

|             |                 |
|-------------|-----------------|
| Agenda Item | <b>8.a</b>      |
| Report No   | <b>HC/15/25</b> |

## THE HIGHLAND COUNCIL

**Committee:** Highland Council

**Date:** 15 May 2025

**Report Title:** Decision of Standards Commission for Scotland – Hearing on 26 March 2025.

**Report By:** Chief Officer Legal and Corporate Governance / Monitoring Officer

### 1. Purpose/Executive Summary

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, following a Hearing.

### 2. Recommendations

2.1 Council is asked to consider and **note** the decision of the Standards Commission of Scotland.

### 3. Implications

3.1 There are no Resource, Community (Equality, Poverty, Rural and Island), Climate Change/ Carbon Clever, Risk or Gaelic implications.

3.2 There are no immediate legal implications for the Council. Consideration of this report discharges the obligation imposed upon the Council by Section 18 of the Ethical Standards in Public Life etc (Scotland) Act 2000. The Standards Commission has decided Councillor Willis has breached the Code of Conduct and has imposed the sanction of censure.

### 4. Impacts

4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.

- 4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.
- 4.3 This is an update report which does not impact upon any policy, strategy or service and therefore an impact assessment is not required.

## **5. Complaint against Councillor Kate Willis**

- 5.1 Following an investigation into complaints received on 3 March 2024 about the conduct of Councillor Willis, the Ethical Standards Commissioner (ESC) referred a report to the Standards Commission on 21 January 2025, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000.
- 5.2 The substance of the referral was that Councillor Willis had failed to comply with the provisions of the Code and, in particular, that she had contravened paragraphs 4.2 and 4.22, which were as follows:

### *Registration of Interests*

*4.2: I understand that regulations made by the Scottish Ministers describe the detail and timescale for registering interests, including a requirement that a councillor must register their registrable interests within one month of becoming a councillor, and register any changes to those interests within one month of those changes having occurred.*

### *Category Eight: Non-Financial Interests*

*4.22: I may also have other interests and I understand it is equally important that relevant interests such as membership or holding office in public bodies, companies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described. In this context, I understand non- financial interests are those which members of the public with knowledge of the relevant facts might reasonably think could influence my actions, speeches, votes or decision-making in my council (this includes its Committees and memberships of other organisations to which I have been appointed or nominated by my council).*

The Hearing Panel noted it was not in dispute that:

- The complaint was that Councillor Willis failed to record membership of the Lochaber National Park Working Group (the Working Group) on her Council Register of Interests until 3 July 2024, despite having been a member since at least October 2023.
- The Code applied to Councillor Willis's conduct, given she was required both to register interests and to ensure her Register of Interests was kept up to date, in her capacity as a councillor.
- Councillor Willis was first elected in May 2022 and completed her Register of Interests on 2 June 2022.
- Councillor Willis joined the Working Group in 2023 as an unremunerated member, with her name being added to its blog in October of that year.

5.3 The Standards Commission for Scotland convened a Hearing on Wednesday, 26 March 2025.

## 6. Standards Commission Decision

6.1 The Hearing Panel considered the submissions made both in writing and orally at the Hearing. It concluded that:

1. The Councillors' Code of Conduct applied to Councillor Willis.
2. Councillor Willis had breached paragraphs 4.2 and 4.22 of the Code.

## 7. Reasons for Decision

7.1 The Panel found, and noted it was not in dispute, that the Code applied to the Councillor Willis's conduct, given she was required, in her capacity as a councillor, both to register interests and to ensure her Register of Interests was kept up to date.

7.2 The Panel noted Councillor Willis accepted that she had failed to record membership of the Working Group in her Council Register of Interests until 3 July 2024, despite having been a member since at least October 2023.

7.3 The Panel noted that the Working Group was informal in nature and had been set up by local volunteers who believed that Lochaber should submit an application, to the Scottish Government, to be designated as a National Park.

7.4 The Panel noted the Code obliges councillors to apply an objective test to determine if any non-financial interests they have require to be registered. In terms of that test, registrable non-financial interests are those which members of the public, with knowledge of the relevant facts, might reasonably think could influence their actions, speeches, votes or decision-making as an elected member.

7.5 The Panel noted that non-financial interests could include membership of, or participation in, community groups that could potentially be impacted by, or benefit from, decisions taken by the Council. The Guidance suggests, in order to ensure they are being as transparent as possible, councillors should consider erring on the side of caution in deciding whether an interest required to be registered.

7.6 The Panel accepted that working groups were not included in the list under paragraph 4.22 of the Code, which outlines categories of organisations of which membership could potentially be a non-financial interest, which would require to be registered. The Panel considered, however, that it was evident from the inclusion of the words 'such as', before the named categories of organisations, that the list was not exhaustive. The Panel further noted that the Standards Commission's Guidance on the Code confirmed, at point 130, that: "*the examples of possible non-financial interests stated in paragraph 4.22 of the Code are illustrative only and, therefore, are not an exhaustive list of potential non-financial interests. Others could include membership of, or participation in, community groups or advocacy bodies and relationships with groups who could potentially be impacted by, or benefit from, decisions taken by the Council (such as sports clubs or conservation group).*"

7.7 The Panel was therefore of the view that Councillor Willis should have realised that membership of local working group that advocated for a cause was potentially an interest that required to be registered.

- 7.8 The Panel noted that the Working Group was informal and comprised of unpaid volunteers (with no entry requirements or terms of appointment). The Panel nevertheless noted that it was not in dispute that the Working Group had organised community consultation events, set up a website and social media pages, undertaken a survey, and submitted a 'conditional nomination document' to the Scottish Government on 28 February 2024, as part of the National Park designation process. The Panel noted Councillor Willis was named and identified as a councillor in the conditional nomination document.
- 7.9 The Panel was of the view, in this case, the relevant facts for the purpose of the application of the objective test were that:
- There was evidence that the suggestion that Lochaber should seek national park status had generated strong feelings locally, both for and against the proposal. The Panel considered, therefore, that there was public interest in the Working Group and, as such, the public might view its aims as having the potential to affect a community served by the Council.
  - The Council provided funding to an organisation that had supported the Working Group. As such, the Working Group was a community group that benefitted (albeit indirectly) from a decision taken by the Council.
  - Councillor Willis was identified as a councillor in the nomination document, which suggested her status as an elected member was considered relevant.
- 7.10 The Panel considered that it would be reasonable for members of the public, with knowledge of these relevant facts, to consider they were sufficiently significant as to be likely to potentially influence Councillor Willis's discussion and decision-making as a councillor. This was because it would be reasonable for members of the public to conclude it was likely the Council could be asked to support (financially or otherwise) any nomination application.
- 7.11 The Panel concluded, therefore, that Councillor Willis's membership of the Working Group was a non-financial interest that required to be registered in terms of paragraph 4.22 of the Code.
- 7.12 The Panel noted that paragraph 4.2 of the Code requires councillors to record any registrable interests within a month. The Panel noted it was not in dispute, and found, that Councillor Willis's name was added to the Working Group's blog in October 2023. The Panel was satisfied, therefore, there was evidence Councillor Willis was a member of the Working Group by then. The Panel found, however, that Councillor Willis did not register her membership until July 2024.
- 7.13 The Panel concluded, accordingly, that Councillor Willis breached both paragraphs 4.2 and 4.22 of the Code.

## **8. Sanction**

- 8.1 The decision of the Hearing Panel was to censure Councillor Willis. The sanction was imposed under section 19(1)(a) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

8.2 The full text of the decision can be found at

<https://www.standardscommissionscotland.org.uk/uploads/files/1743168016250328WrittenDecision.pdf>

## **9. Consideration of the Decision**

9.1 The Council provides training on both the Code of Conduct as part of its induction for Councillors and refresher training is also provided. The recent Spring Training Event included specific input reminding Members of the requirement within the Code to ensure their Register of Interests was accurate and up to date. Councillors are also kept informed of changes and developments through circulation of the Standards Commission's regular newsletter. Training on the Code of Conduct will continue to be a fundamental part of the Council's ongoing training programme and Members are encouraged to seek advice from officers upon any potential issues arising.

Designation: Chief Officer - Legal and Corporate Governance/Monitoring Officer

Date: 30 April 2025