

Agenda Item	10
Report No	HC/44/25

THE HIGHLAND COUNCIL

Committee: **Highland Council**

Date: **11 December 2025**

Report Title: **Decision of Standards Commission for Scotland – Hearing on 4 November 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 Baird breached the Code of Conduct and has imposed the sanction of a two month partial suspension. The effect of the suspension is to restrict Councillor Baird's ability to attend full Council meetings for two months from 12 November 2025.

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 advisory report which does not impact upon any policy, strategy or service and therefore an impact assessment is not required.

5. Complaint against Councillor Michael Baird

5.1 Following an investigation into a complaint received on 9 December 2023 about the conduct of Councillor Baird the Ethical Standards Commissioner (ESC) referred a report to the Standards Commission on 23 April 2025, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000.

5.2 The Standards Commission determined to take no action in respect of some of the issues of complaint outlined in the referral report, for the reasons outlined in decisions issued on 29 July and 18 August 2025. The Standards Commission decided to hold a Hearing in respect of the remaining issue of complaint. The substance of this was that the Respondent had contravened paragraphs 5.1, 5.2, 5.5 and 5.6 of the Code, which are as follows:

Declaration of Interests

5.1: For each particular matter I am involved in as a councillor, I will first consider whether I have a connection to that matter.

5.2: I understand that a connection is any link between the matter being considered and me, or a person or body I am associated with. This could be a family relationship or a social or professional contact.

5.5: I understand my connection is an interest that requires to be declared where the objective test is met – that is where a member of the public with knowledge of the relevant facts would reasonably regard my connection to a particular matter as being so significant that it would be considered as being likely to influence the discussion or decision-making.

5.6 I will declare my interest as early as possible in meetings. I will not remain in the meeting nor participate in any way in those parts of meetings where I have declared an interest.

6. The Complaint

6.1 Councillor Baird attended a meeting of the Sutherland County Committee on 23 January 2024 in his capacity as a councillor. The Committee considered 16 applications at its meeting on 23 January 2024. These included a grant application for £75,000 made by a Community Interest Company Limited to fund a project to establish “community activities at a new woodland hub” in the grounds of a castle.

6.2 In support of its application, the Community Interest Company submitted a letter from Councillor Baird. The letter dated 4 September 2023 was addressed “to whom it may concern”. In the letter Councillor Baird stated that he fully supported the “preservation” of the castle, as it “offers local employment and improves the local economy, bringing inward investment which is much needed in our local area.” The

Respondent further stated that it was “important” that the castle’s owner acquired additional land adjacent to the castle from Forestry and Land Scotland and advised that he had her “full support” to do so.

6.3 Councillor Baird did not declare an interest during the Committee’s consideration of the Community Interest Company’s grant application.

7. Standards Commission Decision

7.1 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 Baird.
2. Councillor Baird had breached paragraphs 5.5 and 5.6 of the Code.

8. Reasons for Decision

8.1 The Panel was satisfied, and noted there was no dispute, that Councillor Baird attended the meeting of Sutherland County Committee on 23 January 2024 in his capacity as a councillor. The Panel was satisfied, therefore, that the Code applied to his conduct at the meeting.

8.2 The Panel noted that it was also not in dispute that the Respondent did not declare an interest at the meeting and, instead, took part in the discussion and decision-making on the grant application submitted by the Community Interest Company for funds from the Council’s Community Regeneration Fund.

8.3 The Panel further noted it was accepted that a member of the public and constituent of the Respondent, Ms A, was the sole director of, and had a controlling interest in, the Community Interest Company. The Panel noted it was accepted that a friendship existed between Ms A and Councillor Baird at the time of the meeting. It was further noted that it was accepted that Ms A had sent the Respondent a letter of engagement on 24 November 2023 to provide him with legal representation and, as such, a client / lawyer relationship also existed between them at the time the application was considered by the Committee on 23 January 2024.

8.4 The Panel agreed that, in making a decision on whether the Code had been breached, it was obliged to take into account and assess all relevant evidence that had been submitted for its consideration. The Panel noted the paperwork considered at the meeting in support of the application included a letter of support from Councillor Baird in respect of a proposed land acquisition by Ms A. The Panel accepted that Councillor Baird had not been involved in the preparation of the paperwork and, further, that he had no involvement with, or interest in, the Community Interest Company. The Panel was satisfied, however, that Councillor Baird made it clear in his letter of 4 September 2023 that he was supporting the land acquisition as he considered it was an important part of the project to restore Ms A’s property as a whole. While the Panel accepted the project for which the Community Interest Company was seeking funds from the Council’s Community Regeneration Fund was distinct from the land purchase, it found both related to the development of Ms A’s overall property.

8.5 Having found there was a connection, the Panel proceeded to consider the objective test outlined at paragraph 5.5 of the Code. The Panel accepted Councillor Baird may not have been aware, before the meeting, that his letter had been included in the papers before the Committee. The Panel further accepted that Councillor Baird's connection to Ms A may not have influenced or had any bearing on his decision-making at the meeting. The Panel noted, nonetheless, that the objective test is just that – objective. It is not about what a councillor might know about their own motivations and whether any connection would unduly influence them (or even their contribution to any discussion or how they ultimately vote). Instead, it is what others would reasonably think, if they were in possession of the relevant facts.

8.6 The Panel accepted that the existence of a friendship, in itself, may not always mean there is a declarable interest (as the objective test is entirely dependent on the individual and specific facts and circumstances that arise in any given situation). The Panel further accepted that a relationship between a councillor and their constituent might not, in itself, amount to a declarable interest. This was because most councillors would be expected to have relationships of some sort with their constituents and, therefore, they may not necessarily have a declarable interest on that basis alone. The Panel considered it was likely, however, that the existence of a friendship that went beyond that of an ordinary everyday interaction between a councillor acting in that capacity, and a constituent, would be perceived as having the potential to influence the councillor as a decision-maker, given they may consider an application from a friend more favourably. The Panel agreed this was regardless of whether the friendship related to, or had a bearing on, any application the councillor was due to consider and determine.

8.7 The Panel noted that its decision was not based solely on the existence of a friendship between Councillor Baird and Ms A. In this case, the Panel concluded that the relevant facts to be considered, as part of the objective test, were:

- The extent and nature of the Councillor Baird's involvement with Ms A (being both a friendship and a client / lawyer relationship).
- That the papers before the Committee on the application contained a letter from Councillor Baird expressing support for Ms A's project to develop her property.
- That the application for funding was being made by a Community Interest Company of which Ms A was the sole director and person with significant control.
- That the funding was for a project associated with the development of Ms A's property.

8.8 The Panel was satisfied that a member of the public, with knowledge of these facts, would reasonably regard Councillor Baird's non-financial connection to the application being considered at the meeting on 23 January 2024 as being sufficiently significant as to be likely to influence his discussion or decision-making. This was regardless of the fact that there was no evidence or suggestion that Councillor Baird would gain any financial benefit or personal advantage whatsoever from his participation in the consideration of the matter.

8.9 In support of this conclusion, the Panel noted it was evident from the fact that the Committee Chair had questioned, at the meeting, whether Councillor Baird should declare an interest, that he (the Chair), had such a perception. Indeed, the Panel noted that Councillor Baird appeared to have advised the ESC, during the

investigation process, that he would have declared an interest had he been aware before the meeting that the letter was included in the paperwork submitted in support of the application.

8.10 The Panel noted that, at its meeting on 23 January 2024, the Committee decided to continue its consideration of the matter in order for the Community Interest Company to submit further information. The Panel noted that the information requested was never submitted meaning, essentially, the application was withdrawn. The Panel accepted, however, that both parties had confirmed at the Hearing that the application had been reconsidered at a subsequent meeting, and that Councillor Baird had declared an interest and withdrawn from discussion and decision-making.

8.11 The Panel agreed nevertheless that, for the reasons outlined above, Councillor Baird should have declared a non-financial interest at the meeting on 23 January 2024 and should not have taken part in the discussion and decision-making on the application. The Panel concluded, therefore, that in failing to do so, Councillor Baird had breached paragraphs 5.5 and 5.6 of the Code.

9. Sanction

9.1 The decision of the Hearing Panel was to suspend the right of Councillor Baird, to attend full Council meetings of Highland Council, for a period of two months.

9.2 The sanction was made under the terms of section 19(1)(b)(i) of the Ethical Standards in Public Life etc. (Scotland) Act 2000. The suspension will be effective from 12 November 2025.

10. Reasons for Sanction

10.1 The Panel began by assessing the nature and seriousness of the breaches of the Code. The Panel noted that it had found Councillor Baird had breached the provisions in the Code that require councillors to declare interests and, having done so, to refrain from participating in any discussion and decision-making on the relevant agenda item.

10.2 The Panel noted that the requirement for councillors to declare interests is a fundamental requirement of the Code as it gives the public confidence that decisions are being made in the public interest, and not the personal interest of any councillor or their friends, family or close associates. A failure to comply with the Code's requirements in this regard can erode confidence in the Council, damage its reputation and leave its decisions open to legal challenge. The Panel emphasised that it is a councillor's personal responsibility to identify and declare certain interests and to thereafter withdraw from the decision-making process. The Panel noted that Councillor Baird had agreed, as part of his acceptance of office as a councillor, that he would abide by the terms of the Code, which includes the requirement to declare certain interests.

10.3 In this case, the Panel considered Councillor Baird's failure to apply the objective test properly and to consider how his participation in the discussion and decision-making on the application could be perceived, had the potential to have an adverse impact on the public's confidence both in councillors and the Council's decision-making processes. The Panel was of the view, therefore, that the breach of the Code was relatively serious in nature and, as such, did not consider that a censure was an appropriate disposal option.

10.4 The Panel considered the aggravating and mitigating factors. The Panel noted that mitigating factors are those which may lessen the severity or culpability of the breach.

10.5 The Panel acknowledged Councillor Baird had not voted in favour of the application and accepted there was no evidence of any benefit to him, Ms A or the Community Interest Company from his failure to declare an interest at the meeting in question. The Panel was also pleased to note that Councillor Baird had co-operated with the investigation and adjudication processes and acknowledged his commitment to his constituency and constituents. Given these mitigatory factors, the Panel did not consider that a disqualification or lengthy suspension was warranted.

10.6 The Panel then proceeded to consider whether there were any aggravating factors; being ones that may increase the severity or culpability of the breach.

10.7 The Panel agreed that Councillor Baird should have been aware that the objective test was one of perception and that he should have considered how members of the public might reasonably view his connection to the director of the applicant company and whether this was likely to influence his discussion and decision-making at the meeting. The Panel agreed this was particularly the case given Councillor Baird had been prompted by the meeting's Chair to consider whether he needed to declare an interest in light of the fact that his letter of 4 September 2023 was included in the papers submitted in support of the application. It was noted that Councillor Baird appeared to have indicated during the investigation that, had he been aware in advance of the meeting that his letter was included in the paperwork, he would have declared an interest. The Panel was concerned that, despite this, he had nevertheless not demonstrated any remorse in respect of his failure to do so or any insight into how this might be perceived. The Panel accepted that the Committee Chair appeared to have confirmed that he was content with the explanation Councillor Baird provided at the meeting as to why he was not declaring an interest. The Panel reiterated, nevertheless, that it was councillor's personal responsibility to apply the objective test in order to identify whether they had a declarable interest that would preclude them from taking part in consideration and any decision-making on the matter in question. The Panel noted that this was because others cannot be expected to be fully aware of an individual councillor's personal circumstances.

10.8 The Panel acknowledged that the Hearing was the second time Councillor Baird had been before a Standards Commission Panel and found to have breached the Code in the past calendar year. The Panel accepted, however, that Councillor Baird's previous contravention concerned an entirely different part of the Code, with the events in question in respect of the complaint before it now having taken place before the previous Hearing was conducted. The Panel noted this meant that there was no suggestion Councillor Baird had engaged in the type of conduct that had been found previously to have been a breach of the Code.

10.9 Having taken into account all the factors and matters outlined above, the Panel agreed that it was necessary to impose a suspension in order to:

- reflect the nature and seriousness of the breach;
- maintain and improve the public's confidence that councillors will comply with the Codes and will be held accountable if they fail to do so; and
- promote adherence to the Code and act as a deterrent against similar conduct.

10.10 The Panel determined that a two-month partial suspension was appropriate and proportionate in the circumstances.

A copy of the full decision can be found at

https://www.standardscommissionscotland.org.uk/uploads/files/1762857527251111L AH4028_Decision.pdf

11. Consideration of the Decision

11.1 The Council provides training on both the Code of Conduct as part of its induction for Councillors and refresher training is also provided. The 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: 20 November 2025