

AGENDA ITEM NO 5

REPORT NO 417/22

ANGUS COUNCIL

15 DECEMBER 2022

STANDARDS COMMISSION DECISION

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

In terms of Section 18 of the Ethical Standards in Public Life Etc (Scotland) Act 2000 and Rule 10.9 of the Standards Commission Hearing Rules, the Council requires to consider, within three months, the terms of a written decision issued by the Standards Commission.

1. RECOMMENDATION

- 1.1 It is recommended that the Council considers the decision in relation to complaint reference LA/AN/3546.

2. ALIGNMENT TO THE COUNCIL PLAN

- 2.1 This Report contributes to the achievement of our priority that the council is efficient and effective as detailed in our Council Plan for 2022 – 2027.

3. BACKGROUND

- 3.1 The Standards Commission in Scotland encourages high ethical standards in public life through the promotion and enforcement of Codes of Conduct for Councillors and those appointed to the Boards of Devolved Public Bodies.

It is a statutory body established under The Ethical Standards in Public Life etc. (Scotland) Act 2000 ('the Ethical Standards Act'). The Ethical Standards Act created a framework whereby Councillors and Members of Devolved Public Bodies are required to comply with Codes of Conduct and also Guidance which is issued by the Standards Commission.

Complaints about breaches of these Codes are investigated by the Commissioner for Ethical Standards in Public Life in Scotland (ESC) and thereafter adjudicated upon by the Standards Commission.

Following an investigation into a complaint received about the conduct of the Respondent (Councillor Bill Duff), the Acting ESC referred a report to the Standards Commission for Scotland on 20 April 2022, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act). The Standards Commission directed the Acting ESC to undertake further investigation and, in particular, to determine whether any of the meetings that were the subject of the complaint were quasi-judicial or regulatory in nature. The Acting ESC referred the supplementary report outlining the findings of his further investigation on 3 August 2022.

The complaint concerned the Respondent's conduct at three meetings, which were held on 19 October 2020, 18 May 2021 and 16 December 2021. The Acting ESC advised that he had considered whether the Respondent had failed to comply with the 2018 version of the Code, in respect of the first two meetings, and also whether he had failed to comply with the 2021 version of the Code, in place at the time of the third meeting.

The Hearing Panel noted that the applicable paragraphs of the Codes were as follows: 2018 Code Relationship with other councillors and members of the public 3.2: You must respect your colleagues and members of the public and treat them with courtesy at all times when acting as a Councillor.

2018 Code

Relationship with other councillors and members of the public 3.2:

You must respect your colleagues and members of the public and treat them with courtesy at all times when acting as a councillor.

Conduct at Meetings 3.7:

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.

Quasi-judicial and Regulatory Applications: Fairness and Impartiality 7.3

In such cases, it is your duty to ensure that decisions are properly taken and that parties involved in the process are dealt with fairly. Where you have a responsibility for making a formal decision, you must not only act fairly but also be seen as acting fairly. Furthermore, you must not prejudge, or demonstrate bias in respect of, or be seen to be prejudging or demonstrating bias in respect of, any such decision before the appropriate Council meeting. In making any decision, you should only take into account relevant and material considerations and you should discount any irrelevant or immaterial considerations.

2021 Code

Respect and Courtesy

3.1 I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am online and when I am using social media.

3.11 I will respect and comply with rulings from the chair or convener during meetings of: a) the Council, its committees or sub-committees; and b) any outside organisations that I have been appointed or nominated to by the Council or that I represent my council on.

The Respondent's representative noted that the Acting ESC had concluded that the Respondent had not breached either version of the Code. The Respondent's representative noted that the Standards Commission had decided it was nevertheless both proportionate and in the public interest to hold a Hearing. The Standards Commission had explained that this was because it considered that holding a Hearing (and the associated publicity) could promote the provisions of the Codes of Conduct and the ethical standards framework. It further considered that the alleged breach was not insignificant or of a technical, minor nature.

Decision

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 the Respondent, Councillor Duff.
2. The Respondent had contravened paragraph 7.3 of the July 2018 version of the Code

Sanction

The decision of the Hearing Panel was to suspend for a period of one month, with effect from 7 November 2022, the Respondent, Councillor Duff, from all meetings of Angus Council's Development Standards Committee. The sanction was made under section 19(1)(b)(ii) terms of the 2000 Act.

Consideration of Written Decision

In terms of Section 18 of the Ethical Standards in Public Life Etc (Scotland) Act 2000 and Rule 10.9 of the Standards Commission Hearing Rules, the Council requires to consider, within three months, the terms of a written decision issued by the Standards Commission.

The full written decision from the Standards Commission is attached as **Appendix 1** to this report

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising directly from this report.

5. EQUALITY IMPACT ASSESSMENT

5.1 An equality impact assessment is not required.

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Appendix 1- Full Written Decision from the Standards Commission