

# The Highland Council

Agenda Item	9
Report No	AC/28/25

**Committee:**           **Audit**

**Date:**                   **12 November 2025**

**Report Title:**       **Ethical Standards Commissioner/Standards Commission:  
Councillors' Code of Conduct – Investigation into Complaints**

**Report By:**           **Chief Officer - Legal and Corporate Governance**

## **1.       Purpose/Executive Summary**

- 1.1       This Report provides information in relation to complaints dealt with by the Ethical Standards Commissioner (ESC)/Standards Commission during the period 1st September 2024 to 31st August 2025 in relation to alleged breaches of the Councillors' Code of Conduct by Members of Highland Council and the outcome of the Commissioner's investigations into these complaints and any hearings of the Standards Commission.

## **2.       Recommendations**

- 2.1       Members are asked to note:-

- i.       The ESC has investigated five complaints and, following investigation, the Standards Commission decided to take no further action.
- ii.      Following investigation by the ESC the Standards Commission decided to hold hearings in respect of :-
  - a)      Councillor Kate Willis. On conclusion of the hearing the Commission found that Councillor Willis had breached the Code and imposed a sanction of censure.
  - b)      Councillor Michael Baird. On conclusion of the hearing the Commission found that Councillor Baird had breached the Code and imposed a sanction of suspension for two months.

## **3.       Implications**

- 3.1       Resource: There are no resource implications arising directly from this report.
- 3.2       Legal: There are no legal implications arising directly from this report. All members agree to adhere to the Councillors' Code of Conduct when accepting office as an elected member.

- 3.3 Community (Equality, Poverty, Rural and Island): There are no such implications arising directly from this report.
- 3.4 Climate Change / Carbon Clever: There are no such implications arising directly from this report.
- 3.5 Risk: There are no risk implications arising directly from this report.
- 3.6 Health and Safety (risks arising from changes to plant, equipment, process, or people): There are no such implications arising directly from this report.
- 3.7 Gaelic: There are no Gaelic implications arising directly from this report

#### **4. Impacts**

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.

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.

This is an update report and therefore an impact assessment is not required.

#### **5. Introduction**

- 5.1 The Standards Commission was established by the Ethical Standards in Public Life etc. Scotland Act 2000 (2000 Act). It is an independent public body responsible for encouraging high standards in public life in Scotland. The 2000 Act provides a framework under which Ministers issue Codes of Conduct for councillors and members of devolved public bodies. All Councillors in Scotland are required to comply with the Councillors' Code of Conduct (December 2021).
- 5.2 The three principal roles of the Standards Commission are:-
- Promote the Codes of Conduct covering the behaviour of councillors and those appointed to the boards of devolved public bodies;
  - Issue guidance to councils and devolved public bodies on how the Codes should be interpreted; and
  - Adjudicate on alleged breaches of the Codes of Conduct, and where a breach is found, to apply a sanction
- 5.3 The Standards Commission publishes a range of documents that are designed to assist in the understanding and interpretation of the Code. The principal document is the Guidance. This is updated regularly with the most recent version issued in March 2025
- <https://www.standardscommissionscotland.org.uk/uploads/files/1743158220250328GuidanceonCouncillorsCode2025v2.pdf>

In addition the Commission issue Advice Notes on specific aspects of the Code as well as useful guides such as an 'Assisting Constituents' card.

<https://www.standardscommissionscotland.org.uk/education-and-resources>

- 5.4 The Standards Commission are also responsible for considering and issuing dispensations. In a number of very limited circumstances dispensations may be granted by the Standards Commission in relation to the existence interests which would otherwise prohibit participation in discussion and voting. Such a dispensation will allow the councillor concerned to continue discussing and voting on the matter, provided the relevant interest has been declared, where it is deemed to be in the public interest that they be allowed to do so. An example of such a dispensation is that in place for members of Pension Committees.  
<https://www.standardscommissionscotland.org.uk/uploads/files/1719408820240626SCSDispensationPensionCommitteeMembers.pdf>
- 5.5 The Ethical Standards Commissioner (ESC) is a separate and distinct officeholder who is responsible for investigating complaints that councillors and members of devolved public bodies have breached their respective Codes of Conduct. The ESC sends a report to the Standards Commission on the conclusion of their investigation. Complaints about alleged breaches of the Codes are investigated by the Ethical Standards Commissioner (ESC) and thereafter adjudicated upon by the Standards Commission.
- 5.6 The ESC is required to provide a report to the Standards Commission at the conclusion of every investigation into a complaint about a councillor outlining their findings and conclusions on whether or not there has been a contravention of the Code. On receipt of a report from the ESC, the Standards Commission has three options available (a) to direct the ESC to carry out further investigations; (b) to hold a hearing; or (c) to do neither. In the event that the Standards Commission decide to hold a hearing and find a breach has been established it has a range of sanctions available from censure to disqualification.

## **6. Highland Council**

- 6.1 In simple numerical terms the Highland Council is one of the largest local authorities in Scotland with 74 elected Councillors. Historically the volume of complaints against Members of Highland Council has been low. In the previous 12 months to August 2024 two hearings were held in respect of Highland Councillors. One breach was found to have been established leading to the suspension of the Councillor concerned for one month.
- 6.2 Training on the Code of Conduct was offered to all members as part of the Members' Induction Programme 2022. A follow up session for Members on governance was held in November 2024 and further training was offered in April 2025. This has included further training on registration and declaration of interests, gifts and hospitality as well participation in quasi-judicial decisions. Further training will be included in the ongoing training programme. Members receive the Quarterly Updates from the Standards Commission and are reminded regularly of the need to ensure that their respective Registers remain up to date.

## **7. Complaints to the Commissioner for Ethical Standards – 2024/25**

- 7.1 This report deals with the complaints concluded during the period 1st September 2024 to 31st August 2025.
- 7.2 In presenting this report the information has been drawn from the communication and correspondence available to the Council's Monitoring Officer. The ESC will typically seek information from the Monitoring Officer having reached a decision to undertake an investigation. The ESC will, on occasion, determine that a complaint may be closed without such an investigation.
- 7.3 Investigations
- 7.4 During the period in question Commissioner completed five investigations into complaints against Members or former Members of the Highland Council. The reports are available at <https://www.standardscommissionscotland.org.uk/cases/cases-referred-by-the-esc>

LA/H/3975	Date 7/11/24	Councillor	Alleged breach	Para 3.1
LA/H/4091	Date 12/11/24	Councillor	Alleged breach	Paras 3.1, 3.11 and 3.21
LA/H/3964	Date 5/2/25	Councillor	Alleged breach	Paras 3.1 and 3.3
LA/H/4113	Date 26/5/25	Former Councillor	Alleged breach	Paras 3.1 and 3.3
LA/H/4146	Date 11/8/25	Councillor	Alleged breach	Paras 3.26 and 3.27

- 7.5 Following consideration of the respective reports the Standards Commission determined that no action be taken.

## **8. Standards Commission Hearings**

### **8.1 Complaint against Councillor Kate Willis**

- 8.2 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.
- 8.3 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.
- 8.4 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.

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

8.6 Reasons for Decision

8.7 The Panel found, and noted it was not in dispute, that the Code applied to the Councillor Willis's conduct and 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. 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.

8.8 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. 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.

8.9 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. It was evident from the inclusion of the words 'such as', before the named categories of organisations, that the list was not exhaustive. 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)."*

8.10 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. 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.

- 8.11 The Panel considered that it would be reasonable for members of the public, with knowledge of the 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.
- 8.12 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.
- 8.13 The Panel noted that paragraph 4.2 of the Code requires councillors to record any registrable interests within a month. It was not in dispute 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.
- 8.14 The Panel concluded, accordingly, that Councillor Willis breached both paragraphs 4.2 and 4.22 of the Code.
- 8.15 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.
- 8.16 The outcome of the hearing was reported to Highland Council on 15 May 2025.

## **9. Complaint against Councillor Michael Baird**

- 9.1 Following an investigation into a complaint received on 7 February 2024 about the conduct of Councillor Baird, the Ethical Standards Commissioner (ESC) referred a report to the Standards Commission on 6 August 2024, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act).
- 9.2 The substance of the referral was that Councillor Baird had failed to comply with the provisions of the Code and, in particular, that he had contravened paragraphs 3.1 and 3.3, which were as follows:
- 9.3 The Complainer was a member of the Culrain and District Hall Committee (the Committee), which was involved in managing and maintaining a village hall. The village hall was a local community asset and, as such, was not owned or managed by the Council. Forestry and Land Scotland had asked the Committee (as the only established local community group) to obtain the opinions of the local community on a land purchase request from a local constituent.
- 9.4 There were three issues of complaint. The Complainer had submitted his initial complaint, about the first issue, in September 2023. He had then submitted two

further complaints, in February and May 2024, concerning issues two and three, respectively.

- 9.5 Issue 1: concerned an email Councillor Baird sent the Chair of the Committee (the Committee Chair) on 22 September 2023 in which he stated that if the Committee did not support a proposal for the constituent to buy public land from Forestry and Land Scotland then he could not “support further money (which [name of constituent] is willing to sponsor also) for further improvements to the Culrain Village Hall.”

Issue 2: concerned Councillor Baird’s conduct in sending the Committee Chair a text message on 7 February 2024, after he had been informed by the ESC’s office that a complaint about the email of 22 September 2023 had been made.

Issue 3: concerned an email Councillor Baird sent the Committee Chair on 29 March 2024.

- 9.6 There was no dispute that Councillor Baird had sent the emails and text in question.

- 9.7 The Standards Commission for Scotland convened a Hearing on Tuesday 15 April 2025. The Hearing Panel concluded that:

1. The Councillors’ Code of Conduct applied to Councillor Baird.

2. Councillor Baird had breached paragraph 3.1 of the Code only, in respect of the first issue, and that a restriction on his right to freedom of expression that such a finding would entail could be justified.

3. Councillor Baird had not breached the Code in respect of the other two issues of complaint.

- 9.8 Reasons for Decision

The Panel noted that Councillor Baird used the sign-off “Cllr Baird” in the emails that were the subject of the issues one and three. The Panel noted the text, which was the subject of issue two was sent from Councillor Baird’s council-issued mobile phone and, again, included the sign-off “Cllr Baird”. The Panel further noted that both emails and the text concerned matters of local interest. As such, Panel was satisfied that Councillor Baird identified himself as a councillor and could also reasonably be considered to be acting as a councillor at the time of the conduct in question. The Panel determined, therefore, that the Code applied to his conduct.

- 9.9 In relation to issue one it was not in dispute that Councillor Baird sent the Committee Chair an email on 22 September 2023 stating that if the Committee did not support the land purchase request, then he could not support “further money” which the constituent “is willing to sponsor also for further improvements to the Culrain Village Hall”. The Panel noted Councillor Baird previously made several telephone calls and visits to the Committee Chair’s home during which he raised the matter. The Panel noted that the Committee was entitled to seek grant funding from the Council. The Panel further noted that as one of the three ward councillors for the area that covered Culrain, Councillor Baird was entitled to advise council officers of his views on how the ward budget should be spend, albeit he was not responsible for determining how any funds are distributed.

- 9.10 The Panel considered it was evident from the reference to the constituent “also” being willing to provide sponsorship that Councillor Baird was referring to any potential sources of funding. The Panel noted that while Councillor Baird would not have had any control over a constituent’s expenditure, he enjoyed some degree of influence in terms of how the ward budget should be spent. As such, the Panel was of the view that even if it had been Councillor Baird’s intention to refer only to sponsorship from the constituent or to refer to income from any other source, it would be reasonable for the Committee Chair to understand that he was also referring to any future, potential council funding. This was particularly the case given that the Committee had previously received funding from the council for work carried out on the village hall.
- 9.11 The Panel noted the Committee Chair had confirmed that, before the email was sent, he had enjoyed a friendship with the Councillor Baird. The Panel noted that Committee Chair had indicated that while Councillor Baird had previously visited him at home, the frequency of such visits had increased after the Committee was asked to gauge the community’s views on the proposed land purchase, with Councillor Baird also telephoning him frequently. The Panel accepted the Committee Chair’s evidence that Councillor Baird almost always referred to the question of whether the Committee would support the proposal during these visits and telephone calls. The Panel considered it would have been evident from this that Councillor Baird felt very strongly about the Committee’s stance towards the proposal.
- 9.12 The Panel considered, given its findings that:
- the Committee had previously received funding from the council for work to the village hall;
  - Councillor Baird enjoyed some degree of influence in terms of how the ward budget should be spent; and
  - it would have been evident to the Committee Chair that Councillor Baird felt very strongly about the Committee’s stance towards the proposal,
  - it would have been reasonable for the Committee Chair to have understood the Councillor Baird’s email of 22 September 2023 to constitute a viable threat with regard to the award of potential further council funding.
- 9.13 The Panel was further of the view that, regardless of intent, Councillor Baird, when acting in the capacity as a ward councillor, declared an intent to do something (either by act or omission) to impact upon potential funding, in retribution, to pressure the Committee Chair and Committee into making a decision on a wholly unrelated matter. As such, the Panel was satisfied that Councillor Baird had, effectively, issued a threat.
- 9.14 The Panel considered that by threatening to use his position as a councillor with influence over expenditure of council funds to force the Committee Chair and committee into making a decision on an unrelated matter, Councillor Baird was disrespectful towards the Committee Chair and Committee. In reaching this view, the Panel considered the threat would not have been made, had there not been an inherent assumption that the Committee Chair or Committee could be financially motivated when making a decision on an issue of local concern. The Panel therefore concluded that, on the face of it, Councillor Baird had breached paragraph 3.1 of the Code in respect of issue one.
- 9.15 In relation to issues two and three the Panel concluded that there had been no breach of the Code.



- 9.16 The decision of the Hearing Panel was to suspend, for a period of two months with effect from 23 April 2024, Councillor Baird, from all meetings of the council and of any committee or sub-committee thereof and of any other body on which he is a representative or nominee of the council or body.
- 9.17 The outcome was reported to full Council on 15 April 2025.

Designation: Chief Officer - Legal and Corporate Governance

Date: 30 October 2025

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