was taking place but going unreported. We also sought to establish the extent of awareness amongst members of certain provisions in the Codes.
- using the result of the survey to gain media coverage on the importance of having a culture of respect to help ensure good governance and to encourage Scottish Ministers to include a provision about bullying and harassment to the Model Code (similar to one in the Councillors' Code).
- publishing and issuing quarterly Standards Updates, which included news about the work of the Standards Commission and future events, along with information about decisions made at Hearings.
- consulting with the Scottish Government about proposed changes to the Councillors' Code of Conduct and advising Councils and elected members of the amendments that were then agreed.
- providing training material on the Model Code of Conduct and ethical standards framework for inclusion in both the Scottish Government's Governance Hub for Members of devolved public bodies and the College Development Network's Governance and Training Hub.
- holding a workshop in Edinburgh with Monitoring Officers of Councils to identify potential improvements to the Councillors' Code of Conduct.
- holding a workshop in Glasgow with Standards Officers of Devolved Public Bodies to identify potential improvements to the Model Code of Conduct.
- issuing media and press releases in respect of all Hearings held.
- producing and uploading videos explaining the key principles of public life on our website and our social media platforms.
- producing and uploading a British Sign Language video explaining our role and remit and how a complaint about a councillor or member of a devolved public body can be made.
- creating a Facebook page and using it and our Twitter account 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 forthcoming events and decisions made at Hearings).
- our Convener presenting a session on the importance of integrity in public life at a Regulators Scrutiny and Accountability in Scotland conference.
- holding regular meetings with the ESC to discuss opportunities for improvement in respect of interpreting provisions in, and raising awareness of, the Codes of Conduct, and trends and issues that emerged from the complaints and intelligence he received, and from the investigations undertaken.
- meeting with the Committee on Standards in Public Life to assist them with their review of ethical standards in local government in England.

Strategic Objective 3

To enforce the Codes of Conduct in a fair, impartial and efficient manner.

The Standards Commission noted that, in order to meet this strategic aim and undertake its statutory adjudication role in relation to alleged breaches of the Codes of Conduct, it would need to make consistent, fair, impartial and transparent decisions in relation to: whether to hold Hearings; whether a breach of the Codes of Conduct had been established and, if so, the sanction to be applied. The Standards Commission determined that it would require to obtain feedback and undertake regular reviews of the Hearings Process Guide and Rules to ensure Hearings were run efficiently and were transparent, accessible and fair. It agreed that it would need to share learning, experience and knowledge gained from enforcement activities to positively influence future behaviours and conduct.

Our work to achieve this objective in the past year included:

- holding and concluding eight Hearings to determine whether eight Respondents had contravened the Councillors' Code of Conduct. In all cases where the Hearing Panel found that a breach of the Code had been committed, appropriate sanctions were then applied. Further details can be found in Sections 4 and 5 of this Report.
 - holding all Hearings in accordance with the legislative requirements and the Standard Commission's Hearing Rules.
 - issuing and publishing written decisions of all Hearings, which included the reasons why a breach had or had not been found and, if applicable, why a specific sanction had been applied, within 10 working days of the conclusion of the Hearing.
 - reducing the average overall time taken by the Standards Commission from receipt of a report from the ESC to the issuing of the written Hearing decision from 12 weeks to 10.5 weeks. This represents a 34% reduction on the time taken in 2016/17 (the average that year was 16 weeks).
- publishing a policy on how the Standards Commission will make any decision to impose an interim suspension on a councillor or member of a devolved public body on receipt of an interim report from the ESC about an ongoing investigation under Section 21 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.
- publishing a document outlining how the Standards Commission makes any decision under its Rules to hold a Hearing, or part of it, in private; and the procedures it will follow in doing so.
- continuing to conduct surveys of participants and attendees on how Hearings are organised, run and managed. We used any suggestions made, any other feedback obtained, to improve processes and decision-making procedures. This included making revisions to the Hearing Rules and our public information literature, to ensure that they all continued to be accessible and fit for purpose. We also undertook a full internal annual review of how all cases referred to us by the ESC were dealt with.
- continuing to hold pre-Hearing meetings when appropriate and proportionate to do so, in order to resolve any procedural issues in advance of Hearings. This helped to ensure that the focus of the Hearings remained on the production and analysis of relevant evidence and that they were conducted in as fair, impartial and efficient a manner as possible.
- revising, amending and publishing our Guidance for Unrepresented Respondents and Guidance on Relevancy of Evidence.
- reviewing and revising our standard notification of Hearings correspondence to try to make it as clear and understandable as possible.

Strategic Objective 4

To operate in accordance with the principles of good governance and best value.

The Standards Commission identified that actions to achieve this objective included developing the skills and competencies of Members and staff; identifying and taking forward opportunities to work jointly or in partnership with other public bodies; and making good use of resources and striving for operational efficiency, best value and continuous improvement.

In meeting this objective in 2018/19, we:

- monitored and managed expenditure to ensure the Standards Commission met its statutory functions and agreed objectives within its approved funding budget of £262,000.
- conducted a full staffing review and job evaluation exercise to ensure we had the appropriate level of resources in place, before a new member of staff was recruited.
- continued to work on shared services agreements and approaches with the Scottish Parliamentary Corporate Body (SPCB) in respect of accommodation, human resources, information technology and internal audit services. We also agreed a Memorandum of Understanding with the SPCB for the provision of Data Protection Officer support services.
- consulted on, produced and published a British Sign Language Plan in accordance with the British Sign Language (Scotland) Act 2015.
- provided all staff and Members with training on the General Data Protection Regulations (GDPR).
- responded to all Freedom of Information requests within 2 days of receipt.
- ensured compliance with the Scottish Government's best practice requirements on cyber resilience.
- completed the induction of new member, Mr Walker, who attended external training on Effective Audit & Risk Committees.
- assisted in the completion of a range of audits (both internal and external), which gave assurance on the effective governance and efficient running of the organisation. We updated our authorisation processes for expenses in line with a recommendation in the internal audit report.
- provided Commission Members with refresher training on the Councillors' Code of Conduct.
- developed and published a Data Protection Privacy Statement and updated our Data Protection Policy to ensure compliance with the requirements of the Data Protection Act 2018 and the GDPR.
- applied for, and obtained, recognition as a Carer Positive organisation.
- completed a review of our Records Management Plan, which was subsequently approved, following assessment, by the National Records of Scotland as being fully compliant with statutory requirements.
- undertook a review of, and updated, our Risk Management Policy and the Terms of Reference for our Human Resources and Audit and Risk Committees.
- took part in EarthHour Scotland 2019.



Case Statistics

Introduction

Complaints that a councillor or a member of a devolved public body has contravened their Code of Conduct are made to, and considered by, the Commissioner for Ethical Standards in Public Life in Scotland (ESC). If the ESC concludes there has not been a breach of the Code, he/she will advise the Standards Commission accordingly. The Standards Commission does not have the power to take any action in respect of such cases as the ESC's decision is final.

If, following investigation, the ESC concludes there may have been a breach of a Code, he/she will refer the matter to the Standards Commission. On receipt of such a report, the Standards Commission has three options, which are:

- to direct the ESC to carry out further investigations;
- to hold a Hearing; or
- to do neither (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. This can be found on the Standards Commission's website at www.standardscommissionscotland.org.uk/cases.

The Standards Commission will write to the person or persons being complained about (known as 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.

Decisions on Reports

The ESC referred 11 reports to the Standards Commission between 1 April 2018 and 31 March 2019.

The Standards Commission determined that Hearings were to be held in respect of each of these reports.

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 2018 and 31 March 2019

Decision	No. of Reports	No. of Councillors or Members involved in the Reports	
		Councillors	Members
Hold a Hearing	11	13	0
Direct the ESC to carry out further investigations	0	0	0
Do neither	0	0	0
TOTAL	11	13	0

Hearings held in 2018/19

The Standards Commission held eight Hearings between 1 April 2018 and 31 March 2019.

The Hearings held concerned:

- seven of the 11 reports referred to in table 1 (Hearings have been scheduled to be held in 2019/2020 in respect of the remaining four reports); and
- one report where the referral and decision to hold a Hearing had been made before 1 April 2018.

Where the ESC's report concerns two or more Respondents but relates to the same or related events, the Standards Commission will consider the matter at one Hearing in order to make the best use of its resources and to avoid any unnecessary costs. In 2018/2019, the Standards Commission's Hearings involved only one Respondent in each case. The Standards Commission is, however, due to hold a Hearing in 2019/2020 on a report received during 2018/2019, which involves three Respondents.

The table below shows the overall number of Hearings held in 2018/2019.

TABLE 2: Hearings held by the Standards Commission between 1 April 2018 and 31 March 2019

Decision	No. of Reports	No. of Respondents	
		Councillors	Members
Reports referred to the Standards Commission before 1 April 2018 where a Hearing was held before 31 March 2019	1	1	0
Reports referred to the Standards Commission after 1 April 2018 where Hearings were held before 31 March 2019	7	7	0
Total number of Hearings held in 2018/2019 (between 1 April 2018 and 31 March 2019)	8	8	0
Reports referred to the Standards Commission before 31 March 2019 where Hearings have been scheduled to be held after 1 April 2019	4	6	0

Hearings are held in public, unless the Members of the Standards Commission determine that it is appropriate for them to be held in private. All eight Hearings held and concluded in 2018/2019 were held in public.

Decisions made at Hearings

Table 3 outlines the decisions made at the eight Hearings.

TABLE 3: Outcomes of Hearings conducted and concluded by the Standards Commission between 1 April 2018 and 31 March 2019

Decision	No. of Hearings	No. of Respondents involved in cases
Finding of breach	8	8
Finding of no breach	0	0
Total	8	8

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 the Ethical Standards in Public Life etc. (Scotland) Act 2000 to impose a sanction.

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. This includes any committees and sub-committees and also any meetings of any other body of which he/she is a representative or nominee of the council or devolved public body.

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.

Table 4 outlines the sanctions imposed by the Standards Commission at Hearings held between 1 April 2018 and 31 March 2019.

TABLE 4: Sanction decisions made at Hearings between 1 April 2018 and 31 March 2019

Sanction	No. of Hearings	No. of Respondents involved in cases
Not applicable as no breach found	0	0
Censure	6	6
Suspension – full	1	1
Suspension – partial	1	1
Disqualification	0	0
Total	8	8

Appeals

A Respondent may appeal against a finding of breach of a Code of Conduct, if a suspension or disqualification was imposed, as a result of the finding of breach.

One appeal was made and heard in 2018/19. The Sheriff Principal's decision on this was not issued before 31 March 2019.

Timescales

The Standards Commission 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 allows the parties time to prepare, but also ensures that cases are concluded expeditiously.

When scheduling cases, the Standards Commission takes into account the availability of Hearing Panel Members, the parties and potential witnesses. In order to avoid unnecessary costs, the Standards Commission endeavours to hold Hearings within the premises of the relevant council or devolved public body.

This also means that members of the public and press in the local area are able to attend.

The availability of a suitable venue is, therefore, another factor the Standards Commission must consider when determining the date of a Hearing.

The Hearing 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 Hearing Panel will consider the public interest in the expeditious disposal of the case and whether there is any inconvenience or prejudice to the parties and /or witnesses.

TABLE 5: Standards Commission's Timescales 2018/19

Report reference(s)	Date report received from ESC	Date Standards Commission made decision about whether to hold a Hearing	Approx. time between date of decision to hold a Hearing and the start of the Hearing (in working days)	Date(s) of Hearing	Date of written Decision	Approx. overall time taken by Standards Commission (in weeks)
LA/Fi/2050*	06/03/18	06/03/18	0	25/04/18	02/05/18	9
LA/CES/2091	27/04/18	30/04/18	1	03/07/18	04/07/18	11
LA/As/2062	19/06/18	26/06/18	5	28/08/18	30/08/19	11
LA/I/2113	17/07/18	23/07/18	5	21/09/18	28/09/18	10
LA/An/2094	20/09/18	21/09/18	1	19/11/19	22/11/18	10
LA/AB/2125	22/10/18	25/10/18	3	18/01/19	23/01/19	14
LA/An/2134	10/12/18	10/12/18	0	20/02/19	22/02/19	11
LA/As/2173	25/01/19	28/01/19	1	18/03/19	19/03/19	8
LA/SL/2153**	31/01/19	04/02/19	2	Scheduled 2019/20	n/a	n/a
LA/Mi/2166 & 2169**	31/01/19	07/02/19	5	Scheduled 2019/20	n/a	n/a
LA/Fi/2176**	08/02/19	12/02/19	2	Scheduled 2019/20	n/a	n/a
LA/D/2158**	25/02/19	04/03/19	5	Scheduled 2019/20	n/a	n/a

* Report received before 1 April 2018

** Report received before 31 March 2019, with the Hearing scheduled to take place after 1 April 2019.

Summary of Hearings

Summaries of all Hearings conducted during the year are set out below – the full written decisions can be accessed at: <http://www.standardscommissionscotland.org.uk/cases/case-list>

A number of the cases referred raised issues concerning the application of Article 10 of the European Convention on Human Rights (ECHR) and the right to freedom of expression. The Standards Commission for Scotland has produced Advice Notes for Councillors and Members of Devolved Public Bodies on the Application of Article 10 of the ECHR and the approach Hearing Panels will take when issues that concern the right to freedom of expression arise. These can be found at: <http://www.standardscommissionscotland.org.uk/education-and-resources/advice-notes>

Case LA/Fi/2050 Fife Council

Complaint

The complaint alleged that the Respondent had been disrespectful towards a taxi driver who had applied to renew his licence during a meeting of the Council's Regulation and Licensing Committee. In addition, it was alleged that in doing so the Respondent had failed to ensure he had acted fairly, and could be perceived to be acting fairly, when making a quasi-judicial or regulatory decision

Decision

- 1 The Hearing Panel found that the Respondent had made remarks at the meeting to the effect of questioning why women would live with or marry the complainer. The Panel heard that the making of these remarks had been a factor in the success of a subsequent legal challenge brought by the complainer against the Council.
- 2 The Panel found that the Respondent's remarks amounted to a personal attack and were not relevant or appropriate questions to determine whether the complainer was a fit and proper person to hold a taxi licence.
- 3 The Panel was therefore satisfied that the Respondent failed to observe the rules of good conduct by behaving in a respectful manner towards the complainer and had, therefore, contravened paragraphs 3.1 and 3.2 of the Councillors' Code of Conduct.
- 4 The Panel noted that paragraphs 7.3 and 7.4 of the Code provide that councillors must ensure that, in taking decisions on quasi-judicial or regulatory applications, they not only act fairly but must also be seen as acting fairly.
- 5 The Panel accepted that the Respondent may not have pre-judged the application. It nevertheless found that, in making disrespectful comments to, or about, the complainer at the meeting, the Respondent failed to avoid any appearance of having not dealt with him fairly. As such, the Panel further found the Respondent failed to avoid any occasion for suspicion or appearance of improper conduct, which would have reduced the risk of a successful legal challenge against the Council's decision, in breach of paragraphs 7.3 and 7.4 of the Code.
- 6 The Panel concluded that the Respondent had breached paragraphs 3.1, 3.2, 7.3 and 7.4 of the Code.

Case LA/Fi/2050 Fife Council

Sanction

The Panel suspended the Respondent for a period of 2 months from the Council's Regulation and Licensing Committee. In reaching its decision, the Panel:

- 1 Noted the Respondent had co-operated fully with the investigative and Hearing processes. The Respondent further acknowledged that the remarks attributed to him were unacceptable and that the making of such comments were out of character.
- 2 Acknowledged the Respondent's position that his overriding aim at the Committee was to act in the best interests of, and protect, the citizens of Fife.
- 3 Noted the character references submitted on behalf of the Respondent and his contribution to public life as a councillor for 11 years.

However, the Panel:

- 4 Found that the Respondent's comments amounted to a personal attack on a member of the public. The Hearing Panel considered that members of the public have a right to be treated in a respectful and courteous manner when dealing with any Council and its elected members.
- 5 Considered that, as a councillor with a good deal of experience in dealing with regulatory and quasi-judicial matters, the Respondent should have known the importance of not only acting fairly, but being seen to act fairly when dealing with decisions that were either quasi-judicial or regulatory in nature, to avoid a successful legal challenge and consequent risk to the reputation of the Council.
- 6 Considered it was clear that the making of insulting personal remarks towards the complainer was a factor in the success of the legal challenge against the Council. As such, there was evidence that the Respondent's conduct had the potential to bring the Council into disrepute and risked public confidence in it being adversely affected.

LA/CES/2091 Comhairle nan Eilean Siar (Western Isles Council)

Complaint

The complaint alleged that the Respondent had failed to register a 33% shareholding in a company timeously, despite it being a requirement of the Councillors' Code of Conduct for shareholdings that amounted to more than 1% of the issued share capital, or ones with a value of more than £25,000, to be registered.

Decision

- 1 The Hearing Panel accepted the admission from the Respondent that he had failed to timeously register his shareholding in the company, despite it being greater than 1% of the issued share capital of the company.
- 2 The Panel determined that it was the Respondent's personal responsibility to be aware of, and comply with, the provisions in the Councillors' Code of Conduct, which included ensuring his interests were registered correctly and timeously. The Panel determined that the Respondent had failed to do so in respect of the shareholding.
- 3 The Panel therefore concluded that the Respondent had breached paragraph 4.20 of the Code.

Sanction

The Panel censured the Respondent. In reaching their decision, the Panel:

- 1 Noted the Respondent's position that the failure to timeously register his shareholding was not deliberate. The Panel accepted that there was no intention to mislead or deceive, and that neither the Respondent nor the company had gained any benefit from the breach.
- 2 Further noted the Respondent had admitted the breach from the outset, had accepted responsibility and had apologised.

However, the Panel:

- 3 Considered that the requirement to register a significant interest in a company, including, as in this case, a shareholding of more than 1% is an integral part, and absolute requirement, of the Councillors' Code of Conduct. It provides the opportunity for openness and transparency in a councillor's role and affords members of the public the opportunity to consider whether a councillor's interests may or may not influence their discussion and decision-making.
- 4 Emphasised it was a councillor's personal responsibility to be aware of the provisions in the Code, to ensure that he or she complied with them and, in this respect, the Respondent was negligent.

LA/As/2062 Aberdeenshire Council

Complaint

The complaint alleged that the Respondent had failed to register membership of a Business Improvement District (BID) Steering Group as a non-financial interest despite the interest being one that members of the public may reasonably have thought could influence their actions, speeches or votes in the Council.

Decision

- 1 The Hearing Panel noted that the Steering Group had been established to progress a BID proposal. Businesses that were liable to contribute to the BID took part in a ballot to determine whether it should go ahead. The Hearing Panel found that while the Respondent's position as a member of the Steering Group was not remunerated and, therefore, there was no evidence or suggestion that she had any financial interest; the BID process was nevertheless a matter of public interest due to the use of public funds in establishing the BID and the public ballot.
- 2 The Panel noted that the Respondent accepted that she should have registered her membership of the Steering Group as a non-financial interest.
- 3 The Panel determined that as the Respondent was a member of the Steering Group both before and after the ballot, members of the public might reasonably have considered that her interest in the organisation could influence her actions, speeches or votes in the Council. As such, the Panel concluded that the Respondent should have registered her membership of the Steering Group as a non-financial interest.
- 4 The Panel therefore concluded that the Respondent had breached paragraph 4.22 of the Councillors' Code of Conduct.

Sanction

The Panel censured the Respondent. In reaching their decision, the Panel:

- 1 Noted the Respondent's position that she had been nominated by the Council to the Steering Group and that her membership had not involved any voting, either by the Group or the Council. As such, the Respondent's position was that it had not occurred to her to register her membership.
- 2 Noted that the Respondent had not sought or received advice about whether she should have registered her membership of the Steering Group. The Hearing Panel considered she may have been prompted to do so had the nomination or appointment process been undertaken in a more formal manner.
- 3 Recognised that the Respondent accepted, however, that she should have erred on the side of caution and registered her membership. She had admitted the breach from the outset, had accepted responsibility and had apologised.

However, the Panel:

- 4 Considered that the requirement to register non-financial interests was an integral part, and absolute requirement, of the Councillors' Code of Conduct as it provides the opportunity for openness and transparency in a councillor's role and affords members of the public the opportunity to consider whether a councillor's interests may influence their discussion and decision-making.

LA/I/2113 Inverclyde Council

Complaint

The complaint alleged that the Respondent had failed to declare an interest in a planning application at a meeting of Inverclyde Council's Planning Board.

Decision

- 1 The Hearing Panel noted that the Respondent had a close and long-standing friendship with a family who owned factory premises and were seeking planning consent. The Panel further noted the Respondent had visited the premises prior to a planning application being submitted to give advice to a contractor on some technical issues related to noise reduction.
- 2 The Panel found that the Respondent had a non-financial interest as a close friend of the applicant family. The applicant family also had a financial interest in the matter. The Panel further concluded that the Respondent should have also declared the financial interests of close friends.
- 3 The Panel noted that the Respondent accepted that he had failed to apply, and comply with, the objective test at the meeting. The Panel was satisfied that a member of the public, knowing that the Respondent was close friends with the family who had a financial interest in the planning application, would reasonably regard the interest as sufficiently significant as to be likely to prejudice his discussion and decision-making.
- 4 The Panel was satisfied that there was no evidence or suggestion that the Respondent's interests had influenced his discussion or decision-making at the meeting or that it had resulted in any personal gain to him. The Panel further noted that the planning application had been approved by eight votes to two and was satisfied, therefore, that the Respondent's vote had not been a decisive factor in the Planning Board's decision.
- 5 The Panel further considered that, while the Respondent had been perfectly entitled to attend the factory premises, before the planning application was submitted to provide advice to a contractor, the fact that he had done so was known. As such, the Panel determined that the Respondent's prior involvement meant that he had failed to avoid any occasion for suspicion, as required by paragraph 7.4 of the Councillors' Code of Conduct, when he subsequently participated in the consideration of the application at the planning meeting. The Respondent should have declared the interest and left the meeting.
- 6 The Hearing Panel therefore concluded that the Respondent had contravened paragraphs 5.3, 5.5, 5.7, 5.10(ii) and 7.4 of the Code.

LA/I/2113 Inverclyde Council

Sanction

The Panel censured the Respondent. In reaching their decision, the Panel:

- 1 Was satisfied that, in this particular case, there was no personal gain to the Respondent and that he had now demonstrated insight and understanding of the importance of compliance with the Councillors' Code of Conduct.
- 2 Noted that the Respondent accepted he had breached the Code and had apologised to the complainer, the ESC and the Panel for doing so.

However, the Panel:

- 3 Wished to make it clear that the requirement to declare interests is an integral part of the Code as it provides the opportunity for openness and transparency in a councillor's role and affords members of the public the opportunity to consider whether a councillor's interests may influence his or her discussion and decision-making.
- 4 Reiterated that public confidence in a Council's decision-making processes can be eroded by a failure to declare interests as required by the Code. The Panel noted that it was essential for the public to have the highest confidence that those elected to local government are making decisions in the public interest and not the interests of themselves or their friends and families.

LA/An/2094 Angus Council

Complaint

The complaint alleged that the Respondent had behaved in a disrespectful manner towards two fellow councillors and two officers.

Decision

- 1 The Hearing Panel found that the Respondent had made unwarranted and inappropriate physical contact with two councillors and two officers in four separate incidents at a briefing event in relation to the Angus Health & Social Care Partnership and the Angus Care Model.
- 2 The Panel was further satisfied that the Respondent's behaviour towards the officers, including references to them being "lovely ladies" in the context of a workplace and formal meeting where the officers were acting in an official capacity and undertaking work functions, was patronising and demeaning.
- 3 The Panel concluded that the Respondent had breached paragraphs 3.1, 3.2 and 3.3 of the Councillors' Code of Conduct.

LA/An/2094 Angus Council

Sanction

The Panel suspended the Respondent's entitlement to attend all meetings of Angus Council and of any committee or sub-committee thereof, for a period of 3 months. In reaching its decision, the Panel:

- 1 Noted that the Respondent proffered an apology to the councillors and the officers concerned and that he further advised that he had amended his behaviour in light of the concerns raised.
- 2 Noted the character references submitted on behalf of the Respondent and his evidence in respect of his contribution to charities and public life.

However, the Panel:

- 3 Found that the Respondent had been disrespectful towards fellow councillors and officers in four separate incidents. The Panel was concerned that while the Respondent advised he had amended his language and conduct, he did not appear to understand or be cognisant of the impact of his behaviour on others. The Panel was particularly concerned that the Respondent had not demonstrated insight into how the language he had used in a professional environment would have made female colleagues and officers feel and, instead had sought to minimise this.
- 4 The Panel was further concerned that the Respondent had not demonstrated insight into the fact that unwarranted physical contact was wholly inappropriate, particularly in the workplace.
- 5 Considered it was the Respondent's personal responsibility to abide by the terms of the Councillors' Code of Conduct and to ensure he behaved in a respectful manner towards fellow elected members and officers. The Panel noted that a failure on the part of the Respondent to do so had the potential to disrupt effective working relations between elected members and officers and, further, was a threat to reputation of the Council and the role of an elected member.

LA/AB/2125 Argyll & Bute Council

Complaint

The complaint alleged that the Respondent had failed to declare an interest in a matter relating to a parking restriction at a meeting of the Helensburgh and Lomond Area Committee.

Decision

- 1 The Panel heard that the Respondent had been appointed as Argyll & Bute Council's representative on the Board of a local Housing Association. The Respondent had included this appointment in his Register of Interests. The council had prepared a report for consideration at the Area Committee meeting following concerns highlighted by a manager and tenant of the Housing Association that parking in a layby near their housing development was causing difficulties. The report proposed extending parking restrictions to include the layby.
- 2 The Panel found that while the Housing Association was mentioned twice in the main body of the report, it had not been identified as having made a complaint or having objected to the proposal. The Panel further found that the report concerned road safety in general, and that the opening of a shop had led to a material change in circumstances from when the development was built. The Panel considered that it was nonetheless apparent from the report that the proposal could benefit the residents of the Housing Association to a greater extent than other members of the public.
- 3 The Panel accepted that the Respondent, in deciding whether to declare an interest, had a finely balanced judgement to make. The Panel was of the view that, on balance, the Respondent should have erred on the side of caution, as advised by paragraph 5.2 of the Councillors' Code of Conduct, and reached the view in terms of paragraph 5.7 that his interest in the Housing Association would not be perceived as being so remote and insignificant, given the particular benefit its residents might gain from the proposal in question, that it could not fall within the objective test under paragraph 5.3.
- 4 The Panel therefore concluded that the Respondent had contravened paragraphs 5.3 and 5.7 of the Code.

LA/AB/2125 Argyll & Bute Council

Sanction

The Panel censured the Respondent. In reaching their decision, the Panel:

- 1** Was satisfied that that there had been no personal gain to the Respondent and, given that the proposal had passed unanimously, it was unlikely that his failure to declare an interest and withdraw would have had any impact on the overall decision of the Committee.
- 2** Was further satisfied that the Respondent had demonstrated insight and understanding of the provisions of the Councillors' Code of Conduct and the importance of complying with it. The Panel had no reason to doubt that the Respondent had been trying to act in the overall public interest in terms of road safety.

However, the Panel:

- 3** Wished to make it clear that the requirement to declare interests is an integral part of the Code as it provides the opportunity for openness and transparency and affords members of the public the opportunity to consider whether a councillor's interests may influence his or her discussion and decision-making.
- 4** Reiterated that public confidence in a Council's decision-making processes can be eroded by a failure to declare interests as required by the Code. The Panel noted that it was essential for the public to have the highest confidence that those elected to local government are making decisions in the public interest only.
- 5** Considered that, on this occasion, when faced with a finely balanced decision, the Respondent should have taken cognisance of the advice in the Code to err on the side of caution in order to ensure full transparency and maintain public confidence.

LA/An/2134 Angus Council

Complaint

The complaint alleged that the Respondent had behaved in a disrespectful manner by signing, and encouraging others to sign, a petition that called for the removal of the complainer as a chaplain of a high school in the Council area, which had included a false allegation that the complainer had kicked his 13 year-old transgender daughter out of the family home.

Decision

- 1 The Panel determined that while the Respondent received and signed the petition in his personal capacity, he was not acting as a councillor at that stage. The Panel found, however, that a link had then been posted to the Respondent's Facebook page as a result of the settings he must have selected, which allowed chang.org to do so. The Panel noted that the Respondent could have taken steps to prevent this, but had not done so.
- 2 The Panel found that the Respondent's Facebook page was accessible to those other than his Facebook 'friends'; that the Respondent was identifiable as a councillor on it; and that had subsequently commented on the petition in that capacity. The Panel determined that this meant that the Respondent was acting, or could be perceived as being acting, as a councillor when posting about the petition and encouraging others to sign it. The Panel determined, therefore, that the Code of Conduct applied to the Respondent at the time of the events in question.
- 3 The Panel accepted that the Respondent had not directly made any comment about the complainer's daughter and further noted his position that, at the time he signed the petition, he had not read it in full and had not seen the content about the complainer's daughter. The Panel noted, however, that when the complainer made the Respondent aware of the content, he had not made any effort to respond, to distance himself from the petition or to address the factual inaccuracy it contained; albeit the petition was subsequently amended, following the complainer's daughter refuting the false allegation that she had been kicked out of home.
- 4 The Panel found that by signing and encouraging others to sign a petition that contained an untrue accusation that was critical of the complainer's private family life, the Respondent was, in essence, endorsing the comment or, at the very least, could be perceived as doing so. The Panel considered that, as a prominent local politician, the Respondent should have known the matter to be of concern or interest to some of his constituents and was of the view, therefore, that he should have taken steps to review the petition and ensure he agreed with the comments it contained before signing, endorsing and proactively circulating it.
- 5 The Panel considered that the comment amounted to a personal attack on the complainer. The Panel was therefore satisfied that the Respondent failed to observe the rules of good conduct by behaving in a respectful manner towards the complainer.

LA/An/2134 Angus Council

Decision

- 6 The Panel found, therefore, that the Respondent's behaviour amounted to a contravention of paragraphs 3.1 and 3.2 of the Councillors' Code of Conduct.
- 7 Regarding Article 10 of the European Convention on Human Rights, the Panel concluded that the comment was false and gratuitous, and that the Respondent's implicit endorsement of it amounted to a personal attack on the complainer. As such, the Panel determined that the imposition of a restriction in the circumstances was relevant, sufficient and proportionate. The Panel concluded, therefore, that it was satisfied that a finding of breach, and subsequent application of a sanction, would not contravene Article 10.

Sanction

The Panel censured the Respondent. In reaching their decision, the Panel:

- 1 Accepted the Respondent had not made the comment in question himself, or subsequently relied on the misinformation it contained in any way. The Panel agreed that the sanction would have been much more severe had he done so.
- 2 Noted the Respondent's position was that he had not read the content before signing the petition and encouraging others to do so.
- 3 Further noted that the Respondent had co-operated fully with the investigative and Hearing processes and, further, noted the character references submitted on his behalf.
- 4 Considered the requirement for councillors to behave in a respectful manner was an important part of the Code, as it prevented a Council and role of a councillor from being brought into disrepute and ensured public confidence in both were not adversely affected. In this case, the Respondent had failed to conduct himself in a respectful manner and had behaved in a grossly irresponsible way by endorsing a petition he knew to have been created by a school pupil, and one that contained false, personal comments, without reviewing it first.

However, the Panel:

- 5 Was concerned that the Respondent had failed singularly to provide an apology to the complainer. The Panel was further concerned that the Respondent had failed also to demonstrate any insight into the impact his endorsing the content of the petition may have upon the complainer, the complainer's daughter and, potentially, the wider community.
- 6 Noted the Respondent's commitment to supporting and protecting young people but considered this was at odds with him having endorsed and disseminated a petition containing a false comment about the complainer's daughter.
- 7 Emphasised it was a councillor's personal responsibility to be aware of the provisions in the Code as well as to ensure that he or she complied with them.

LA/As/2173 Aberdeenshire Council

Complaint

The complaint alleged that the Respondent had failed to register a shareholding in a company within the time limits for doing so, despite being the sole director of the company and owning 100% of the shares.

Decision

- 1 The Panel found that the Respondent had not registered his shareholding within one month of the company being incorporated, despite it amounting to more than 1% of the share capital.
- 2 The Panel noted that while the Respondent's position was that he believed he had provided information to the Council about his shareholding, he had not been able to provide any evidence that he had done so.
- 3 The Panel further noted that despite having submitted a form detailing his registrable interests when he was re-elected to office in May 2017, the Respondent failed to ensure his shareholding was registered until September 2018.
- 4 The Panel determined that it was the Respondent's personal responsibility to be aware of, and comply with, the provisions in the Code, which included ensuring his interests were registered correctly and timeously. The Panel determined that the Respondent had failed to do so in respect of the shareholding.
- 5 The Panel therefore concluded that the Respondent had breached paragraphs 4.1 and 4.20 of the Code.

Sanction

The Panel censured the Respondent. In reaching their decision, the Panel:

- 1 Noted the Respondent's position that the failure to register the shareholding timeously was not deliberate and that he had believed he had included information about the shareholding when the company was incorporated in 2016 (albeit he accepted he could not provide evidence that he had done so).
- 2 Noted that there was no evidence that the Respondent or the company had gained any benefit from the breach.
- 3 Further noted the Respondent had admitted the breach from the outset, accepted responsibility and expressed regret.

However, the Panel:

- 4 Considered that the requirement to register a significant interest in a company, including, as in this case, a shareholding of more than 1% is an integral part, and absolute requirement, of the Councillors' Code of Conduct as it provides the opportunity for openness and transparency in a councillor's role and affords members of the public the opportunity to consider whether a councillor's interests may or may not influence their discussion and decision-making. The Panel considered that, as an experienced councillor, the Respondent should have been cognisant of this.
- 5 Emphasised it was a councillor's personal responsibility to be aware of the provisions in the Code, to ensure that he or she complied with them.

Governance & Financial Overview 2018/19

Governance & Financial Overview

This section provides an overview of the Standards Commission's governance arrangements in 2018/19 and also its financial performance.

External Audit

In 2018/19, Audit Scotland reported on its review of the Standards Commission's governance arrangements and audit of the Standards Commission's 2017/18 annual report and accounts. Audit Scotland's main findings were that the Standards Commission had sound financial planning arrangements in place, which aligned with its strategic plan. It further found that the Standards Commission had sound budget monitoring arrangements and that the information in the annual governance statement 2017/18 was consistent with the financial statements and complied with the guidance issued by the Scottish Minister.

In 2018/19, Audit Scotland's review identified the two key audit risks, which required specific audit testing. The first is the consideration of the risk of management override of controls in order to change the position disclosed in the financial statements. The second is the risk of fraud over expenditure, which applies to the Standards Commission as the small number of staff employed means there is a low degree

of segregation of duties. The 2018/19 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 2019.

Internal Audit

In 2018/19 the Standards Commission's internal auditor, the SPCB's Head of Internal Audit, reviewed the Standards Commission's preparedness for the implementation of the GDPR in May 2018. The overall aim of the review was to provide assurance to the Executive Director (as the Accountable Officer) and the Standards Commission, via its Audit & Risk Committee, that the systems, processes and internal control arrangements were robust and operating effectively, thereby ensuring risk was maintained at an acceptable level.

The Internal Auditor provided a report to the Standards Commission's Audit & Risk Committee confirming that, based on detailed testing, he was satisfied he could provide a substantial level of assurance that there were systems, controls and process in place to demonstrate compliance with the GDPR, and that these were robust and operating effectively.

Risk Management

The Standards Commission identifies and proactively manages risks that could impact on its ability to meet its strategic and business objectives. In 2018/19, the Standards Commission reviewed and updated its Risk Management Policy, which provides details of the organisation's approach to the management of risk. The Standards Commission agreed the aim of the risk management framework was 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 2018/19. Thereafter a report of the review was provided for consideration by Members at the next available meeting of the Standards Commission.

During 2018/19, the Standards Commission identified the principle risks and uncertainties for the organisation as being:

- An inability to deliver the Standards Commission's business effectively as a result of having insufficient Members or as a result of Members being unavailable or inexperienced; and
- An inability to deliver the Standards Commission's business effectively as a result of lack of executive/administrative support for its Members.

The Standards Commission determined that its existing resources and staffing levels were commensurate to the size of the organisation and its workload, and agreed that it was satisfied with the controls in place and actions taken to mitigate the risk areas. It acknowledged that the size of the organisation meant that there would always be an ongoing risk of disruption to business due to unplanned absences and staff turnover. As such, and in light of the duty to manage expenditure and achieve best value, the Standards Commission determined that the overall risk scores for these risk areas were at a tolerable level. Controls in place and specific actions taken to mitigate these risks included:

- Checking availability before scheduling Hearing;
- Liaising closely with the SPCB about the recruitment of new Members and ensuring an induction and training plan was in place to support them when they commenced in post;
- Monitoring planned absences to ensure staffing support could meet operational requirements; and
- Updating written procedures / instructions to ensure that if any temporary or replacement staff were required, they would be able to understand what was expected of them.

A further risk identified during 2018/19 concerned a failure on the part of the Standards Commission to take advantage of the current public debate in relation to standards of behaviour in public life (for example in relation to inappropriate sexual behaviour and misogyny) to seek to influence direction towards higher ethical standards of conduct. Work the Standards Commission undertook to mitigate this risk included successfully lobbying for the Councillors' Code of Conduct to be amended to include provision stating that bullying and harassment were unacceptable and would not be tolerated, and publishing Guidance for councillors on the subject. In addition, the Standards Commission included questions about respect and the organisation's culture in its survey of members of devolved public bodies and released media articles on the positive impact that having a culture of respect could have in terms of good governance and effective scrutiny.

In terms of its own governance arrangements, the Standards Commission also identified a failure to be adequately prepared for new statutory and best practice requirements, being the implementation of the General Data Protection Regulations (GDPR) in May 2018, the requirement to consult on and finalise an authority plan under the British Sign Language (Scotland) Act 2015 by the end of October 2018, and the obligation to meet cybersecurity best practice requirements under the Scottish Government's Public Sector Resilience Framework as a key risk. The Standards Commission ensured it consulted on a draft BSL Plan before publishing a final version by the end of the deadline. The Standards Commission also met its cybersecurity reporting requirements by ensuring that evidence of best practice compliance was sent to the Scottish Government within the timescales for doing so.

The Standards Commission ensured that it was prepared for the implementation of the GDPR by arranging training for all staff and Members,

agreeing a Memorandum of Understanding with the SPCB for the provision of a Data Protection Officer service and by publishing an updated Data Protection Policy and Data Protection Privacy Statement. As noted above, the Internal Auditor found that systems, controls and process were in place to demonstrate compliance with the GDPR and that these were operating effectively. The Audit & Risk Committee was, therefore, able to assure the Standards Commission that the risk had been effectively managed.

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.

Financial Performance

The financial information provided is a summary extracted from the Standards Commission for Scotland's Annual Accounts 2018/19. For further information about the Standards Commission's financial position, a full copy of the Annual Accounts 2018/19 can be found on its website at www.standardscommissionscotland.org.uk/corporate-info.

The Standards Commission's net expenditure on operating activities for the year ending 31 March 2019 amounted to £259,000 (2017/18, £238,000). The net expenditure was divided between staff costs of £206,000 (2017/18, £208,000) and other administrative costs of £53,000 (2017/18, £30,000).

Staff costs include all remuneration paid to both staff and Members. While movement up the incremental pay-scales meant the cost of staff salaries increased by £4,000 (compared to 2017/18), there was a net reduction of £2,000 in respect of the overall staff costs in 2018/19, as a decrease in the number of Hearings held meant Members' remuneration costs were down on the previous year.

There was a £23,000 increase in 'Other Administrative Costs', which includes expenditure on fees for legal advice and representation in

respect of an appeal to the Sheriff Court against a Hearing decision. Costs associated with any such an appeal are not included in the budget submission as it is not known if any will be lodged. The Standards Commission was nevertheless able to meet the cost of the fees from the allocated cash budget of £262,000 as it held fewer Hearings in the year than projected. As the appeal decision had not been issued by the year end, any costs awarded to or against the Standards Commission will be reported on in the accounts for 2019/20.

Statement of Comprehensive Net Expenditure	2018/19 £'000	2017/18 £'000
Administration Costs		
Staff costs	206	208
Other Administration costs	53	30
Depreciation	0	0
Net Operating Costs	259	238

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

	2018/19 £'000	2017/18 £'000
Other Administration Costs		
Fees for legal advice and representation	23	1
Audit Fee	3	3
Hearing costs accommodation	1	2
Information technology costs	1	1
Printing and promotion costs	12	10
General administration costs	3	4
Members' travel and expenses	8	6
Staff travel and expenses	2	3
	53	30

Standards Commission for Scotland
Room T2.21
The Scottish Parliament
Edinburgh EH99 1SP

Tel: **0131 348 6666**

Email: **enquiries@standardscommission.org.uk**

Web: **www.standardscommissionscotland.org.uk**

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

 **facebook.com/StandardsCommission**



INTEGRITY IN PUBLIC LIFE