

The Highland Council

29 June 2016

Agenda Item	15
Report No	HC/30/16

Decision of Standards Commission for Scotland - Hearing

**Report by Depute Chief Executive/Director Corporate Development
(Monitoring Officer)**

Summary

The purpose of this report is to fulfil the statutory duty placed on the Council under Section 18 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, following a Hearing.

1. Background

1.1 The purpose of this report is to fulfil the statutory duty placed on the Council under Section 18 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, to consider the findings of the Standards Commission for Scotland within 3 months of the receipt of its decision and to respond to the direction given by the Secretary of the Commission, by advising the Secretary of any decision made by the Council in relation to the findings of the Standards Commission.

2. Complaint against Cllr Balfour

2.1 A complaint was made to the Standards Commission for Scotland regarding the conduct of the respondent alleging that he had contravened the Councillors' Code of Conduct.

2.2 The complaint was investigated by the Commissioner for Ethical Standards in Public Life in Scotland and concluded that Councillor Balfour had contravened the following aspects of the Code:

(1) Paragraph 3.1. The rules 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.

(2) Paragraph 3.2. You must respect the chair, your colleagues, Council employees and any members of the public present during meetings of the Council, its Committees or Sub-Committees or of any Public Bodies where you have been appointed by, and represent the Council. You must comply with rulings from the chair in the conduct of the business of these meetings.

2.3 The Standards Commission subsequently convened a Hearing on 17 May

2016, held at the Town House, Inverness. The Hearing Panel concluded that:

- (1) The Councillors' Code of Conduct applied to the Respondent.
- (2) The Hearing Panel found the Respondent had breached paragraph 3.1 of the Code, which obliges councillors to observe the rules of good conduct in all situations where they are acting as a councillor, including representing the Council.

The Hearing Panel determined:

- (3) That the Respondent was acting in the capacity of a councillor at the time of the incident in question and was acting on behalf of a constituent when investigating the potential breach of the Tree Preservation Order.
- (4) While the Respondent was entitled to investigate the possibility of a breach of the Tree Preservation Order, the manner in which he had done so, by seeking to take photographs without indicating his intention to do so and by directing an offensive comment towards the complainant, was disrespectful.
- (5) It was the Respondent's personal responsibility to be aware of and comply with the provisions in the Councillors' Code of Conduct. He failed to do so.

2.4 The Panel decided to censure the Respondent. This sanction is made under the terms of Section 19(1)(a) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

2.5 A full copy of the decision of the Standards Commission of Scotland can be found at www.standardscommission.org.uk.

3. Consideration of Decision

3.1 The Council provides training on the Code of Conduct as part of its Induction for councillors and refresher training is also provided regularly and most recently on 24 September 2015. Arrangements will be made for the Induction of new councillors to the Council in May 2017 and the Code of Conduct will continue to be part of this programme.

4. Implications

4.1 There are no Resource, Equalities or Climate Change implications arising directly from this report.

4.2 There are no legal implications arising as the sanction decided is one of censure and therefore the Council is not required to take any further legal action.

5. Recommendation

Council is asked to consider and note the decision of the Standards Commission of Scotland and to note that training in relation to the Code of Conduct will continue to be offered to councillors and will be included in the Induction Programme for new councillors elected in May 2017.

Designation: Depute Chief Executive / Director Corporate Development

Date: 14 June 2016