
Report To: The Inverclyde Council

Date: 20 December 2012

Report By: Chief Executive

Report No: LA/943/12

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**Subject: Standards Commission for Scotland
Annual Report & Accounts 2011/12**

1.0 PURPOSE

- 1.1 The purpose of this report is to make Members aware of the Annual Report & Accounts of the Standards Commission for Scotland.

2.0 SUMMARY

- 2.1 The Standards Commission for Scotland has issued its tenth Annual Report & Accounts for the year 2011/12.
- 2.2 The Standards Commission was established by The Ethical Standards in Public Life etc (Scotland) Act 2000. The Act provided a framework whereby certain public bodies, including local authorities, were required to conform to Codes of Conduct and it created a body to whom breaches of the Codes could be reported.
- 2.3 Members' attention is drawn to that part of the report which outlines the details of the Hearings that have been conducted by the Standards Commission over the last year. It should be noted that the report details only those cases where it was necessary for the Standards Commission to conduct a Hearing and is not reflective of the number of complaints made to the Public Standards Commissioner during the year. That latter number is not yet available for the current year.
- 2.4 Members will note that the two most serious of the cases referred to the Standards Commission resulted in the relevant Members being suspended for a period of three months respectively.

3.0 RECOMMENDATION

- 3.1 It is recommended that Members note the content of the Annual Report & Accounts for 2011/12 of the Standards Commission for Scotland.

Elaine Paterson
Head of Legal & Democratic Services



STANDARDS COMMISSION
SCOTLAND

ANNUAL REPORT AND ACCOUNTS FOR 2011/12



THE KEY PRINCIPLES OF CONDUCT IN PUBLIC LIFE

DUTY AND PUBLIC SERVICE

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

SELFLESSNESS

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

INTEGRITY

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

OBJECTIVITY

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

ACCOUNTABILITY AND STEWARDSHIP

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

OPENNESS

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

HONESTY

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

LEADERSHIP

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

RESPECT

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

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INTRODUCTION BY THE CONVENER OF THE STANDARDS COMMISSION FOR SCOTLAND



It is my pleasure to introduce you to the Tenth Annual Report of the Standards Commission for Scotland ("the Standards Commission"), which covers the period from 1 April 2011 to 31 March 2012. This report details the activity of the Standards Commission alone, following the role of the Chief Investigating Officer, now the Public Standards Commissioner for Scotland ("PSC") being transferred into the Commission for Ethical Standards in Public Life in Scotland. The Standards Commission continues as a wholly independent body, separate to the role of the PSC, and both functions are fully described in this Report.

The year began with the Standards Commission becoming a body supported by the Scottish Parliament following The Scottish Parliamentary Commissions and Commissioners Act 2010

being passed. In October 2011, the office for the Standards Commission relocated into the Scottish Parliament building with consequent savings being made in its budget.

The Standards Commission and the PSC continued the road shows across Scotland, to outline the changes to the Councillors' Code of Conduct, following its review, to engage with Councillors and relevant Council Officers in discussions on its application. The Standards Commission also produced new Guidance to reflect the changes in the Code. The feedback provided on the road shows has been positive and it is our intention to continue to promote the role of the Codes in Scottish public life by regular engagement with Councils and Public Bodies.

The Standards Commission published its Strategic Plan 2012-16 during the year, which sets out its objectives and performance measures in undertaking its statutory role. The Plan introduces measures to better identify progress, one example being surveys of monitoring officers and standards officers.

Overall I believe the year has seen positive progress by the Standards Commission in raising awareness of the Codes

of Conduct and, importantly, in demonstrating how the Standards Commission can improve compliance with the Codes as well as enforcing them. This progress is entirely due to the enthusiasm, skills and commitment of my fellow Members and the Staff of the Standards Commission. The Standards Commission is a relatively small organisation in Scotland but one that is effectively delivering an essential service to maintain ethical standards in public life across Scotland. I am very grateful to all my colleagues in the Standards Commission for their support, guidance and commitment.

Sadly the year ended with the sudden illness and passing away of Carol Paton, one of the Commission Members, who in the time with us demonstrated unsurpassed skill and determination in her role. Much more, however, she brought friendship and an ability to help and advise the team; she made a significant contribution to the Standards Commission.

**Ian A. Gordon OBE, QPM,
LL.B (Hons)
Convener**

SUPPORTIVE



EXECUTIVE SUMMARY

This year has been a particularly significant year for the Standards Commission – our Strategic Plan 2011/15 reflects a change of focus for us and, with effect from 1 April 2011, we became a body supported by the Scottish Parliamentary Corporate Body.

In terms of the change of focus, the Standards Commission will continue to enforce compliance with the Codes of Conduct and, where the adjudicatory function is exercised, it will be exercised fairly and impartially.

We do, however, consider that the main focus of our work should be towards promoting the ethical standards framework and assisting councils and public bodies to achieve the highest ethical standards. We place particular emphasis on the importance of working with councils, public bodies and their members and officers to raise awareness of, and compliance with, the ethical standards framework.

With this in mind we have increased our work with councils and public bodies. During the year we undertook our first survey of local authority Monitoring Officers and public body Standards Officers to assess their views on the ethical

standards framework and work of the Standards Commission. The results of this survey are being used to assist us to refine the focus of the work of the Standards Commission and to identify opportunities to assist local authorities and public bodies to achieve the highest ethical standards.

During the year, we issued a comprehensive guidance note to councillors and local authorities to assist them in their understanding of the revised Councillors' Code of Conduct which came into effect in December 2010. To facilitate understanding of the revised Code, we continued our programme of visits to councils (commenced during the previous year) and visited all three island Councils – Comhairle nan Eilean Siar, Orkney and Shetland.

We continue to enforce compliance with the Codes and, during the year, held five Hearings following allegations of breaches of the Councillors' Code of Conduct in respect of five councillors. We learn from these Hearings and from information available to us from other sources, such as the analysis of the Public Standards Commissioner for Scotland's note of decisions and feedback from councils, that disrespect of

council employees, registration and declaration of interests and decisions on planning applications are issues where councillors and their advisers may benefit from further guidance. We will do this when we visit individual councils and hold regional events following the May 2012 local elections.

Despite being a very small public body – the Convener and Members (all part-time) and three members of staff – we remain determined to play a full part in further raising standards of behaviour across Scotland's local authorities and public bodies.

STANDARDS COMMISSION FOR SCOTLAND

THE MEMBERS OF THE STANDARDS COMMISSION



From top to bottom:

Julie Ward

Matt Smith OBE, JP

Jan Polley

Ian Gordon OBE, QPM, LL.B (Hons) (Convener)

Carol Paton.

Carol Paton resigned from the Standards Commission with effect from 31 January 2012 because of ill health.

THE PURPOSE OF THE STANDARDS COMMISSION

Mission

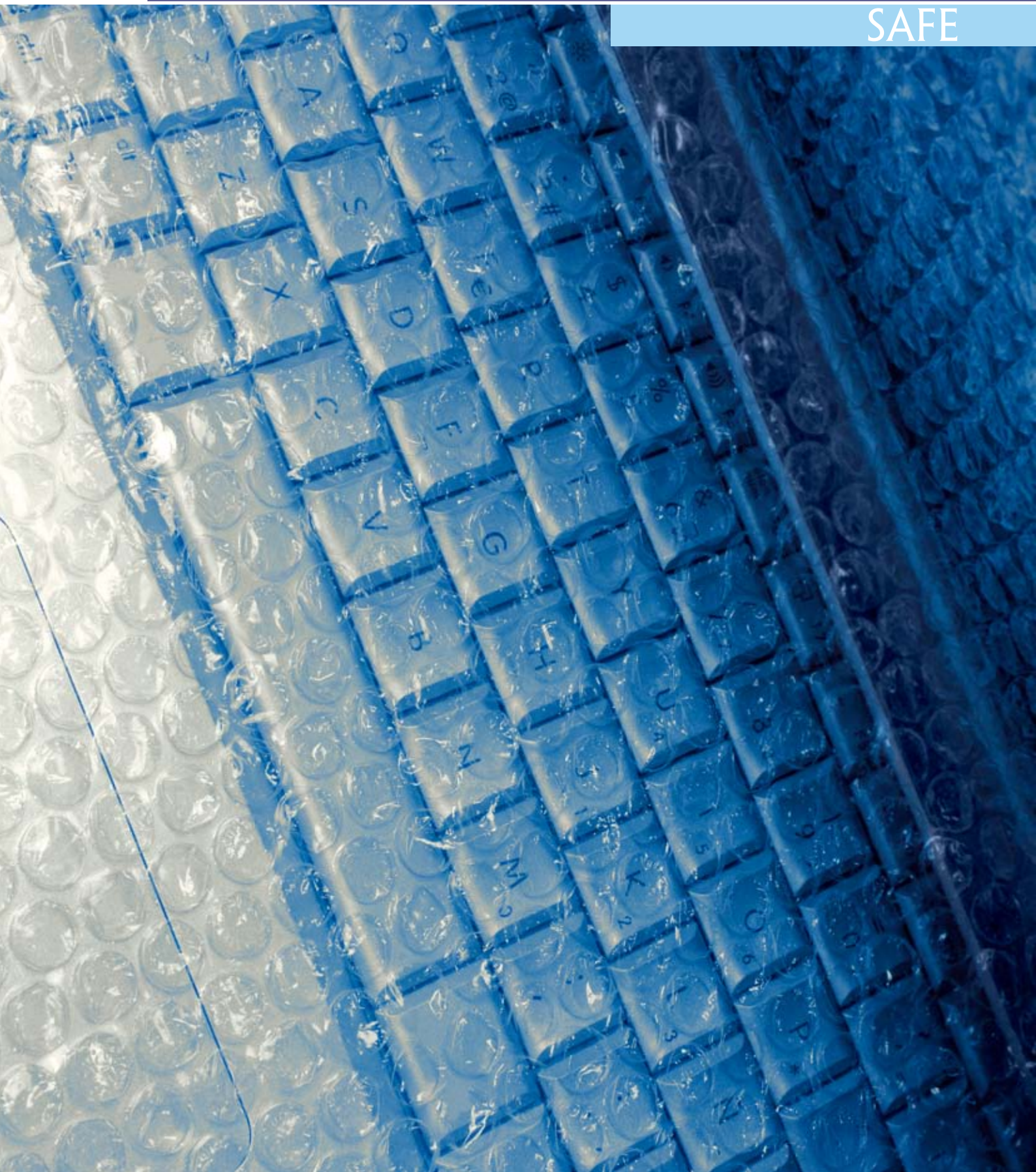
The Standards Commission is an independent body which encourages high ethical standards in public life through the promotion and enforcement of Codes of Conduct for Councillors and those appointed to the Boards of devolved public bodies.

STRATEGIC OBJECTIVES

To assist us to achieve our Mission, we have set four Strategic Objectives:

- To promote the ethical standards framework to ensure the Codes of Conduct are recognised and respected by the public and other stakeholders
- To assist councils and public bodies to achieve the highest ethical standards of conduct and the advice and support provided by the Standards Commission responds to their needs.
- To enforce the Codes of Conduct impartially, timeously and in accordance with legislation.
- To operate in accordance with the principles of good governance, best value, joint working and working in partnership.

SAFE



THE ETHICAL STANDARDS FRAMEWORK IN SCOTLAND

THE STATUTORY BACKGROUND

The Ethical Standards in Public Life etc. (Scotland) Act 2000 ("the 2000 Act") provided for a framework to encourage and, where necessary enforce, high ethical standards in public life. The 2000 Act established the Standards Commission for Scotland ("the Standards Commission") and the post of Chief Investigating Officer ("CIO").

The Scottish Parliamentary Commissions and Commissioners etc. Act 2010 ("the 2010 Act") provides for a new office – the Public Standards Commissioner for Scotland (merging the posts of CIO and Scottish Parliamentary Standards Commissioner). From 1 April 2011 the functions previously exercised by the CIO have been undertaken by the Public Standards Commissioner ("PSC").

In essence, the 2000 Act creates a framework whereby local authorities and devolved public bodies are required to adopt Codes of Conduct for their members, and complaints of breaches of these Codes can be investigated by the PSC and adjudicated upon by the Standards Commission.

The Standards Commission's functions as provided for by the 2000 Act are to:

- issue guidance to councils and devolved public bodies:
 - to assist them in promoting high standards of conduct and
 - on the Commission's relationship with them in carrying out its functions under the 2000 Act.

- receive reports from the PSC on the outcome of his investigations and, if the PSC has concluded that a breach has occurred, determine whether to:
 - direct the PSC to carry out further investigations;
 - hold a Hearing; or
 - take no action.
- hold a Hearing to determine whether a councillor or member of a devolved public body has contravened the Councillors' or the Members' Code.
- where, following a Hearing, the Panel find that a councillor or member has breached the relevant code, to determine, in accordance with the 2000 Act, the sanction to be applied.

A chart outlining how complaints are dealt with is shown on page 10.

THE ETHICAL STANDARDS FRAMEWORK IN SCOTLAND

THE CODES OF CONDUCT

COUNCILLORS

The Councillors' Code of Conduct applies to all the councillors of every local authority in Scotland.

Following a review, led by the Scottish Government, of the original Councillors' Code of Conduct and a consultation exercise, a revised Councillors' Code of Conduct was approved by the Scottish Parliament and introduced with effect from 21 December 2010. The revised Code takes into account the current planning regime in Scotland and is intended to set out in even clearer terms the standards the public can expect of their councillors.

The revised Councillors' Code of Conduct is available online at: www.scotland.gov.uk/actions/2010/12/10145144/0.

The Standards Commission has a statutory duty to provide guidance to local authorities. In November 2011 revised guidance on the revised Code of Conduct was issued to assist councillors and local authorities. The revised guidance is available online at: www.standardscommissionscotland.org.uk/webfm_send/279.

MEMBERS OF PUBLIC BODIES

Each public body covered by the framework is required to have its own Code which is based on the Model Code of Conduct approved by the Scottish Parliament. Individual Codes are 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 Standards Commission's website:

www.standardscommissionscotland.org.uk

The Model Code of Conduct is available online at: www.scotland.gov.uk/actions/2002/04/14493/2563.

The Standards Commission has a statutory duty to provide guidance to public bodies. The revised guidance for members and public bodies is available online at:

www.standardscommissionscotland.org.uk/webfm_send/241.

THE PRINCIPLES OF PUBLIC LIFE

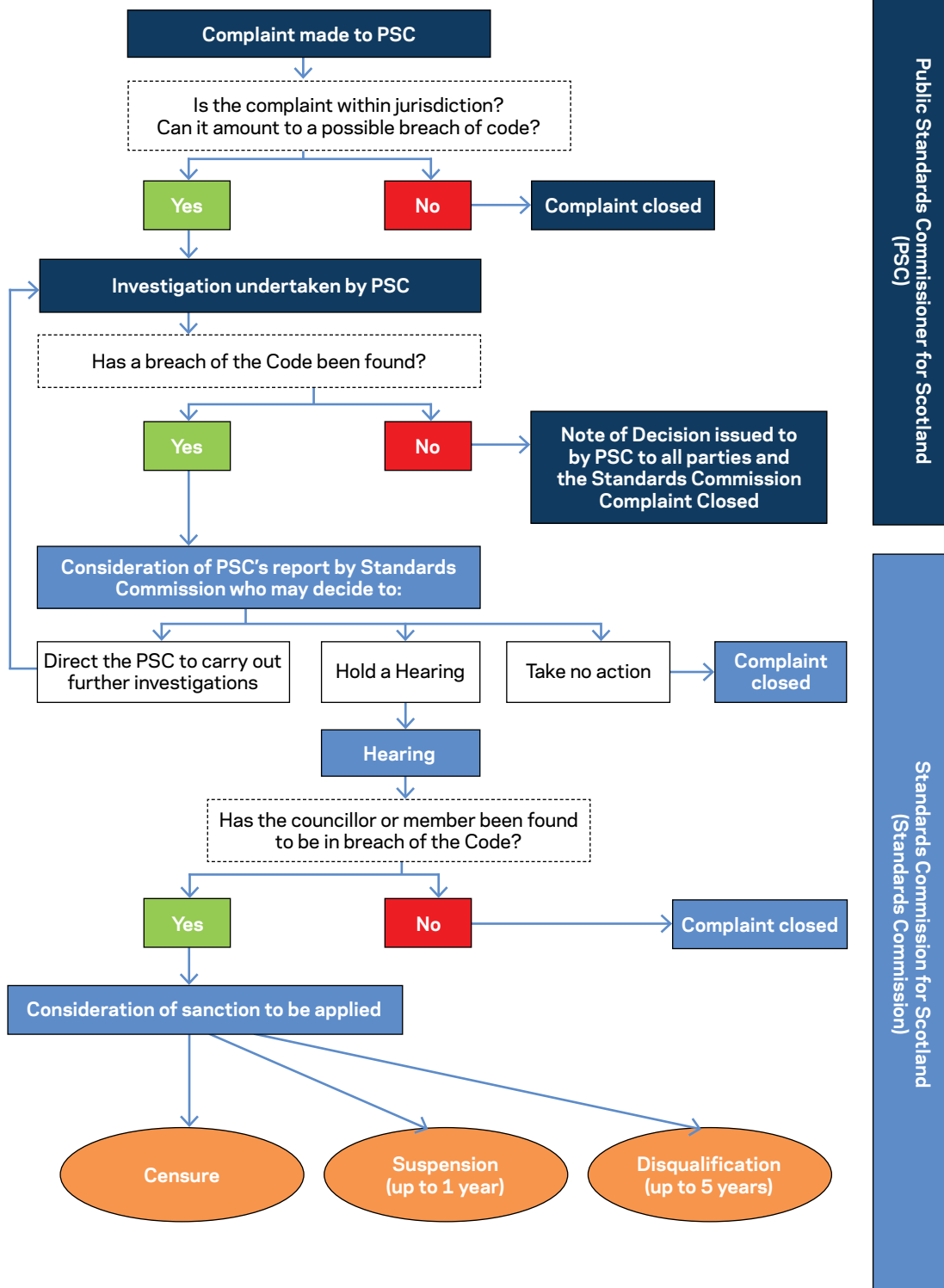
The revised Councillors' Code of Conduct and the Model Code of Conduct are based on the principles of public life set out by the Committee on Standards in Public Life.

These principles are:

- Duty and Public Service
- Selflessness
- Integrity
- Objectivity
- Accountability and Stewardship
- Openness
- Honesty
- Leadership
- Respect

For a fuller description of each principle, please see the inside front cover of this report.

THE ETHICAL STANDARDS FRAMEWORK IN SCOTLAND



ENDEAVOR



WORK DURING 2011/12

Our Strategic Plan 2011/2015 and Business Plan 2011/2012 reflect a change of focus for the Standards Commission.

The Standards Commission will continue to enforce compliance with the Codes of Conduct where this is necessary and, where the adjudicatory function is exercised, it will be exercised fairly, impartially and in line with all legislative requirements.

We do, however, consider that the main focus of our work should be towards promoting the ethical standards framework and assisting councils and public bodies to achieve the highest ethical standards. We place particular emphasis on the importance of working with councils, public bodies and their members and officers to raise awareness of, and compliance with, the ethical standards framework.

The year was very significant for us in that, under the provisions of the 2010 Act, we became, with effect from April 2011, a body supported by the Scottish Parliamentary Corporate Body ("SPCB"). We have been happy to work during the year with the SPCB and Parliamentary staff towards office re-location and some shared services with a view to increasing best value, effectiveness and efficiency.

Our new strategic objectives reflect this change of focus and we set out below our progress towards achieving each of them.

STRATEGIC OBJECTIVE 1

TO PROMOTE THE ETHICAL STANDARDS FRAMEWORK TO ENSURE THE CODES OF CONDUCT ARE RECOGNISED AND RESPECTED BY THE PUBLIC AND OTHER STAKEHOLDERS.

Work towards achieving this objective included:

- The launch of an improved website which allows all stakeholders, including members of the public, to quickly and easily access information relating to the work of the Standards Commission, the ethical standards framework and the operation of the Codes of Conduct.
- The development of a programme of survey work to assist us to assess the levels of awareness of, and attitudes to, the Codes and to further focus our own work – we surveyed the Monitoring Officers of local authorities and the Standards Officers of public bodies on their views on a range of matters including the ethical standards framework, the Standard Commission's guidance and training and Hearings under the 2000 Act and received responses from around a third of all those approached. This work will be taken forward during the forthcoming year, both in terms of the development of a broader programme of survey work and the actions identified from the results of this survey. In summary:
 - We are pleased to report that the majority of respondents (80%) feel that the ethical standards framework has been very or fairly effective in raising standards of behaviour.
 - The majority of respondents (57%) feel that the framework is not very well known among the public, with 62% thinking that more needs to be done to make the public aware.
 - We are also pleased to report that 85% of respondents find the Standards Commission's guidance useful and, of those who have attended events, 62% find them useful and 65% said that they met their needs.

WORK DURING 2011/12

- Slightly more than half of responding Standards Officers (52%), feel that the Model Code of Conduct should be reviewed. We have passed this information to the Public Bodies Unit, Scottish Government, who have responsibility in this area.
- Clearly more work remains to be done in terms of further improving standards of behaviour and raising awareness of the ethical standards framework and we will focus our work on these areas in the remainder of this strategic planning period (to 2016).
- Overall, the survey produced some interesting information which we will use to focus our work and help us to assist councils and public bodies to secure and maintain high standards of ethical behaviour.
- The results of this survey have been published on our website at http://www.standardscommissionscotland.org.uk/webfm_send/276.

- Participation at events run by diverse organisations, including presentations on the ethical standards framework to the Central Organization of Department of the Communist Party of China and the Local Authority Members Services Development Network Services Group (a Network to provide support to all members' services staff within Scottish local authorities).
- The development and implementation of a Communications Strategy to assist us better understand and respond to the needs of our stakeholders.

The Standards Commission is committed to being as open and transparent as possible and we comply fully with the provisions of the Freedom of Information (Scotland) Act 2002. During the year, one application was made to the Scottish Information Commissioner and the decision of the

Commissioner was that the Standards Commission had complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the applicant's information request.

STRATEGIC OBJECTIVE 2

TO ASSIST COUNCILS AND PUBLIC BODIES TO ACHIEVE THE HIGHEST ETHICAL STANDARDS OF CONDUCT AND THE ADVICE AND SUPPORT PROVIDED BY THE STANDARDS COMMISSION RESPONDS TO THEIR NEEDS.

Work towards achieving this objective included:

- We continue to provide guidance and advice in response to requests from local authorities and public bodies about the application of the Codes. In addition, in November, following a full review of our guidance and consultation exercise, we issued a comprehensive guidance note on the revised Councillors Code of Conduct to all councils.
- The programme of visits to councils and public bodies – having undertaken during the previous year a programme of regional events across Scotland to assist councillors and their advisors in their understanding of the revised Code of Conduct, we continued this programme by visiting individually all three island Councils – Comhairle nan Eilean Siar, Orkney Islands Council and Shetland Islands Council – and again provided guidance for councillors and officers on the revised Code and took feedback from them and answered questions on the Code and the work of the Standards Commission. To provide a full overview of the framework, including the investigatory process, each of these events was also attended by the PSC or a representative from his office and we are grateful to the Commissioner for his assistance.

WORK DURING 2011/12

- Full consideration of all reports from the PSC in which, following a full investigation, he reports that no breach has occurred; this assists us to monitor trends and identify issues on which we will issue guidance to councils and public bodies. For example, during the year we noted that a significant proportion of the reports included allegations in relation to disrespect of council employees, declaration of interests and dealing with planning applications. Although none of these individual cases resulted in a conclusion by the PSC that a breach had occurred, the reports contributed to our view that these are among the areas where councillors would benefit from further guidance and we will provide that guidance, including as part of our programme of visits to councils following the May 2012 local elections.
- The full decisions of all Hearings held during the year have been published on our website at http://www.standardscommissionscotland.org.uk/full_list. The decisions provide details of the allegation, the findings of the Hearing Panel and the reasons for the findings. Councillors, members and their advisers are particularly encouraged to view the decisions.

STRATEGIC OBJECTIVE 3

TO ENFORCE THE CODES OF CONDUCT IMPARTIALLY, TIMEOUSLY AND IN ACCORDANCE WITH LEGISLATION.

Work towards achieving this objective included:

- Notwithstanding that the Standards Commission prefers to work with others to reduce the instances of breaches of the Codes, we continue to exercise our adjudicatory role in a consistent and proper manner. We act at all times in

accordance with the Ethical Standards In Public Life etc. (Scotland) Act 2000 and the Scottish Parliamentary Commissions and Commissioners Act 2010.

- During the year, the Standards Commission held five Hearings to determine whether a councillor or member has contravened the relevant Code.

Each case:

- was listed for Hearing to commence within 12 weeks of the decision to hold a Hearing;
- was held in accordance with the legislative requirements and the Standard Commission's Hearing Rules;
- the written decision, including reasons for decision, was supplied to the parties within 15 working days of the conclusion of the Hearing; and
- the decision was made publically available within 25 days of the Hearing.
- Review of the Hearing Rules – the Standards Commission's Hearings are held in accordance with the Standards Commission's own Hearing Rules. During the year we commenced a review of the Standards Commission's Hearing Rules to ensure they remain fit for purpose and to make improvements in light of our experience of Hearings. The revised Hearing Rules will be introduced in the first quarter of 2012/13.

WORK DURING 2011/12

STRATEGIC OBJECTIVE 4

TO OPERATE IN ACCORDANCE WITH THE PRINCIPLES OF GOOD GOVERNANCE, BEST VALUE, JOINT WORKING AND WORKING IN PARTNERSHIP.

Work towards achieving this objective included:

- Delivery of best value – in October we moved our offices to the Scottish Parliamentary campus which allowed us to reduce our expenditure during the year.
- We sought opportunities to work jointly or in partnership with other public bodies and developed with the Scottish Parliament a shared services agreement to enable the Scottish Parliament to process and pay invoices on our behalf from 2 April 2012; the Standards Commission will remain responsible for entering into its own contracts and authorising payments.
- Adoption of good practice and governance in the oversight of the Standards Commission finances – an internal audit by the Scottish Parliament's Internal Audit service of the Standard Commission's Financial and Procurement procedures resulted in a satisfactory report. We also benchmarked our Financial and Procurement procedures against those of two other public bodies to assist us to assess the effectiveness of our procedures and identify areas where further improvements could be made.
- We aim to show collective leadership in the promotion of ethical standards in Scotland and remain committed to the Nine Principles of Public Life (duty, selflessness, integrity, objectivity, accountability and stewardship, openness, honesty, leadership and respect).

- Strategic Plan 2012/16 – we developed a Strategic Plan for the forthcoming four year period to allow us to further develop and take forward the work we have started this year.

In addition to meeting monthly as a Commission, the Standards Commission has set up two Committees:

Audit and Accounting Committee – the Committee is responsible for advising the Standards Commission on a range of matters, including the strategic process for risk control and corporate governance, the accounting policies and accounts of the Standards Commission and the planned activities of internal and external audit.

During the year, the Audit and Accounting Committee met regularly and instigated internal audit work undertaken by the Scottish Parliament's Internal Audit service and a benchmarking exercise in relation to financial procedures. Other activities included consideration of the current year's financial reports and budget bids for future years, review of performance in relation to risk management and general oversight of the changes required followed by the Standards Commission's move to becoming a body supported by the SPCB.

Human Resources Committee - the Committee is responsible for advising the Standards Commission on a range of matters, including on its responsibilities as an employer, equality of employment procedures and practices and Human Resources policies and procedures.

The Committee's work during the year included a major review of the Standard Commission's Human Resources policies and procedures with a view to aligning them with those of the Scottish Parliament.

ACCOMPLISHED



PERFORMANCE AGAINST STRATEGIC OBJECTIVES

We set out below the Standards Commission's performance against the measurements detailed in our Strategic Plan 2012/2016:

1. TO PROMOTE THE ETHICAL STANDARDS FRAMEWORK AND SO ENCOURAGE RECOGNITION OF AND RESPECT FOR THE CODES OF CONDUCT BY THE PUBLIC AND OTHER STAKEHOLDERS

Measurements of achievement:

Measurement	Performance
The details of hearings held that will be published in the Standards Commission's Annual Report	Achieved
Assessment of the level of awareness and attitudes to the Codes that will be submitted annually to Scottish Ministers and the Parliament	Achieved
Having undertaken during 2011/12 a survey of the views of Monitoring Officers and Standards Officers on the ethical standards framework, the development of a programme of survey work, including councillors, members of public bodies, and the public and publication of its results	Achieved
The actions taken by the Standards Commission to promote the Codes, including in light of the lessons learned from the 2011/12 and further surveys	Achieved
Evidence through the surveys of an increased awareness among the public of the ethical standards framework	To be achieved by March 2016

PERFORMANCE AGAINST STRATEGIC OBJECTIVES

2. TO ASSIST COUNCILS AND PUBLIC BODIES TO ACHIEVE THE HIGHEST ETHICAL STANDARDS OF CONDUCT AND ENSURE THE GUIDANCE AND SUPPORT PROVIDED BY THE STANDARDS COMMISSION RESPONDS TO THEIR NEEDS

Measurements of achievement be:

Measurement	Performance
The analysis of trends in complaints to the PSC and an account of any guidance or advice issued	Ongoing
The number of bodies that are supported by the education programme each year	Achieved
The recorded programme of visits to councils and public bodies	Achieved
Advice will have been provided within 20 working days of receipt of the request	Ongoing
The annual review of the focus of the Communication Strategy	Undertaken
The review of results from surveys conducted each year and their response rates	Achieved
The recorded programme of assistance to Councils through the attendance at events run by the Standards Commission and others to aid newly elected councillors following the 2012 elections in terms of their understanding of the Councillors' Code of Conduct	Achieved

3. TO ENFORCE THE CODES OF CONDUCT IMPARTIALLY, TIMEOUSLY AND IN ACCORDANCE WITH LEGISLATION

Measurements of achievement be:

Measurement	Performance
Cases will have been listed for hearing to commence within 12 weeks of the decision to hold a Hearing	Achieved
Relevant parties will have been informed of the outcome of hearings within 15 working days	Achieved
The outcome of hearings will have been made available on the website within 25 working days of the hearing	Achieved
A substantive response to correspondence will have been given within 20 days of receipt	Ongoing
A substantive response to complaints will have been given within 20 days of receipt	Ongoing

PERFORMANCE AGAINST STRATEGIC OBJECTIVES

4. TO OPERATE IN ACCORDANCE WITH THE PRINCIPLES OF GOOD GOVERNANCE, BEST VALUE, JOINT WORKING AND WORKING IN PARTNERSHIP AND TO SECURE CONTINUOUS IMPROVEMENT

Measurements of achievement be:

Measurement	Performance
The annual appraisal of Standards Commission's Members	Undertaken
An annual assessment of the Standards Commission's contribution to the Principles of Public Life in Scotland	Undertaken
A satisfactory annual report from the Standards Commission's auditors	Achieved
An Annual Report that will identify how the Standards Commission has delivered best value in the preceding year and shows what steps have been taken to secure continuous improvement and increase the levels of joint working and partnership undertaken	Achieved
An annual assessment of the Standard Commission's commitment to the Equality Duty principles	Achieved

REPORTED



CASE STATISTICS

The Standards Commission considers all reports where the PSC concludes that there has been a breach of a Code of Conduct. The reports are considered by the Members of the Commission who may decide to:

- direct the PSC to carry out further investigations;
- hold a Hearing; or
- take no further action.

In each case where it is alleged by the PSC that a breach of the Code of Conduct has occurred, the Standards Commission's decision about what action will be taken is notified to the complainant, the person who is being complained about, the Chief Executive of the local authority or board of which that person is a member and the PSC.

During 2011/12 the PSC referred seven¹ complaints where he determined that there had been a breach of the Councillors' Code of Conduct. Where there have been a number of separate complaints against one person and all the complaints are about the same matter or matters, these complaints will normally be dealt with together as one case. Where a complaint is against more than one person, but relate to the same matter or matters, these will normally be treated as separate cases. The seven complaints referred by the PSC were dealt with as five cases.

The total number of instances where the PSC concludes that a breach has occurred remains low. During the year, the PSC received a total of 184 complaints and referred seven complaints where he determined that there had been a breach of the Councillors' Code of Conduct.

It is only where the PSC concludes that there has been a breach of a Code of Conduct that the Standards Commission has jurisdiction to determine whether or not to hold a Hearing to determine if the councillor or member has breached the Code.

DECISIONS OF THE STANDARDS COMMISSION FOLLOWING RECEIPT OF THE PSC'S REPORTS

Table 1 shows the outcome of the decisions of the Standards Commission following receipt of the PSC's reports.

Notes:

- 1 The PSC had concluded one of these complaints during the previous year and the Commission for Ethical Standards in Public Life Annual Report 2011/12, therefore, shows that he referred six complaints during 2011/12.

CASE STATISTICS

TABLE 1

	No of Cases
Breach reports referred to Standards Commission during 1 April 2011 – 31 March 2012	5
Breach reports outstanding from 1 April 2009 – 31 March 2010	2
Commission decision to take no further action	0
Commission decision to hold a Hearing	5
Hearings held during 2010/11	5
Breach reports carried forward to 2011/12	2

HEARINGS CONDUCTED BY THE STANDARDS COMMISSION FOR SCOTLAND

TABLE 2

Table 2 outlines the findings of the Hearing Panels.

Findings	Number
Finding of breach	5
Finding of no breach	0
Total	5

Hearings are held in public, unless the Members of the Standards Commission determine that it is in the public interest for a Hearing not to be in public. All Hearings were held in public.

Notes:

- 1 Full suspension means that the councillor is suspended from attending all meetings of the council, committees and sub-committees and of any other body of which he/she is a representative or nominee of the council.
- 2 Partial suspension means that the councillor is suspended from attending one or more, but not all of the following: (i) all meetings of the council; (ii) all meetings of one or more committees or sub-committees of the council; (iii) all meetings of any other body on which the councillor is a representative or nominee of the council.
- 3 Disqualification means that the councillor is disqualified for the period determined (which may not exceed 5 years) from being, or from being nominated for election as, and from being elected, a councillor. It has the effect of vacating that councillor's office.

SANCTION DECISIONS ON FINDINGS OF BREACH AFTER HEARINGS

Table 3 outlines the sanction imposed by the Commission.

TABLE 3

Sanction	Number
Censure	3
Suspension – full ¹	0
Suspension – partial ²	2
Disqualification ³	0
Total	5

APPEALS AGAINST DECISIONS MADE BY THE STANDARDS COMMISSION

A councillor or member of a devolved public body who has been found by the Standards Commission to be in breach of the Councillors' or Members' Code or on whom a sanction has been imposed, may appeal to the Sheriff Principal.

No appeals were validly lodged or heard during the year.

One respondent did lodge an appeal with the Sheriff Principal against a decision of a Hearing Panel. However, having held a hearing to consider the issue, the Sheriff Principal determined that the appeal was submitted outwith the time limit stipulated by the 2000 Act and that he had no discretion to consider an appeal lodged out of time.

STRENGTH



SUMMARISED ANNUAL ACCOUNTS 2011/12

The financial information given here is a summary extracted from the Standards Commission for Scotland's audited annual accounts for year ended 31 March 2012. It does not contain sufficient information to allow as full an understanding of the results and state of affairs of the Standards Commission as would be provided by the audited annual accounts and reports.

The Standards Commission's Annual Accounts 2011/12, and details about our finance and governance arrangements can be viewed on our website at: www.standardscommissionscotland.org.uk.

STATEMENT OF COMPREHENSIVE NET EXPENDITURE FOR THE YEAR ENDED 31 MARCH 2012

	2012 £'000
Administrative Costs	
Staff Costs	192
Other Administrative Costs	56
Depreciation	3
Net Administrative Costs	<u>251</u>
Net Operating Costs	<u>251</u>

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

STATEMENT OF FINANCIAL POSITION AS AT 31 MARCH 2012

	2012 £'000
Non Current Assets	
Property Plant and Equipment	7
Total Non Current Assets	<u>7</u>
Current Assets	
Trade and Other Receivables	4
Cash and Cash Equivalents	23
Total Current Assets	<u>27</u>
Total Assets	<u>34</u>
Current Liabilities	
Trade and other payables	(28)
Total Current Liabilities	<u>(28)</u>
Non Current Assets plus Net Current Assets	<u>6</u>
Taxpayers' Equity	
General Fund	6
Total Taxpayers' Equity	<u>6</u>

SUMMARISED ANNUAL ACCOUNTS 2011/12

OTHER ADMINISTRATIVE COSTS

	2012
	£'000
Property Costs	17
Legal Advice	9
Audit Fee	3
Hearing Costs Accommodation	4
Information Technology	4
Printing and Promotion Costs	6
General Administration Costs	4
Officeholders Travel and Expenses	6
Staff Travel and Expenses including Hearings	3

56

One of the Standards Commission Members, Jan Polley, has provided training services to the SPCB on a sub-contract basis through the SPCB training provider contract. The Convener nor any other Member of the Standards Commission or member of staff or related parties have undertaken material transactions with the SPCB during the year.

RELATED PARTY TRANSACTIONS

The Standards Commission for Scotland was constituted by the Scottish Parliament which provides funding via the Scottish Parliamentary Corporate Body ("the SCPB"). The SPCB is regarded as a related body. From 26 October 2011, the Standards Commission has been accommodated at £0 costs within the Scottish Parliament building and provided other services such as telephone and post at £0 costs.

ACTION



SUMMARY OF HEARINGS

During the year, the Commission held five Hearings involving seven cases. Summaries are set out below and the full written decision can be accessed at: www.standardscommissionscotland.org.uk/full_list

LA/ER/1046C - East Renfrewshire Council

COMPLAINT

The complainant alleged that the respondent had breached Section 4 of the Councillors' Code of Conduct which deals with Registration of Interests. Having investigated the complaint,

the PSC reported to the Standards Commission his conclusion that the respondent had breached paragraphs 4.2, 4.3 and 4.7 of the Councillors' Code of Conduct.

SECTION 4: REGISTRATION OF INTERESTS

4.2 Regulations made by the Scottish Ministers describe the detail and timescale for registering interests. It is your personal responsibility to comply with these regulations and you should review regularly and at least once a year your personal circumstances. Annex B contains key definitions and explanatory notes to help you decide what is required when registering your interests under any particular category. The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse, or cohabitee.

Category One: Remuneration

4.3 You have a registerable interest where you receive remuneration by virtue of being:

- employed;
- self-employed;
- the holder of an office;
- a director of an undertaking;
- a partner in a firm; or
- undertaking a trade, profession or vocation, or any other work.

4.7 When registering employment, you must give the name of the employer, the nature of its business and the nature of the post held in the organisation.

(Extract from the Councillors' Code of Conduct – 2003 version)

SUMMARY OF HEARINGS

LA/ER/1046C - East Renfrewshire Council (cont.)

DECISION

The Hearing Panel concluded that the respondent omitted to record in her Register of Interests that between dates in 2007 to 2010 she received remuneration by virtue of her employment as a teacher by Glasgow City Council.

The respondent was, therefore, in breach of paragraphs 4.2, 4.3 and 4.7 of the Councillors' Code of Conduct.

SANCTION

The Hearing Panel considered that in failing to register properly and timeously her remunerated employment as a teacher, the respondent did not demonstrate the openness and transparency required by the Code. However, the respondent accepted full responsibility for this failure to register and the Hearing Panel accepted that there was no deliberate or willful concealment of her remunerated job; the failure to register was a negligent oversight.

The respondent was censured.

SUMMARY OF HEARINGS

LA/NL/961 - North Lanarkshire Council

COMPLAINT

The complainant alleged that the respondent had breached Section 3 and Annex C of the Councillors' Code of Conduct. Having investigated the complaint, the PSC reported to the Standards

Commission his conclusion that the respondent had breached paragraphs 3.1, 3.2, 3.3, 3.15, 3.16, 3.20 and paragraph 20 of Annex C of the Councillors' Code of Conduct.

SECTION 3: GENERAL CONDUCT

3.1 The principles of good conduct in this section must be observed in all situations where you act as a councillor, including representing the Council on official business.

Relationship with Council Employees (Including those employed by contractors providing services to the Council)

3.2 You must respect all Council employees and the role they play, and treat them with courtesy at all times. It is expected that employees will show the same consideration in return.

3.3 Whilst both you and Council employees are servants of the public, you have separate responsibilities; you are responsible to the electorate but the employee is responsible to the Council as his or her employer. You must also respect the different roles that you and an employee play. Your role is to determine policy and to participate in decisions on matters placed before you, not to engage in direct operational management of the Council's services; that is the responsibility of the Council's employees. It is also the responsibility of the Chief Executive and senior employees to help ensure that the policies of the Council are implemented.

Confidentiality Requirements

3.15 Council proceedings and printed material are generally open to the public. This should be the basis on which you normally work but there may be times when you will be required to treat discussions, documents or other information relating to the Council in a confidential manner, in which case you must observe such requirements for confidentiality.

3.16 You will often receive information of a private nature which is not yet public or which perhaps would not be intended to be public. There are provisions in legislation on the categories of confidential and exempt information and you must always respect and comply with the requirement to keep such information private. Legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out council duties. Such information is, however, for your individual use as a councillor and must not be disclosed or in anyway used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.

ANNEX C PROTOCOL FOR RELATIONS BETWEEN COUNCILLORS AND EMPLOYEES IN SCOTTISH COUNCILS

SUMMARY OF HEARINGS

LA/NL/961 - North Lanarkshire Council (cont.)

Public Comment

20. Councillors should not raise matters relating to the conduct or capability of employees in public. Employees must accord to councillors the respect and courtesy due to them in their various roles. There are provisions in the Code of Conduct for Employees about speaking in public and employees should observe them.

(Extract from the Councillors' Code of Conduct – 2003 version)

PROCEDURAL HEARING

Following an application by the PSC that the Standards Commission order a witness to produce certain documents, namely notes of any discussions he, as a journalist, had with the respondent between certain dates, the Standards Commission held a procedural hearing to determine whether the witness would be ordered to produce the specified documents. The respondent opposed the application to require the witness to produce the documents.

Having heard oral submissions on behalf of the PSC, the witness concerned and the respondent, the Hearing Panel concluded that the high test to require a journalist to disclose his sources, namely an overriding requirement in favour of disclosure in the public interest, had not been met in this case. Accordingly, the journalist was not ordered to produce the documents.

DECISION

The respondent disputed the PSC's finding that he had contravened the Councillors' Code of Conduct and, having considered all the evidence, both written and oral, including the oral evidence of a number of witnesses, the Hearing Panel concluded that the respondent had released to the media a confidential report, concerning an Appeal Hearing for a Council employee, which led to a press article.

The Hearing Panel further found that, in a separate incident, the respondent distributed a letter to all members of his Party Group through the Council's internal mail system. The letter called for the suspension of a senior Council officer and was not marked confidential, not placed in an envelope and not subject to any covering note. A journalist obtained a copy and the issue subsequently became the subject of a newspaper article.

The Hearing Panel found that the respondent was, therefore, in breach of paragraphs 3.1, 3.2, 3.3, 3.15, 3.16 and paragraph 20 of Annex C of the Councillors' Code of Conduct.

SANCTION

The Hearing Panel took into account the serious nature of the breaches of the Code of Conduct, the importance of ensuring that confidential matters are not released to the media and the importance of ensuring that respect is shown to Council employees. In mitigation, the Hearing Panel heard a statement from the Leader of the Party Group on the good character and work effort of the respondent.

The respondent's entitlement to attend all meetings of North Lanarkshire Council, its committees and sub-committees was suspended for three months.

SUMMARY OF HEARINGS

LA/E/1098 and 1108 - City of Edinburgh Council

COMPLAINT

The complainants alleged that the respondent had breached Section 3 of the Councillors' Code of Conduct. Having investigated the complaint, the PSC reported to the Standards Commission his

conclusion that the respondent had breached paragraphs 3.14 and 3.15 of the revised Councillors' Code of Conduct.

SECTION 3: GENERAL CONDUCT

Confidentiality Requirements

3.14 Council proceedings and printed material are generally open to the public. This should be the basis on which you normally work but there may be times when you will be required to treat discussions, documents or other information relating to the Council in a confidential manner, in which case you must observe such requirements for confidentiality.

3.15 You will often receive information of a private nature which is not yet public or which perhaps would not be intended to be public. There are provisions in legislation on the categories of confidential and exempt information and you must always respect and comply with the requirement to keep such information private. Legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out Council duties. Such information is, however, for your individual use as a councillor and must not be disclosed or in anyway used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.

(Extract from the Councillors' Code of Conduct - 2010 version)

DECISION

The Hearing Panel concluded that, having been appointed by the Council to two outside Boards, the respondent was, as a Board member, given information of a confidential nature about the business dealings of an individual. The respondent disclosed this information in an e-mail to a number of recipients few, if any, of whom had a right to know the details disclosed. The respondent was, therefore, in breach of paragraphs 3.15 and 3.16 of the revised Councillors' Code of Conduct.

SANCTION

The Hearing Panel took into account that the disclosure of confidential information given to a councillor in the course of their duties is a serious matter which undermines trust and public confidence in local government. The respondent disclosed this information deliberately, although explained to the Hearing Panel that she would not have done so if she had realised it was contrary to the Code of Conduct. The Panel also noted that the respondent apologised publicly to the complainant once she understood the seriousness of her actions.

The respondent was censured.

SUMMARY OF HEARINGS

LA/G/1049 - Glasgow City Council

COMPLAINT

The complainant alleged that the respondent had breached Sections 2 and 3 of the Councillors' Code of Conduct. Having investigated the complaint, the PSC reported to the Standards Commission his

conclusion that the respondent had breached paragraphs 2.2 and 3.14 of the Councillors' Code of Conduct.

SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT

2.2 You should apply the principles of this Code to your informal dealings with the Council's employees, party political groups and others no less scrupulously than at formal meetings of the Council and its committees and sub-committees.

SECTION 3: GENERAL CONDUCT

Conduct in the Chamber or in Committee

3.14 You must respect the chair, your colleagues, Council employees and any members of the public present within the Chamber during Council or Committee meetings or other formal proceedings of the Council. You must comply with rulings from the chair in the conduct of the business of the Council.

(Extract from the Councillors' Code of Conduct - 2003 version)

DECISION

Having considered all the evidence, both written and oral, including the oral evidence of a number of witnesses, the Hearing Panel concluded that the respondent had, during a speech in the Council Chamber, shown disrespect for another councillor by suggesting that the councillor had in some way influenced the decision to award a contract to a private hire taxi firm with which he was associated in a self-employed capacity. This allegation was entirely without foundation. The Hearing Panel also found that a second element of the allegation against the respondent did not constitute a breach of the Code.

The respondent was, therefore, in breach of paragraphs 2.2 and 3.14 of the Councillors' Code of Conduct.

SANCTION

The Hearing Panel considered that the respondent did not act intentionally. Whilst he had conducted his research, the Panel believed his speech was misconceived despite receiving advice from his more experienced colleagues. The respondent was reported as a hard working councillor who had been in his role for a relatively short time and was not well experienced. This was his first major speech.

The Hearing panel considered that the respondent considerably mitigated his position by his open and genuine recognition of the evidence given concerning the effect of his speech on the councillor concerned and his publicly expressed regret.

The respondent was censured.

SUMMARY OF HEARINGS

LA/EL/ 1133 and 1138 - East Lothian Council

COMPLAINT

The complainant alleged that the respondent had breached Section 7 of the revised Councillors' Code of Conduct. Having investigated the complaint, the PSC reported to the Standards

Commission his conclusion that the respondent had breached paragraphs 7.3, 7.10 and 7.11 of the revised Councillors' Code of Conduct.

SECTION 7: TAKING DECISIONS ON QUASI-JUDICIAL OR REGULATORY APPLICATIONS

Fairness and Impartiality

7.3 In such cases, it is your duty to ensure that decisions are properly taken and that parties involved in the process are dealt with fairly. Where you have a responsibility for making a formal decision, you must not only act fairly but also be seen as acting fairly. Furthermore, you must not prejudge, or demonstrate bias in respect of, or be seen to be prejudging or demonstrating bias in respect of, any such decision before the appropriate Council meeting. In making any decision, you should only take into account relevant and material considerations and you should discount any irrelevant or immaterial considerations.

Decisions on Planning Matters

7.10 You must never seek to pressure planning officers to provide a particular recommendation on any planning decision and you should not seek privately to lobby other councillors who have a responsibility for dealing with the application in question.

7.11 If you propose to take part in the decision making process you must not give grounds to doubt your impartiality. You must not make public statements about a pending decision, to ensure that you are not seen to be prejudging a decision which will be made at the meeting where it can be anticipated that the information required to take a decision will be available. You must not indicate or imply your support or opposition to a proposal, or declare your voting intention, before the meeting. Anyone who may be seeking to influence you must be advised that you will not formulate an opinion on a particular matter until all available information is to hand and has been duly considered at the relevant meeting.

(Extract from the Councillors' Code of Conduct - 2010 version)

DECISION

The Hearing Panel concluded that the respondent who was the Convener of the Planning Committee had compiled and issued to members of the Administration an e-mail in which he expressed his opposition to a planning application which was due to be considered by the Committee and invited other councillors to vote against the application.

In doing so, he showed he was biased against and had prejudged the application and his conduct constituted lobbying.

The respondent was, therefore, in breach of paragraphs 7.3, 7.10 and 7.11 of the revised Councillors' Code of Conduct.

SUMMARY OF HEARINGS

LA/EL/ 1133 and 1138 - East Lothian Council (cont.)

SANCTION

The Hearing Panel took into account that the respondent had demonstrated a serious lack of impartiality as Convener of a quasi-judicial Committee and that he had made a subjective interpretation of the Code of Conduct that did not equate to the purpose for which the Code was intended. The Panel considered that the respondent displayed a lack of judgment by failing to seek advice from the Monitoring Officer or legal representative of the Council before sending the e-mail.

The Panel accepted the respondent thought his actions were well intended but, on this occasion, he failed to demonstrate the sound judgment that should have been expected from his extensive public service experience.

The respondent's entitlement to attend the committee/committees in East Lothian Council that are responsible for making planning decisions was suspended for three months.

ACCOUNTABLE

WE
RECYCLE

AT A GLANCE - KEY FIGURES 2007 – 2012

5.1 HEARINGS BY THE STANDARDS COMMISSION

Finding	2011/12	2010/11	2009/10	2008/09	2007/08
Finding of breach	5	2	2	4	1
Finding of no breach	0	0	0	0	0
Total¹	5	2	2	4	1

5.2 SANCTIONS APPLIED

Sanction	2011/12	2010/11	2009/10	2008/09	2007/08
Censure	3	2	2	0	1
Suspension	2	0	0	3	0
Disqualification	0	0	0	1	0
Total¹	5	2	2	4	1

Notes:

- 1 Where complaints are received relating to the same incident but against more than one councillor, these will be treated as separate cases for the purposes of tables 5.1 and 5.2.

CONTACTS AND LINKS

STANDARDS COMMISSION FOR SCOTLAND

If you would like to know more details about the work of the Standards Commission for Scotland or have any other enquiry which is not about a complaint against a councillor or member of a devolved public body, please contact:

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Secretary to the Commission

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STANDARDS COMMISSION
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