The Highland Council

Agenda Item	**8**
Report No	**AC/25/26**

Committee: **Audit**

Date: **11 November 2026**

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 2025 to 31st August 2026 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 a hearing in respect of :-

a) Councillor Michael Baird. On conclusion of the hearing the Commission found that Councillor Baird had breached the Code and imposed a sanction of suspension of Councillor Baird's entitlement to attend full Council meetings of Highland Council, for a period of 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 January 2026.
https://www.standardscommissionscotland.org.uk/uploads/files/1769440385260126GuidanceonCouncillorsCode2026v1.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/171940882024 0626SCSDispensationPensionCommitteeMembers.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 may 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 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 2025 two hearings were held in respect of Highland Councillors. Two breaches were found to have been established leading to the censure of one Councillor and the suspension of the second Councillor concerned for a period of two months.

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 included further training on registration and declaration of interests, gifts and hospitality as well participation in quasi-judicial decisions. 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 – 2025/26

7.1 This report deals with the complaints concluded during the period 1st September 2025 to 31st August 2026.

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

i)	LA/H/4330	10/12/2025	Paragraphs 4.4 and 4.9
ii)	LA/H/4296	19/12/2025	Paragraphs 3.1 and 3.21
iii)	LA/H/4491	22/04/2026	Paragraphs 3.1 and 3.2
iv)	LA/H/4469	05/06/2026	Paragraphs 3.9, 6.5 and 7.12
v)	LA/H/4573	03/08/2026	Paragraph 5.5

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 Michael Baird**

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

8.3 The Standards Commission determined to take no action in respect of some of the issues of complaint outlined in the referral report for 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 Councillor Baird had contravened paragraphs 5.1, 5.2, 5.5 and 5.6 of the Code.

8.4 The substance of the referral was consideration of whether Councillor Baird had a non-financial interest in an application for funding that was being considered by Sutherland County Committee at its meeting on 23 January 2024, that arose from any connection between him and Ms A, who was an individual involved in the Community Interest Company.

8.5 The Standards Commission for Scotland convened a Hearing on Tuesday 4 November 2025. The Hearing Panel 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.

8.6 Reasons for Decision

8.7 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 Code applied to his conduct at the meeting.

8.8 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.

8.9 The Panel further noted it was accepted that a member of the public and constituent of Councillor Baird, Ms A, was the sole director of, and had a controlling interest in, the Community Interest Company.

8.10 The Panel noted it was accepted a friendship existed between Ms A and the Councillor Baird at the time of the meeting. The Panel further noted that it was accepted that Ms A had sent Councillor Baird 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. The Panel agreed it could take the existence of these relationships into account when determining whether Councillor Baird should have declared an interest at the meeting.

8.11 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 the application had been prepared by Ms A's agents and as Ms A was the company's director, it would be reasonable for anyone considering the application to regard her as being ultimately responsible for its contents.

8.12 The Panel accepted that the 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 had 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. The Panel was satisfied that, when taken together, the Respondent's letter, the friendship, and the client / lawyer relationship could reasonably be considered as a connection that existed between the Respondent and Ms A (as the sole director of the Community Interest Company) at the time of the meeting.

8.13 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.

8.14 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.

8.15 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.

8.16 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 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.

8.17 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. 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.

8.18 The Panel noted that, at its meeting on 23 January 2024, the Committee decided to continue its consideration of the matter. The application had been reconsidered at a subsequent meeting, and Councillor Baird had declared an interest and withdrawn from discussion and decision-making.

8.19 The Panel agreed 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 so do, Councillor Baird had breached paragraphs 5.5 and 5.6 of the Code.

8.20 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. 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 was effective from 12 November 2025.

8.21 The outcome was reported to full Council on 11 December 2025.

Designation: Chief Officer - Legal and Corporate Governance

Date: 6 October 2026

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