

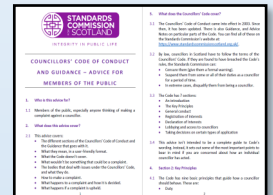
STANDARDS UPDATE

ISSUE 27: September 2020

News

Advice Note for the Public on the Councillors' Code of Conduct

The Standards Commission has produced a new leaflet on the Councillors' Code of Conduct for members of the public. It explains what the Code does and does not cover, so that members of the public can see what is expected of a councillor and what could constitute a potential breach of the Code. The leaflet also outlines how members of the public can raise concerns about a potential breach of the Code and provides information about the complaint process. The leaflet can be found on the [Advice Notes](#) page of our website.



Online Hearings

Three of the five hearings conducted by the Standards Commission since the last update were held online due to the Covid-19 related restrictions that were in place at the time (see details below in the 'Cases Overview'). The online Hearings were livestreamed on the Standards Commission's website [Cases page](#), so that members of the public and press could view the proceedings. The Standards Commission has now included a provision in its Hearing Rules stating that it may decide to hold the Hearing online, in cases where it appears there is little dispute between the parties and no witnesses (other than the Respondent) are to be called.

Impact Statements

In cases where the Standards Commission has found a breach of the respect or bullying and harassment provisions in a Code of Conduct, it may 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. If you have been affected by a Respondent's alleged breach of the respect or bullying and harassment provisions in any of the scheduled cases and wish to provide an impact statement, please contact the Standards Commission at enquiries@standardscommission.org.uk.



Annual Report 2019/2020

The Standards Commission's Annual Report 2019/2020 is now available online in the [Corporate Information](#) section of our website. In this, the Convener, Professor Dunion, reflects on the organisation's achievements in the four-year period covered by its Strategic Plan for 2016/20 and the past year in particular, and outlines its key aims going forward. The Report also contains information about the cases referred to the Standards Commission in 2019/20, including interim suspension decisions and Hearings held.

Monitoring Officers' Workshop

The Standards Commission is intending to hold its annual workshop for Monitoring Officers **online** on Monday, 26 October 2020. Topics to be discussed include how to promote and encourage compliance with the respect and bullying / harassment provisions in the Councillors' Code of Conduct. If you would like to book a space and have not yet done so, please contact us. Please also let us know if you have any specific matters you would like us to add to the agenda.

Cases Overview

Since the last briefing in July 2020, three cases were referred to the Standards Commission by the Commissioner for Ethical Standards in Public Life in Scotland (ESC) about elected members of Fife (two cases) and East Renfrewshire Councils. The Standards Commission has scheduled Hearings in two of the cases with a decision still to be made on the third. The Standards Commission held Hearings in five cases involving elected members of Highland, South Lanarkshire, Fife, Renfrewshire and West Dunbartonshire Councils. The outcomes of the Hearings are outlined below. In addition, four other Hearings are scheduled to take place in the next few months. These involve elected members of Aberdeen City (two cases), Moray and Fife Councils.

Fife Council - LA/Fi/2268

The Hearing Panel found that the Respondent, Councillor Linda Erskine of **Fife Council**, had not breached the Councillors' Code of Conduct, in respect of an allegation that she had failed to declare an interest at a meeting when the Council's Community and Housing Services Committee approved a proposal to change the boundary between Benarty and Lochgelly Community Councils. The Panel heard that, before the meeting, Councillor Erskine had privately messaged friends and family encouraging them to vote against the proposal to amend the boundary and that these messages had entered the public domain. The Panel noted that the Code of Conduct requires councillors to declare certain non-financial interests they have in a matter and to then withdraw from the discussion and decision-making. In this case, however, the Panel did not consider that the expressing of an opinion privately, on a council policy, to friends and family would amount to having an interest in a matter. This was because the Panel was of the view that, generally, to constitute an 'interest' a councillor's personal circumstances would have to be capable of being advantaged by the decision in question. The Panel noted that their circumstances could include those of their close family and associates or any organisation to which they were connected. In this case, the Panel determined that there was no such benefit.

Cases Overview cont.

Renfrewshire Council - LA/R/2257 and 3262

In the first complaint, the Hearing Panel found that the Respondent, Councillor Paul Mack of **Renfrewshire Council**, had breached the Councillors' Code of Conduct by bullying, and behaving in a disrespectful manner towards, colleagues and officers. The Panel heard that Councillor Mack was unhappy about the allocation of a council property to the family member of another elected member. 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. The Panel accepted that Councillor Mack was entitled to raise concerns about the allocation of council housing, particularly if he was doing so on behalf of a constituent. The Panel noted, however, that it was the manner in which he had pursued the matter, via a number of emails sent to other councillors, senior officers and a journalist over a period of some seven months in 2019, and via comments made in public at a Council meeting on 27 June 2019, that was unacceptable. The Panel found that Councillor Mack had embarked upon a course of conduct in which he accused the complainer of lying, corruption, cronyism and covering up criminal activity. He had further accused senior officers of covering up the housing allocation matter, of bullying and intimidating staff and of engaging in conduct that was bordering on the criminal. The Panel was satisfied that Councillor Mack's accusations, made in his emails, and at the Council meeting amounted to unjustified personal attacks which were offensive and abusive.

In the second complaint, the Panel found that Councillor Mack had breached the Code by making a number of gratuitous personal comments and offensive, demeaning remarks about the complainer in his email of 24 April 2020. In addition, the Panel noted that he had made remarks about someone going round to the complainer's house and inflicting personal harm on him. The Panel considered that the contents of the email were disrespectful, demeaning and, further, amounted to harassment towards the complainer.

The Panel disqualified Councillor Mack from being, or being nominated for election as, or from being elected, a councillor for a period of 17 months, with effect from 1 October 2020.

West Dunbartonshire Council - LA/WD/3016

The Hearing Panel found that the Respondent, Councillor James Bollan of **West Dunbartonshire Council**, had breached the Councillors' Code of Conduct by behaving disrespectfully towards a council officer and disclosing confidential information at a Special Council Meeting. The Panel found that Councillor Bollan breached the Code when he spoke to a Council employee in what witnesses described as an aggressive and demeaning manner prior to the Council meeting.

The Panel further found that, at the Council meeting that same day, Councillor Bollan had disclosed confidential information which had been redacted from an Internal Audit report. This referred to the name of an individual, company and contractor who had been awarded Council contracts. The Panel found that while Councillor Bollan may have considered it was in the public interest for the information to be disclosed, the Panel was of the view that the fact that the information had been redacted from the report meant that it was apparent the information was confidential and was to be treated as such. The Panel suspended Councillor Bollan's entitlement to attend the next two ordinary meetings of the Council.

Highland Council - LA/H/3003

The Hearing Panel found that the Respondent, Councillor Alan Henderson of **Highland Council** breached the Councillors' Code by failing to declare his interest as Chair of HITRANS (the local regional transport partnership), at a meeting of Highland Council's Environment, Development and Infrastructure Committee. While the Panel found that Councillor Henderson should have declared the interest, it accepted that his role as Chair was unremunerated, was widely known, and that the decision being made by the committee would not benefit HITRANS directly. The Panel further noted that the specific exclusion in the Code for members of regional transport partnerships would have allowed Councillor Henderson to take part in this discussion and decision-making, if he had declared this interest. The Panel determined, therefore, that a censure was the appropriate sanction.

South Lanarkshire Council - LA/SL/2252

The Hearing Panel found that the Respondent, Councillor Gerry Convery of **South Lanarkshire Council**, failed to declare an interest at a meeting of the Council's Housing and Technical Resources Committee when a report proposing a budget saving through the redesign of the Council's Housing Repairs Standby (Out of Hours) service was considered, despite being aware that his son participated voluntarily in the service as part of his employment with the Council. The Panel heard that Councillor Convery's son was also a local representative of a trade union that had expressed concerns about the budget savings proposal, and its potential impact on service delivery and the employees' earnings.

While the Panel accepted Councillor Convery's position that his decision-making at the meeting had not been influenced by any connection his son had to the matter under consideration, it nevertheless concluded that he should have declared an interest. This was because the Panel considered that a member of the public would be reasonably entitled to conclude that Councillor Convery would be unlikely to support a proposal that could possibly have a detrimental impact on his son's earning capacity and, as such, the interest could potentially influence his discussion, decision-making and voting on the matter. The Panel concluded, however, that Councillor Convery's conduct did not warrant a more severe sanction than censure as there was no evidence that there was any personal gain to him or that he had made any attempt to conceal his son's employment or connection to the matter.



Details of the outcome of cases, including full written decisions and information about scheduled Hearings, can be found in the [Our Cases](#) section of our website.

For further information on the support we can offer councillors and members of devolved public bodies, please either speak to your Monitoring Officer or Standards Officer or look out for information on our website. Alternatively, please contact us:

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