

STANDARDS UPDATE

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News

Strategic Plan 2024-28

The Standards Commission is currently consulting on its Strategic Plan to cover the period from 1 April 2024 to 31 March 2028. The plan will build on the achievements and progress the Standards Commission made during the period covered by the previous Strategic Plan (2020-24). A copy of the draft plan can be found on the [Strategic and Business Plans page](#) of the Standards Commission's website. We welcome any comments and suggestions on the draft plan. Please send any feedback by email to: enquiries@standardscommission.org.uk.



**Ethical Standards
Commissioner**

ESC Update

The ESC has published a draft strategic plan covering the work of the ESC's office for the period from 2024-2028. The strategic plan sets out the office's purpose, values, statutory functions, operational context, strategic objectives and an overview of the ESC's plans and priorities for the coming years. These include providing assurance on the quality of our work, improved governance to oversee and ensure delivery of strategic objectives and emphasis on developing staff. The consultation version is available at this [web page](#). Consultation responses are invited until 12 January 2024, but the ESC is happy to provide more time if it causes any difficulties. Please do not hesitate to contact the ESC and his office if you would find it helpful to discuss the plan or any other aspect of their work at info@ethicalstandards.org.uk.

Revised Advice Notes on the Right to Freedom of Expression

Following receipt of feedback and in light of recent Hearings, the Standards Commission has revised its Advice Notes for Councillors and Members on the right to freedom of expression under Article 10 of the European Convention on Human Rights. The Advice Notes outline the approach the Standards Commission will take when issues that concern the application of Article 10 and the right to freedom of expression arise. They also suggest issues councillors and members should consider in order for them to ensure compliance with the provisions in the applicable Codes of Conduct. The revised Advice Notes can be found on the [Standards Commission's website](#).



Advice Note for Members of College Boards and Strategic Bodies

The Standards Commission has produced an Advice Note for members of college boards and regional strategic bodies, which has been prepared with the assistance of the Good Governance Steering Group. The aim of the Advice Note is to provide members with an overview of their responsibilities under the ethical standards framework. It seeks, in particular, to assist such members in recognising and dealing with potential conflicts of interest. This is to help minimise the risk of the impact of any such a conflict on effective governance and to help members comply with their board's Code of Conduct. The Advice Note can be found on the [Standards Commission's website](#).

Advice Note for Councillors on the Right of Access to Information held by the Council

The Improvement Service and Standards Commission are in the process of producing an Advice Note for elected members on the right to access information held by the Council. The Advice Note will highlight what information councillors have a right to access under statute and common law, and the exemptions to this. The Advice Note will also outline how the Councillors' Code of Conduct may apply when councillors are exercising their right to access information. It should be published in early January, and thank you to those of you who have contributed comments on the proposed content.



News cont.

Policy on Application of Sanctions

The Standards Commission has updated its Policy on the Application of Sanctions, which outlines the factors a Hearing Panel may consider when making a determination on the sanction to be applied, following the finding of a breach of a Code of Conduct at a Hearing. The policy has been updated to include a provision noting that, in determining the length of any period of suspension for a Respondent councillor, the Standards Commission will also consider, and give weight to, the timing and proximity of any period the local authority is in recess. The policy can be found on the [Hearing Procedures](#) page of the Standards Commission website.



Cases Overview

Since the last briefing in September 2023, 16 cases were referred to the Standards Commission by the Ethical Standards Commissioner (ESC) about elected members of West Lothian (three cases), Aberdeenshire (two cases), Glasgow City (three cases), North Ayrshire, Highland (two cases), East Dunbartonshire, Angus, Moray, City of Edinburgh and Inverclyde Councils. The Standards Commission has scheduled Hearings in five cases concerning North Ayrshire, Highland (two cases), West Lothian and Inverclyde Council councillors. The decision on an Aberdeenshire Council case is pending. The decision on an Aberdeen City case was pending at our last briefing. The Standards Commission directed the ESC to carry out further investigation in the case and following receipt of the further investigation report decided to hold a Hearing. The Standards Commission held Hearings in respect of four cases involving councillors from North Lanarkshire, City of Edinburgh, Aberdeenshire and West Lothian Councils. The outcomes of the Hearings are outlined below. No action was taken in nine cases and the written decisions in respect of these cases can be found on the [Cases](#) page of our website.

North Lanarkshire Council - LA/NL/3705 - Breach

A North Lanarkshire Councillor was censured at a Hearing held in Airdrie, after he was found to have contravened the requirement in the Councillors' Code of Conduct for councillors to work in an atmosphere of mutual trust and respect. The Standards Commission found that the Respondent spoke to a journalist about a planning application at Ravenscraig, which resulted in an article being published in which he was quoted directly as saying that council officers were to recommend that the application be refused. This was despite the fact that officers were awaiting information and were yet to make any recommendation.



The Hearing Panel noted that the Respondent could not recall the details of his discussion with the journalist. The Panel considered, however, that it was unlikely the journalist would have made up information about the officers' recommendation. On balance, the Panel concluded that the Respondent must have at least given an indication of what he believed the recommendation would be. The Panel observed that members of the public, on reading the article, may have believed that council officers had acted inappropriately in providing information about the intended recommendation to the Respondent when, in fact, they had not done so. The Panel considered that the suggestion that council officers had revealed their recommendation on a potentially controversial and high-profile matter before any decision had been made, had the potential to undermine confidence in officers and bring the Council into disrepute. As such, the Panel was satisfied that, on the face of it, the Respondent had breached the Protocol between Councillors and Employees, contained in the Code.

The Panel noted that the Respondent had not taken part in the decision-making on the application and had no reason to conclude that the outcome of the planning application had been affected by his conduct. The Panel further accepted the Respondent's position that he had not intended to create difficulties for officers and noted that he had apologised for doing so at the time. The Panel nevertheless considered that the Respondent's conduct, in making public comment that suggested officers had failed to act in accordance with proper process, had the potential to damage both their reputation and the reputation of the Council itself.

City of Edinburgh Council - LA/E/3645 - No Breach

A former City of Edinburgh Councillor was found by the Standards Commission to have breached the Councillors' Code, on the face of it, for failing to behave with courtesy and respect during a meeting held in October 2021. The Hearing Panel heard that the Respondent had attended a private meeting organised to allow councillors to read a report on alleged historic abuse within the council, which had been prepared by solicitors from an external legal firm. Having heard from several witnesses at the Hearing, the Panel was satisfied, on balance, that the Respondent had been unhappy with one



recommendation in the report and had behaved in an inappropriate manner by raising his voice and expressing views on it in an aggressive and challenging manner. As such, the Panel found that the Respondent had failed to treat the solicitors present with courtesy and respect, as required by the Code. The Panel noted that it was not in dispute that the Respondent used his mobile phone during the meeting to listen to a voicemail from a journalist, that he advised a solicitor present that the journalist wanted to know what was in the report and asked whether the solicitor wished to speak to him. The Panel noted that the Respondent's position was that he had done so as a joke and in seeking to be open. The Panel was satisfied, however, that the Respondent had been warned that the use of mobile phones during the session was not allowed due to the sensitive nature of the report, and the need to ensure it remained confidential. The Panel agreed, in the circumstances and in the context of the contents of the report, that the Respondent's use of the

phone and his offering of it to one of the solicitors, in the context of him mentioning contact with a journalist, was both entirely inappropriate and disrespectful.

The Panel accepted, nevertheless, that the Respondent was entitled to the enhanced right to freedom of expression afforded to politicians commenting on matters of public interest, under Article 10 of the European Convention on Human Rights (ECHR). The Panel found that the Respondent's behaviour was not sufficiently offensive, abusive or gratuitous as to justify a restriction on his right to freedom of expression, that a finding of a breach of the Code and imposition of a sanction would entail. As such, the Panel concluded overall that a breach of the Code could not be found.

Cases Overview cont.

Aberdeenshire Council - LA/As/3780 - Breach

An Aberdeenshire councillor was censured by the Standards Commission, at a Hearing held online on 30 October 2023, for behaving disrespectfully towards a member of the public on social media. The Hearing Panel heard that it was not in dispute that the Respondent accused the Complainer, a well-known blogger, of “harassing and hounding” others, referred to him as being “scum”, “toxic”, and stated that he could “absolutely gtf”.

The Panel found that the Respondent’s accusation that the Complainer had been “harassing and hounding” others was discourteous and disrespectful, given the likelihood of resulting reputational damage from the making of such a serious accusation. The Panel nevertheless accepted that it was the Respondent’s belief that the Complainer had been doing so and, as such, that she was expressing a value judgement. In the circumstances, the Panel did not consider a restriction on the Respondent’s right to freedom of expression under Article 10 of the ECHR could be justified. The Panel considered, however, that the Respondent’s characterisation of the Complainer as “scum and “toxic” amounted to a gratuitous personal attack. The Panel considered that even if this was a genuinely held belief, it did not mean that the Respondent was entitled to direct such egregious, derogatory terms towards him in a public forum. The Panel considered that the use of such terms, in an open forum, about a member of the public, by someone who is, as a councillor, in a position of authority and responsibility, was disrespectful and had the potential to lower the standards of public debate. The Panel considered, therefore, that a restriction on the Respondent’s right to freedom of expression could be justified in respect of these comments.

The Panel noted that the Respondent accepted that her conduct amounted to a breach of the respect provisions of the Code. The Panel also noted the Respondent had been the subject of abuse herself, and was satisfied that while her comments had been entirely inappropriate, it was apparent that she had been attempting to stand against what she perceived to be bullying and harassment of individuals from ethnic minorities in politics. In the circumstances, therefore, the Panel concluded that a censure, being the least restrictive option available to it, was the appropriate sanction.



West Lothian Council - LAWL/3790 - No Breach

A West Lothian councillor was found by the Standards Commission to have breached the Councillors’ Code, on the face of it, for failing to behave with courtesy and respect during a visit to the offices of a local Business Improvement District (BID), One Linlithgow, in July 2022. Having heard from two witnesses at the Hearing, the Panel was satisfied, on balance, that following a disagreement over her status as a member of the board of the BID during a visit to its office, the Respondent behaved in an inappropriate manner by speaking in a loud and aggressive tone, towards staff and pointing her finger. As such, the Panel found that the Respondent had failed to treat the staff members with courtesy and respect, as required by the Code.



The Panel accepted, nevertheless, that the Respondent was entitled to the enhanced right to freedom of expression afforded to politicians commenting on matters of public interest, under Article 10 of the ECHR. The Panel heard that the Respondent’s interaction with employees had been very limited and that her loud and aggressive tone had been relative to the disagreement over her board status, rather than being aimed at any particular member of staff as an individual. As such, the Panel found that her conduct had not been sufficiently personal, offensive, abusive or gratuitous as to justify a

restriction on her enhanced right to freedom of expression, which a finding of a breach of the Code and imposition of a sanction would entail. As such, the Panel concluded overall that a breach of the Code could not be found.

Office Closure

Our office will be closed from 12 noon on Friday, 22 December 2023 and will re-open on Wednesday, 3 January 2024. We wish everyone a peaceful festive break, and all the best for the new year!



Details of the outcome of cases, including full written decisions and information about scheduled Hearings, can be found in the [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,

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