

AGENDA ITEM 10

REPORT NO 305/22

ANGUS COUNCIL

8 SEPTEMBER 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

2.1 It is recommended that the Council considers the decision in relation to complaint reference LA/AN/3561.

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 eight complaints received about the conduct of Councillor Derek Wann (the "Respondent"), the Acting Ethical Standards Commissioner referred a report to the Standards Commission for Scotland on 16 March 2022, in accordance with section 14(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The substance of the referral was that the Respondent had failed to comply with the provisions of the 2018 version of the Code and, in particular, that he had contravened paragraphs 3.2, 3.6 and 3.18 of the Code, which were as follows:

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.

Bullying and Harassment

3.6 Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.

Use of Council Facilities

3.18 The Council will normally provide facilities to assist councillors in carrying out their duties as councillors or as holders of a particular office within the Council. This may involve access to secretarial assistance, stationery and equipment such as telephones, fax machines and computers. Such facilities must only be used in carrying out Council duties in accordance with your relevant Council's information technology, communications and member support policies, or for incidental personal use as authorised by your Council and not related in any way to party political or campaigning activities. Where the Council recognises party political groups, assistance to such groups is appropriate in relation to Council matters but must not extend to political parties more generally and you should be aware of and ensure the Council complies with the statutory rules governing local authority publicity.

A Hearing of the Standards Commission took place on 15 June 2022 in Angus House, Forfar in relation to complaint reference LA/AN/3561, concerning an alleged contravention of the Councillors' Code of Conduct dated July 2018 by Councillor Derek Wann (the Respondent).

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 Wann
2. There had, on the face of it, been a breach of paragraph 3.2 of the Councillors' Code of Conduct by the Respondent. However, when the Respondent's right to freedom of expression under Article 10 of the ECHR was taken into account, **a finding of breach, and the consequent imposition of a sanction, was not justified.**

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.

REPORT AUTHOR: Donald Macaskill Manager – Democratic and Members Services

EMAIL DETAILS: MacaskillD@angus.gov.uk

Appendix 1- Full Written Decision from the Standards Commission