

Ethical Standards Commissioner



APPENDICES TO THE INVESTIGATIONS MANUAL

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Complaint Handling (Cllr/M, MSP, Lobbying)

Look at the current status of your complaint and follow the guide from there

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ENQUIRY

Enquiries are saved in the shared drive and logged in the enquiries spreadsheet.

The spreadsheet is divided into two sections: outwith jurisdiction and other enquiries.

Outwith jurisdiction enquiries are ones where someone is trying to make a complaint, but it is about a person or body which falls outwith the jurisdiction of the ESC.

Some common ones are:

- MPs
- Community Councillors
- Council services (like housing or bin collection)
- Public Body services (like care provided)
- Council/PB staff or officers

Use the outwith jurisdiction enquiries template (amended as needed) to respond to outwith jurisdiction enquiries.

All other enquiries fall under general enquiries. They will usually require a personal response.

COMPLAINTS



New (Complaint received)

Search for similar complaints:

Search:

- Same respondent
- Same complainer
- **Complete fields**
 - Note in Overview field any related cases and details e.g. same R, same issue.

Log complaint

- Find the organisation and create a new case.
 - Click green new entry bar (expires after 5 seconds) OR go to cases and filter by most recent OR Home>Recent Records
- **Complete fields**
 - Complaint type (Cllr/Public Body/MSP/Lobbying)
- Related List Quick Links> Complaints>New
- **Complete fields**
 - Complainer/Respondent > use search function. If pre-existing contact, ensure it is the same person by checking address details etc.
 - If no pre-existing contact exists>create new:
 - Name and salutation
 - Phone number
 - Email
 - Organisation (if none, select > 'No Organisation')
 - For multiple complainers > save and new
 - Date received
 - Complainer position. If Planning: Public – supporter / Public - objector
 - Complaint type (Cllr/MSP/Public Body/Lobbying)
 - Check whether whistleblower, send whistleblowing template if so
 - Tick primary complaint on first complaint only (this info shows on case list).
 - Contentious? ALWAYS tick for MSP and ONLY IF RELEVANT for Cllr/M.
- Return to case page
- **Complete fields**
 - Allegation type (tick for social media, planning etc)
- Upload documents to case (as one pdf, not separate attachments)
- **Complete fields**
 - Stage 1 start date (date that the complaint was received)
 - Stage 1 due date (2 months from the date received)

Stage 1: Admissibility

- Happens when assigned to an investigator
- Ensure chevron status is Admissibility.
- **Check fields**, under Details>Allegation:
 - Check that you agree with allegation description
 - Primary Allegation
 - Alleged Description. Include any detail that would help identify it as similar to another complaint e.g. allegation, planning application number, community council name, council meeting, date (use format xx/08/19) etc.
 - Social Media/Planning/ALEO
 - BEFORE investigation you can contact the C for further information but no other parties
- Complete Assessment form
- Draft letters to parties
- Send drafts and complaint assessment form to SIO/HIO/another IO for approval
- Send drafts and complaint assessment form the ISO to pass to Commissioner for final approval
 - **1. Close**
 - Once letters approved. Issue to C and R.
 - Upload issued decision email to documents tab.
 - “Protect” document (click right arrow, go to record, click not protected).
 - **Complete fields**, under Details>Stage 1: Admissibility
 - Stage 1 Decision Date
 - Stage 1 Decision
 - Stage 1 Decision Detail (if ‘other’ write brief reason in overview field)
 - Update overview field
 - Move status to Decision Issued
 - **2. Refer for Investigation**
 - Once letters approved. Issue to C, R and MO/SO.
 - **Complete fields**, under Details>Stage 1: Admissibility
 - Stage 1 Decision Date
 - Stage 1 Decision
 - Stage 1 Decision Detail (if ‘other’ write brief reason in overview field)
 - Update overview field (delete unnecessary text)
 - Move status to Investigation (this populates Stage 2 start and due date)

Stage 2: Investigation

- Start date and due date are auto populated from status change to Investigation.
- User receives auto notification that they've been allocated a case.
- IO investigates case (issues initial letters/reminders etc.)
- **Complete fields**
 - Update overview field, as relevant, e.g. 3/9 info requested from R, 12/09 IO chasing info from R. 22/09 info recd from R.
- If 2/3 month unable letters are required (MSP 2 month, Cllr/M 3 month). Draft and issue.
- **Complete fields**
 - 2/3 month unable date
 - 2/3 month unable content

Interviewing (If required)

- Move status chevron to Interviewing
- Arrange interviews, logs in system/on calendar.
- Issue interview request letter along with the Interview Information document, encouraging witness to contact us with availability/special arrangements;
- Issue interview confirmation correspondence.
- Complete a record of the interview and sent to witness for approval. Once approved, upload to case file.
- **Complete fields**
 - Update overview field, as relevant.

All info gathered

- Move status chevron to All Info Gathered when it has been gathered/interviews complete.
- Draft decision (discuss with SIO/HIO as required).
- **Complete fields**
 - Update overview field, if relevant.

Draft decision

- Drafting decision
- Move status chevron to Draft Decision.
- Send report or proposed report to HIO/SIO/another IO for approval.
- Send report or proposed report to ISO to pass to Commissioner for final approval
- **Complete fields**
 - Stage 2: Investigations > First Draft Decision Completed Date.
 - Tick potential breach, if relevant
 - Update overview field, if relevant.

Proposed Report Issued (If required)

Breach cases only

- Once approved, issue Proposed Report.
- Move status chevron to Proposed Report Issued.
- Upload issued decision email to documents tab.
- “Protect” document (click right arrow, go to record, click not protected).
- **Complete fields**
 - Stage 2: Investigations > Proposed Report date
 - Update overview field, if relevant.

Decision issued

Breach and no breach

- Issue report by email remembering to REDACT any necessary information, to C, R, MO/SO and SC/SPPA
- Move status chevron to Decision Issued.
- Upload issued decision email to documents tab.
- “Protect” document (click right arrow, go to record, click not protected).
- **Complete fields**, under Details>Decision
 - Stage 2: Decision Date
 - Stage 2: Decision
 - Stage 2: Decision Detail (if ‘other’ write brief reason in overview field)
 - Update overview field, if relevant (e.g. delete info).

SC/SPPA response to Breach cases

- **Complete fields**, under Details>Decision
 - SC Decision
 - If SC Decision is Instruction to investigate further – tick that field.
 - Update overview field, if relevant.

Archived

- Follow retention schedule
- Run reports and undertake retention exercise.
- On date of retention completed, change status chevron to Archived.
- **Complete fields**
 - Electronic file partial destroyed
 - Update overview field, if relevant.

HEARINGS



- Go to related case
- Upload Hearing correspondence to documents
- Note SC Hearing Rules
<https://www.standardscommissionscotland.org.uk/cases/hearing-rules>
- **Complete fields**, In Case>Details tab>Stage 2: Investigations
 - SC Decision (or SPPA). Pull down choice.
 - Instruction to investigate further (tick if relevant i.e. if SC has instructed)

New

- In Case>click Hearing tab >New
- Create a hearing for each respondent at the hearing (so the individual outcome for each respondent can be logged).
- **Complete fields**
 - Pre-hearing date
 - Hearing date
 - Hearing presenter
 - Hearing respondent
 - Hearing location

Preparation (in Progress and Completed)

- **Complete fields**, tick as relevant
 - Witness List Done
 - Productions Done
 - Joint Statement of Facts Done
- Move status chevron as relevant.

Hearing Concluded and Closed

- Upload SC/SPPA decision to documents tab.
- “Protect” document (click right arrow, go to record, click not protected).
- **Complete fields**
 - Hearing/SP Decision – select.
 - Hearing/SP Decision Details e.g. 3-month suspension from all council meetings.
- Move status chevron to Closed.

Hearings also have a folder opened in the shared drive. All hearing correspondence and documents are saved here.

POST DECISION/SERVICE COMMENTS

Post decision correspondence is logged in the PDC spreadsheet in the shared drive and uploaded to case file on CMS.

Send drafts to IO for approval before issuing.

Unacceptable Behaviour Policy

- If appropriate, follow Commissioner's Unacceptable Behavior Policy found in the shared drive
- **Complete fields**, in case> Details
 - Tick unacceptable behavior active
- Upload correspondence to documents (which explains to the person our decision under that policy).
- Ensure document is marked protected (Go to record, click protect button on right of screen)

Ethical Standards Commissioner

L.1b Appendix 1b - Naming Convention

Describe the type of document i.e.:

- 'letter', 'email'
- 'telnote', 'filenote'
- 'screenshot'
- 'draftReport', 'Report'
- 'IOARReviewForm'
- 'InvestigationPlan'
- 'ROI' (Register Of Interests)
- 'DAO'
- 'encl' (enclosure)

Describe whether the file has an enclosure in () i.e.:

- (w encl) = 'with enclosure' - there is an enclosure, scanned together with the letter
- (no encl) = 'no enclosure' - there is an enclosure, but it is not scanned with the letter
- (encl xxx) = 'enclosing' - there is an enclosure, sent in the letter and scanned with the letter*

Note: if 1+ enclosure, just say (w encl) or (encl) as appropriate.

*It is sufficient to note the enclosure's specific purpose i.e. "2020.01.01 – email ESC to SmithJ (R) (encl InitialNoti)"

Describe any special notes in () i.e.:

- (Redacted)
- (Approved)

If there is a carbon copy to another party, put in:

- (cc xxx) i.e. (cc CE, MO)

If more than one version:

- (v1), (v2), (v3) etc.

YYYY-MM-DD

Date of document, not date received

Date – Type of document name (party) to name (party) (encl) (specific descriptor showing purpose of doc) (other info)

Give sender's name as [Surname][Initial] i.e.:

- SmithJ, HussainN

Note: all materials issued from us or addressed to us is from or to 'ESC' only (no need to describe SIO, IMan, IO) i.e.:

- 2019.01.01 – letter ESC to SmithJ (R)
- 2017.05.01 – letter FraserS (MO) to ESC

If drafting a document as author, record your name in the same format

- '2019.01.01 –draftReport SmithJ (v1)'

Describe the named party in () and assigned short form i.e.:

- (C) = Complainer
- (R) = Respondent
- (CE) = Chief Exec
- (MO) = Monitoring Officer
- (Wit) = Witness
- (SC) = Standards Commission
- (OrganisationName) i.e. HITRANS

If more than one then add 1, 2 etc. i.e.:

- (C1), (C2)...
- (R1), (R2), (R3)...

Describe purpose of the document in () i.e.:

- (Complaint), (InitialComplaint)
- (Acceptance), (AcceptForInvestigation)
- (InitialAck), (BasicAck)
- (MailShot), (Update), (MailShotAck) etc.
- (InitialResp), (InitialResponse)
- (SubstantiveResp), (Info)
- (InitialNoti), (InitialNotification)
- (InfoRequest), (RequestInfo)
- (InfoRequestAck), (AckInfoRequest)
- (FurtherInfoRequest), (FurtherInfo)
- (InterviewRequest), (RequestInterview)
- (InterviewConfirm), (ConfirmInterview)
- (3MonthUnable) or (3MonthUnableAck)
- (Query), (AckQuery), (AnsQuery)

L.2 Appendix 2 - Enquiry Outwith Jurisdiction

Dear **Complainer's Name**

Ethical Standards in Public Life in Scotland

Thank you for your recent correspondence dated **XX**.

The Ethical Standards Commissioner is an independent organisation with the legal power to investigate the conduct of individual Councillors, MSPs and board members of public bodies.

From your correspondence, it seems that your complaint is about **XX** rather than alleging that a Councillor, a Member or an MSP has breached the relevant Code of Conduct.

As complaints about such individuals do not fall within the Commissioner's jurisdiction, we are unable to investigate or offer advice to you on this matter.

[Use this optional text for local authority complaints]

In your case I would suggest that you contact your local council directly, you can do so **here**.

[Use this optional text for complaints about Community Councillors]

It may also help to explain that there is a separate Code of Conduct for Community Councillors: www.scotland.gov.uk/Topics/Government/local-government/CommunityCouncils/CCLrCodeOfConduct. Complaints against Community Councillors should be made to the relevant Local Council. In this case I would suggest you contact **council name**, you can do so **here**.

[Use this optional text for complaints about MPs]

The Parliamentary Standards Commissioner can consider complaints about Members of Parliament. Further information can be obtained from their website www.parliament.uk/pcs, or by telephone 020 7219 0311/3738, or by email standardscommissioner@parliament.uk or The Office of the Parliamentary Commissioner for Standards, House of Commons, London, SW1A 0AA.

If you do wish to make a complaint against a Member of the Scottish Parliament, a Councillor or a Member, alleging a breach of the Code of Conduct, we would request that you please fill in our standard complaint form, which is available from this [link](#), You may find the information available on our website, including the facility to make your complaint online, helpful to you: <http://www.ethicalstandards.org.uk/>

We will process your personal data in order to carry out our statutory duties. You may find it helpful to refer to the Commissioner's Privacy Statement for further information: www.ethicalstandards.org.uk/privacy-policy

I hope this information is helpful.

L.3a Appendix 3a – Template Correspondence (Whistleblowing)

Name

Address

Reference: XX/XX/XXXX

Dear Name

Date

Complaint under the Ethical Standards in Public Li Act”)

Thank you for the complaint you submitted on [Date]. Before considering this complaint further we require further information from you. [Please accept my apologies for the delay in contacting you about your complaint. This was and remains due to a staff shortage in our office. This was due to a staff shortage in our office which has now been addressed through an expansion of our investigations team.]

Whistleblowing

You have stated in your complaint form that you are a whistleblower. If, after considering the following information, you no longer consider that you are a whistleblower, please let us know and we will proceed to consider your complaint as normal.

We have to report on how many whistleblowing complaints we receive each year. Your complaint will be included in our annual reports if the Commissioner reasonably believes that your complaint, if found to be true, concerns a breach of an applicable Code of Conduct. We have to count your complaint even if we are not able to take action on it. No other information about whistleblowing complaints will be shown in our reports.

The Commissioner has developed a [Whistleblowing Policy](#), the main points of which are highlighted below. As you may be aware, whistleblowing has a particular legal meaning. The Public Interest Disclosure Act 1998 (“the 1998 Act”) protects workers that disclose issues at their workplace, or former workplace, provided certain conditions are met.

The conditions concern the person making the disclosure, the nature of the information disclosed and the person to whom it is disclosed. We set these out in more detail below.

The Worker

The person making the disclosure must be a worker. This includes a person:

- i. who has entered into or works under an employment contract or
- ii. who works under any other contract (whether express, implied, written or oral) to do or perform personally any work or services for another party to the contract who is not that person’s client or customer,

- iii. who works on a 'supply' basis (e.g. provided by an agency), or
- iv. who is provided with work experience in a training course or programme or with training for employment, where the work experience / training was not provided under a contract of employment or by an educational establishment.

This is not intended to be an exhaustive list of who could qualify as a worker. However, these general principles mean that a person is more likely a worker for the purposes of the 1998 Act.

The information being disclosed

The nature of the information disclosed must relate to the following:

- Criminal offences;
- Failure to comply with legal obligations;
- A miscarriage of justice;
- Danger to the health and safety of individuals;
- Damage to the environment;
- Deliberate concealment of any of the above.

For the purposes of complaints made to the Commissioner, if you reasonably believe that a person has breached the Code of Conduct, this can constitute a failure to comply with a legal obligation.

The information disclosed must be in the public interest. Accordingly, a personal disagreement with a planning or licensing decision of a Council or personal grievance, are unlikely to qualify.

The Commissioner

The Commissioner is a Prescribed Person under the Public Interest Disclosure (Prescribed Persons) Order 2014, so making a whistleblowing disclosure to us which is relevant to our statutory function of investigating alleged breaches of an applicable Code of Conduct (“the Code”) may attract legal protection provided you hold a reasonable belief that the information disclosed is substantially true.

If these conditions are met, the 1998 Act protects you from being subjected to detriment by your employer as a result of the disclosure.

Information requested

In order to help us consider whether your complaint is a whistleblowing complaint, we require the following information which would be very helpful in our consideration:

1. We have assumed that you are a worker. However, we would be grateful for more information from you. Please let us know where you work, on what basis (for instance under a contract of employment, as an agent, on secondment etc.), and what is your connection or relationship to the person you are complaining about. If you work at a different organisation and consider that your employer may subject you to detriment because of your disclosure to us, please provide information about this.
2. **[OPTIONAL IF COMPLAINT IS UNCLEAR:** It would be helpful if you could please explain in more detail why you consider the conduct in your complaint shows there is a breach of an applicable Code of Conduct. Please set out, in your own words, why your complaint is not a personal grievance.]
3. We understand that you consider your complaint to be substantially true and you have a reasonable basis for holding that belief. Please can you confirm that is correct and explain in more detail what that reasonable basis may be.

We would be grateful if you could provide the information requested by **[Date 2 weeks from date of writing]**.

What happens if the conditions are met?

If the conditions are met, we may be able to take some steps to protect you. For example, we will withhold your name throughout the process. However, it is important to note that there may be times when we are unable to deal with your complaint without disclosing your identity, for example where your direct evidence is essential. Additionally, you should be aware that it may be possible for the person you have complained about to identify you from the nature and contents of your complaint. If the conditions are met, we will contact you to discuss what measures are required.

What happens if the conditions are not met?

If the conditions are not met, we will inform you of this and confirm that the complaint cannot proceed as a whistleblowing complaint. We will ask you to confirm whether you wish to proceed with the complaint despite this. This will involve disclosing your name to the person you have complained about and sharing a copy of your complaint with them, along with any supporting documentation you have provided. We will remove any personal details you have provided such as your personal contact details, but your name will be disclosed. If you do not wish to proceed with your complaint on the basis that you are not a whistleblower, please advise us so that we can consider whether a withdrawal would be appropriate in the circumstances. For more information about withdrawing a complaint, please refer to section C8 of our Investigations Manual (available here: <https://www.ethicalstandards.org.uk/sites/default/files/publications/Investigations%20Manual%20Final.pdf>)

Other resources

All local authorities and public bodies have internal policies for raising concerns, and it's usually better to follow them first. If you're worried about being victimised or think the incident will be covered up, or you believe your initial complaint wasn't dealt with properly by your employer, you are right to contact our office.

However, we are unable to give any legal advice or other support. For that, you should seek independent advice, or contact Protect, the whistleblowing charity. Protect can be contacted here:

<https://protect-advice.org.uk/>

Whistleblowing Advice Line: 020 3117 2520

Email – through the web contact form:

<https://protect-advice.org.uk/contact-protect-advice-line/>

Address

The Green House
244-254 Cambridge Heath Road
London E2 9DA

Alternatively, you may also visit the UK Government's website for more information:

<https://www.gov.uk/whistleblowing/what-is-a-whistleblower.>

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Should you have any queries please contact me by telephone on 0131 347 3890 or email at investigations@ethicalstandards.org.uk.

Yours sincerely

[Name]

[Role]

L.3b Appendix 3b- Template Correspondence (Requesting Evidence for Anonymity)

Name
Address

Reference: XX/XX/XXXX

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

Thank you for the complaint you submitted on [Date].

You have stated that you wish to keep your identity anonymous due to [reason if given].

I take this opportunity to refer to section 12(6) of the Ethical Standards in Public Life (Scotland) Act 2000. This section states that investigations into complaints should, so far as possible, be undertaken in response to allegations of misconduct which are made in writing and signed by the complainer.

The Commissioner considers it to be the case that, in the interests of natural justice, a respondent is normally entitled to know who has made a complaint against them. Exceptional circumstances are normally required for a complaint to be accepted on an anonymous basis. We therefore require evidence-based reasons and a proper justification for a complainer’s name to be withheld from a respondent.

In addition, please note that in the event of there being an investigation of your complaint which results in a hearing by the Standards Commission for Scotland (which would be a public hearing) to determine whether there has been a breach of the Code, it is possible that you could be required under the Ethical Standards (in Public Life) Act 2000 to attend the hearing and give evidence in your role as a complainer.

As such, we will require some further information from you, in the first instance, in order to reach a conclusion on whether anonymity should be granted in your case. I understand from your email that you are [e.g. a member of staff and fear reprisal]. Please could you provide information relating to the potential adverse consequences for you as a result of being identified as the complainer, with supporting evidence.

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)

Ethical Standards Commissioner

- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Thank you for taking the time to complain to us.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Yours sincerely

[Name]

[Role]

COMPLAINT ADMISSIBILITY FORM

Councillors and members of public bodies

Case Reference:		
Complainer:		
Respondent:	<input type="checkbox"/> Councillor	<input type="checkbox"/> Member of public body
Council or Public Body:		
Party (if councillor):		
Date Complaint received:		
Applicable Code of conduct:	Councillors' Code of Conduct (2021)	<input type="checkbox"/>
	Councillors' Code of Conduct (2018)	<input type="checkbox"/>
	Model Code of Conduct for Members of Boards of Devolved Public Bodies (2021)	<input type="checkbox"/>
	Model Code of Conduct for Members of Boards of Devolved Public Bodies (2014)	<input type="checkbox"/>
	<i>Other – please insert name</i>	<input type="checkbox"/>
Investigating Officer:		

A. VALIDATION CRITERIA

		Yes	No
1	Does the complaint relate to the conduct of a named councillor or member?	<input type="checkbox"/>	<input type="checkbox"/>
2	Does the complaint relate to conduct that falls within the scope of the Code?	<input type="checkbox"/>	<input type="checkbox"/>
If NO , provide details:			
3	Does the complaint include an allegation that a councillor or member has failed, or may have failed, to comply with the Code?	<input type="checkbox"/>	<input type="checkbox"/>
If NO , provide details:			

4	Has the complaint been made to the Commissioner's office within one year of the date on which the alleged conduct occurred (or the date the alleged course of conduct ended)?	<input type="checkbox"/>	<input type="checkbox"/>
If NO , is it appropriate to waive this time limit? (e.g. an overriding public interest, complainer reasonably unaware of the conduct before the time limit expired.)		<input type="checkbox"/>	<input type="checkbox"/>

B. VALIDATION DECISION

All validation criteria are met. The complaint can be assessed further.	<input type="checkbox"/>
Not all validation criteria are met. The complaint cannot be considered for investigation and will now be closed.	<input type="checkbox"/>

C. WHISTLEBLOWING

Tick this box if the complainer indicated this is a whistleblower complaint	<input type="checkbox"/>
Should template correspondence regarding whistleblowing be sent to the complainer?	

D. SUMMARY OF COMPLAINT AND ANALYSIS

Points to consider:

- a) Summarise the complaint as expressed in the complaint form
- b) What are the relevant paragraphs of the Code?
- c) Was the councillor or member acting as a councillor or member when engaged in the alleged conduct?
- d) Does the information/evidence provided substantiate the complaint?
- e) What further information or evidence is required?

--

	Yes	No
On the face of it, has there been a breach of the Code? (Provide any comments or reasoning below)	<input type="checkbox"/>	<input type="checkbox"/>

E. ADMISSIBILITY ASSESSMENT OUTCOME

What is the outcome of the admissibility assessment?	
Complaint to be investigated	<input type="checkbox"/>
Complaint to be dismissed and closed	<input type="checkbox"/>
If complaint is to be dismissed, confirm the basis (previously included in the Eligibility Direction issued by the Standards Commission in March 2021) for doing so:	
1. Councillor/member died prior to complaint being made, or is an incapable adult under Adults with Incapacity (Scotland) Act 2000	<input type="checkbox"/>
2. Conduct occurred more than one year before complaint was received	<input type="checkbox"/>
3. Conduct would not, on the face of it, even if it could be established to have occurred, amount to a breach of the relevant Code. If an initial assessment of the publicly available evidence demonstrates that the alleged conduct could not represent a contravention of the relevant Code, then the complaint can be dismissed as ineligible for investigation.	<input type="checkbox"/>

F. FOR COMMISSIONER TO COMPLETE

If DISMISSAL is recommended:

		Yes	No
1	Do you approve the above recommendation to dismiss this complaint?	<input type="checkbox"/>	<input type="checkbox"/>
2	Do you approve the draft dismissal letters (subject to any notes below)?	<input type="checkbox"/>	<input type="checkbox"/>
3	Would you like to discuss this case further with the Investigating Officer?	<input type="checkbox"/>	<input type="checkbox"/>

COMMISSIONER'S NOTES ON DRAFT DISMISSAL LETTERS:

Date:

**Ethical Standards
Commissioner**
INFORMATION TABLE

Source	Date requested	Requested Information	Purpose of information	Information Provided	Received?		Date received / Outstanding Information
					Yes	No	
		•	•	•	<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	

L.5a Appendix 5a- Template Correspondence (Closure - Out of Time)

Name

Sent by email only to:

Reference: XX/XX/XXXX

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

Thank you for the complaint you submitted on [Date] about [R Name] (“the Respondent”). Please accept our apologies for the delay in contacting you about this complaint. This was due to a staff shortage in our office which has now been addressed through an expansion of our investigations team.

Timing of your complaint

We have considered your complaint. We note it relates to the Respondent’s conduct in [date/year]. This is more than one year prior to your complaint being received by us.

The Ethical Standards Commissioner had previously been directed by the Standards Commission for Scotland that complaints made after 12 months of the date on which the alleged conduct took place does not require to be investigated. This approach has been incorporated into our Investigations Manual (“the Manual”), which can be found here: [Investigations Manual](#).

As outlined in the Manual, where a complaint has been submitted outside of this period, and there are no circumstances or overriding public interest to justify an exception, it is more likely that a complaint may not be accepted for investigation .

[if there is an explanation given for delay:] You have stated that the reason for the delay is [X].

The Commissioner has considered your explanation and has taken in to account any overriding public interest. In considering these matters, the Commissioner has decided not to investigate this complaint further and will now close our file.

[if the conduct is also outwith ESC remit, explain why the complaint could not be considered anyway. E.g. In reaching this view, the Commissioner has considered the nature of your complaint. The conduct that you have raised related to a Councillor’s performance in the role. The remit of the Code does not extend to matters such as this and so we would be unable to consider the complaint further even it if had been made within the 12-month period. You may wish to consider contacting the Respondent’s political party to raise your concerns. OR: The conduct you have raised related to an operational decision made by the Public Body

and therefore is not conduct which can be considered under the Code. We would recommend you contact the Public Body directly to raise these issues.】

It is our policy to inform the Respondent(s) of the details of your complaint and of our decision and we will do so by sending him/her/them a copy of this letter. Your contact details will be redacted so that your email address will not be visible.

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Thank you for taking the time to complain to us.

Should you have any queries please contact my office on the following telephone number 0131 387 3890 or email investigations@ethicalstandards.org.uk.

Yours sincerely

[Name]

[Role]

L.5b Appendix 5b – Template Correspondence (Closure - Service Complaint)

Name

Sent by email only to: xxxxxxxxx

Reference: XX/XX/XXXX

XX XXXX 2023

Dear XXXXX

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

Thank you for the complaint you submitted alleging a contravention of the Code of Conduct for Councillors (“the Code”) by Councillor [] (“the Respondent”). [Please accept my apologies for the delay in contacting you about your complaint. This was due to a staff shortage in our office which has now been addressed through an expansion of our investigations team.]

We are writing to let you know that, on the information provided, we have decided not to investigate this complaint further and will now close our file. Our reasons are set out below.

Your complaint

We identified the following issue(s) of complaint:

1. The Respondent failed to [] .

You also set out the background to your complaint, explaining [Insert summary of any relevant background].

Evidence provided

1. Your complaint form;
2. [Source of evidence]

In addition, we requested [Evidence requested], which was not provided.

The Code

Your complaint did not indicate which part of the Code you considered had been breached. Please be assured for the purposes of this assessment, all parts of the Code that could be relevant to your Complaint have been considered.

You indicated that you considered part(s) [Insert parts] of the Code had been breached.

For the purposes of this assessment, we considered paragraph 3.1 of the Code. We also considered the Standard Commission for Scotland's ("the Standards Commission") Advice Note for Members of the Public ("the Advice Note").

The Code, together with the Standards Commission's Guidance on its application, can be seen here:

https://www.standardscommissionscotland.org.uk/uploads/files/1652794212220517SCS_Councillors Code Conduct Guidance May 2022.pdf

The Advice Note can be seen here:

<https://www.standardscommissionscotland.org.uk/uploads/files/1697193953231013Advice NoteforPubliconCllrsCode2023v1.0.pdf>

Reasons for our Decision

We would draw your attention to Section 2.1 of the Code and to the Guidance issued by the Standards Commission. These make it clear that contravention of one or more of the key principles (including the principle of respect) will not in itself constitute a breach of the Code. Therefore, for your complaint to be upheld, it must be established that it involves a contravention of one or more of the substantive sections of the Code (sections 3 to 7 and Annex A).

Paragraph 3.1 of the Code requires a councillor to respect members of the public and treat them with courtesy at all times when acting as a councillor.

The complaint you have raised relates to the Respondent's performance in their role. In particular, your concern relates to a service matter regarding handling of an enquiry by email. While we understand your frustration with this matter, the Code, and in particular paragraph 3.1 of the Code, does not extend to matters of the Respondent's performance such as this.

OR

The complaint you have raised relates to the Respondent blocking you on social media. While we understand your frustration with this matter, the Code, and in particular paragraph 3.1 of the Code, does not extend to matters such as this. A councillor is not obligated under the Code to allow everyone access to their social media page and we do not consider it to be disrespectful under the Code to restrict access to their page.

We would also draw your attention to section 11 of the Advice Note which sets out what isn't covered by the Code. Section 11.1 of this advice note states that the Code "does not require councillors to respond to all correspondence" and section 11.2 contains a list of matters not covered by the code which includes the following: 'the performance of councillors, such as how well they engage with their constituents.'

As a result, we are unable to consider this complaint further.

We empathise with your feelings in these circumstances. You may consider contacting the Respondent's political party directly to raise your concerns. You can do this by using their website here: [Link](#).

Please be advised that there is no recourse via this office regarding the Commissioner's decision to close your complaint, as under the Act this is entirely at the Commissioner's discretion.

It is our policy to inform the Respondent(s) of the details of your complaint and of our decision and we will do so by sending [him/her/them](#) a copy of this letter. Your contact details will be redacted so that your email address will not be visible.

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Thank you for taking the time to complain to us. We are sorry we are unable to assist you further on this occasion.

Yours sincerely

[Name]
[Role]

L.5c Appendix 5c- Template Correspondence (Closure)

Name

Reference: XX/XX/XXXX

Address

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

Thank you for the complaint you submitted alleging a contravention of the Code of Conduct for Councillors (“the Code”) by [Name]. [Please accept my apologies for the delay in contacting you about your complaint. This was and remains due to a staff shortage in our office. We are currently recruiting to expand our investigations team to address this issue.]

We are writing to let you know that, on the information provided, we have decided not to investigate this complaint and will now close our file. Our reasons are set out below.

Your complaint

We identified the following issue(s) of complaint:

2. [Issue eg on date the respondent did/failed to...];
3. [Issue].

You also set out the background to your complaint, explaining [Insert summary of any relevant background].

The Code

Your complaint did not indicate which part(s) of the Code you considered had been breached/ Please be assured for the purposes of this assessment, all parts of the Code that could be relevant to your Complaint have been considered. To that end, we considered [section numbers] of the [relevant Code etc.]...” You indicated that you considered part(s) [Insert parts] of the Code had been breached.

For the purposes of this assessment, we considered paragraphs(s) [insert paragraphs] of the Code [quote relevant paragraphs if Complainer not a councillor].

Evidence provided

3. [Source of evidence]
4. [Source of evidence]

In addition, we requested [Evidence requested], which was not provided.

Reasons for our decision

[Reasons for decision]

Having considered the conduct complained of and described above, the Commissioner is of the view that, even if established, it would not constitute a contravention of any provision within the Code.

In addition, it is not the Commissioner's role to regulate or enforce any Scottish Government guidance or emergency legislation relating to the coronavirus pandemic.

[OPTIONAL: If you consider that we have misunderstood your complaint, please let me know and explain in what way we have misunderstood your complaint.]

Privacy notice

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- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Thank you for taking the time to complain to us.

[Thank you in anticipation for your assistance].

Please don't hesitate to contact me if you have any questions about the Commissioner's decision in this case.

Yours sincerely

[Name]

[Role]

L.5d- Appendix 5d- Template Correspondence (Copy Closure Letter)

Name of Respondent

Sent by email only to: email

Reference: XX/XX/XXXX

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000

I am writing to advise that our office received a complaint about your conduct from Mr/Ms/Mrs XXX XXX (“the Complainer”).

The complaint has been closed as it does not meet the eligibility criteria for being admissible for investigation. This means no further action will be taken on this complaint.

Please find enclosed a copy of my letter to the Complainer, which sets out the Commissioner’s decision. I trust this will be sufficient to explain the Commissioner’s views, but I would be happy to discuss it with you if you would find that helpful.

Privacy Policy

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

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- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Yours sincerely

[Name]

[Investigating Officer]

Enc: Redacted Closure Letter

L.6a Appendix 6a – Template Correspondence (Acceptance – Complainer)

Complainer

Sent by email only to:

Reference: **XX/XX/XXXX**

Address

Date

Dear **[Complainer]**

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I am writing to you about the complaint you submitted alleging a contravention of the Code of Conduct for Councillors (“the Code”) by **[Name]** (“the Respondent”). I am writing to provide you with an update **[and to ask you for further information]**. **[Please accept my apologies for the delay in contacting you about your complaint. This was and remains due to a staff shortage in our office. We are currently recruiting to expand our investigations team to address this issue.]**

Your complaint has been accepted for investigation. I have made the Respondent aware of the complaint and have asked them to provide a response to the complaint. **I have also provided the Respondent with a copy of the complaint material you have provided, with your contact details redacted.**

The complaint

Thank you for the time spent in compiling the complaint material you sent to us.

Based on the information provided, I will be investigating the following issue(s) of your complaint:

1. **[Issue 1 eg on date the Respondent did/failed to... (to show you’ve understood the complaint you *may* want to reference the alleged impact. For example, on [date] the Respondent offended and harassed you by sending a private Facebook message stating [content]);**

2. **[Issue 2].**

You also set out the background to your complaint, explaining [Insert summary of any relevant background].

The complaint is based on the information available at this time and our understanding of that information. The complaint may change as the investigation progresses and further information becomes available.

You have not stated what part(s) of the Code you consider have been breached/Please be assured for the purposes of this assessment, all parts of the Code that could be relevant to your Complaint have been considered. To that end, we considered [section numbers] of the [relevant Code etc.]..."

You allege part(s) [Paragraphs] of the Code have been breached/I am considering the complaint in terms of part(s) [Paragraphs] of the Code. [quote relevant paragraphs of the Code if Complainer not a councillor]

[OPTIONAL: If you consider that we have misunderstood your complaint or if you disagree with the parts of the Code that we consider to be applicable, please let me know.]

Our process

I have also enclosed an outline of the investigation and post-investigation process which I hope you will find helpful.

Information requested

I do not require any further information from you at this stage.

Or

Information requested

In order to assist with my investigation of this complaint, please provide:

1. [eg an indication of the part(s) of the Councillors'/name of body Code of Conduct. you consider has been breached. The Code and further information is available to download from <http://www.ethicalstandards.org.uk/>.]
2. [Information requested]

I would be grateful if you were able to respond by **[2 weeks from date of writing]**. I appreciate that responding may take some time. If you require more time, please contact our office to let us know.

The Commissioner's process is confidential in nature and your cooperation is requested in this regard.

Thank you in anticipation for your assistance.

Privacy notice

Ethical Standards Commissioner

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

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- [Data Collection Policy](#)
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- [Privacy notice for Councillors or Members being complained about](#)

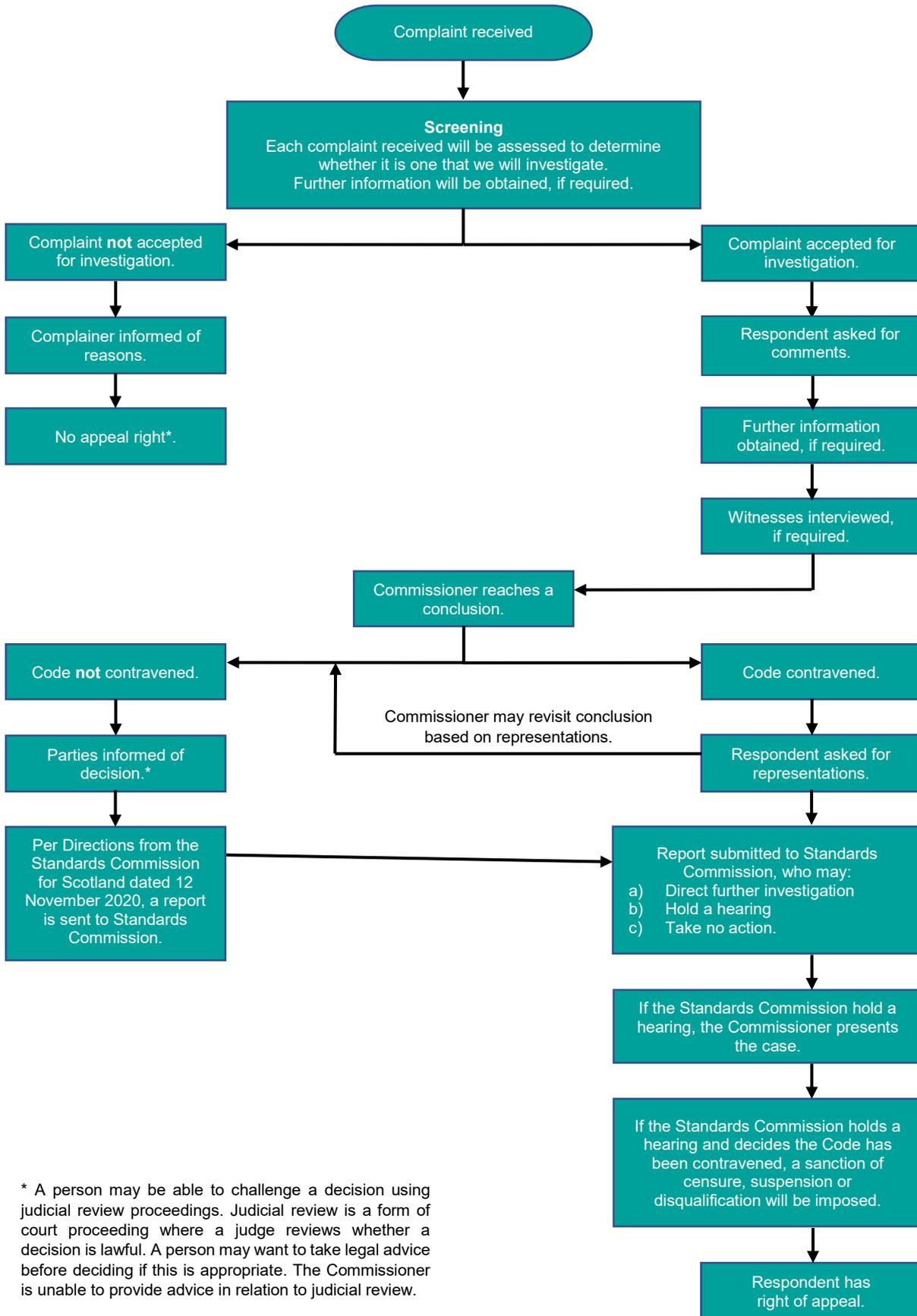
Should you have any queries please contact me by telephone on 0131 347 3890 or email at investigations@ethicalstandards.org.uk.

Yours sincerely

[Name]

[Role]

OVERALL INVESTIGATION PROCESS



* A person may be able to challenge a decision using judicial review proceedings. Judicial review is a form of court proceeding where a judge reviews whether a decision is lawful. A person may want to take legal advice before deciding if this is appropriate. The Commissioner is unable to provide advice in relation to judicial review.

L.6b Appendix 6b – Template Correspondence (Acceptance – Respondent)

Name [of Respondent]

Address

Reference: XX/XX/XXXX

Dear Name

Date

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I am writing to let you know that we have received a complaint that you, (“the Respondent”), have contravened the Councillors’/name of body Code of Conduct (“the Code”). This complaint has been accepted for investigation. [Please accept my apologies for the delay in contacting you about your complaint. This was and remains due to a staff shortage in our office. We are currently recruiting to expand our investigations team to address this issue.]

The Complaint

I have enclosed the complaint material we have received. Based on the information provided I will be investigating the following issue(s) of the complaint:

3. [Issue 1 – lift from Complainer correspondence and adjust grammar accordingly...]

4. [Issue 2].

The complaint is based on the information available at this time and our understanding of that information. The complaint may change as the investigation progresses and further information becomes available.

The Complainer(s) has/have not stated what paragraph(s) of the Code they consider you have breached/Please be assured for the purposes of our assessment, all parts of the Code that could be relevant to the Complaint have been considered. To that end, we considered [section numbers] of the [relevant Code etc.]...”

The Complainer(s) allege you have breached paragraph(s) [insert paragraphs] of the Code/I am considering the complaint in terms of paragraphs(s) [paragraphs] of the Code.

Our process

I have also enclosed an outline of the investigation and post-investigation process which I hope you will find helpful.

Response invited

It is important for us to understand your view on the complaint. Please provide any comments or information which you consider relevant to our consideration of this complaint. **In responding, you may find it helpful to respond specifically in relation to each head of complaint outlined above.**

In particular it would be of assistance if you could provide:

- 3. Your view on whether you were acting in your capacity as a councillor/member at the time of the alleged conduct, as set out above;**
- 4. [Information requested]**

I would be grateful if you were able to respond by **[2 weeks from date of writing]**.

I appreciate that responding may take some time. If you require more time, please contact our office to let us know.

The Commissioner's process is confidential in nature and your cooperation is requested in this regard.

Thank you in anticipation for your assistance.

Privacy notice

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- [Privacy notice for Councillors or Members being complained about](#)

Should you have any queries please contact me by telephone on 0131 347 3890 or email at investigations@ethicalstandards.org.uk.

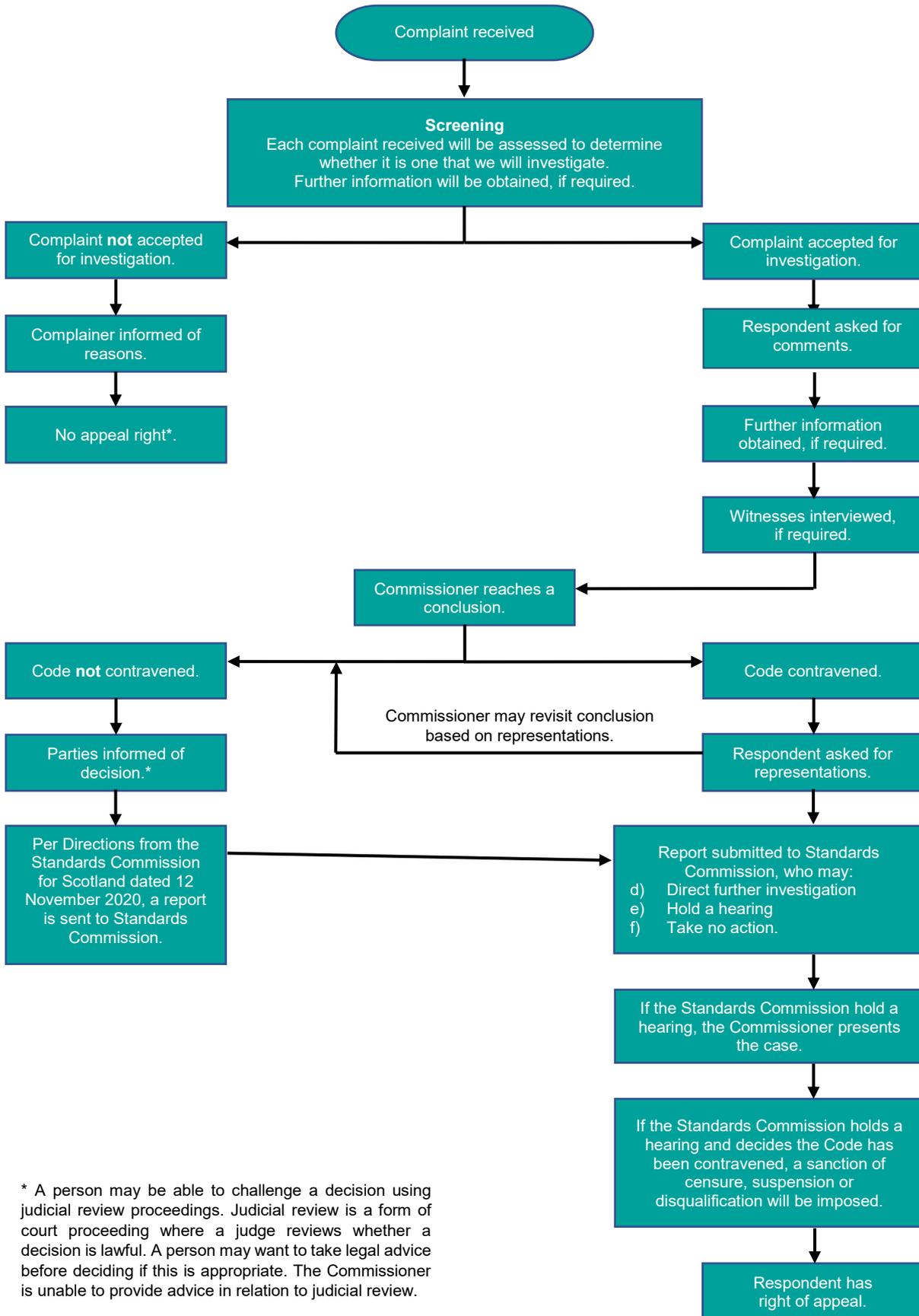
Yours sincerely

[Name]

[Role]

Enc Complaint material

OVERALL INVESTIGATION PROCESS



* A person may be able to challenge a decision using judicial review proceedings. Judicial review is a form of court proceeding where a judge reviews whether a decision is lawful. A person may want to take legal advice before deciding if this is appropriate. The Commissioner is unable to provide advice in relation to judicial review.

L.6c Appendix 6c – Template Correspondence (Acceptance Council / PB)

Name

Address

Reference: XX/XX/XXXX

Dear Name

Date

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I am writing to let you know that we have accepted a complaint about [Respondent(s)] (“the Respondent”) for investigation. [Please accept my apologies for the delay in contacting you about your complaint. This was and remains due to a staff shortage in our office. We are currently recruiting to expand our investigations team to address this issue.]

I have made the Respondent aware of the complaint and await their response.

The complaint

I have enclosed the complaint material we have received. Based on the information provided, I will be investigating the following issue(s) of the complaint:

1. [Issue 1]
2. [Issue 2 etc]

The complaint is based on the information available at this time and our understanding of that information. The complaint may change as the investigation progresses and further information becomes available.

The Complainer(s) has/have not stated what part(s) of the Code they consider have been breached/Please be assured for the purposes of our assessment, all parts of the Code that could be relevant to this Complaint have been considered. To that end, we considered [section numbers] of the [relevant Code etc.]...”

The Complainer(s) allege part(s) [Parts] of the Code have been breached/I am considering the complaint in terms of part(s) [Parts] of the Code.

Information requested

In order to assist with my investigation of this complaint, please provide:

5. [Eg the date the Respondent(s) was/were first elected/appointment to office; *[if not available online...]*]
6. a copy of the Respondent's/Respondents' Declaration(s) of Acceptance of Office;
7. [Eg a copy of the Register of Interests for the Respondent(s) at the relevant time/confirmation that the Register of Interests relating to the Respondent(s) displayed on your website is the latest version;]
8. A copy of the audio/video recording of XX meeting on [date];
9. [any additional request(s)]
10. any other information you consider relevant to our consideration of this complaint.

I would be grateful if you were able to respond by **[2 weeks from date of writing]**. I appreciate that responding may take some time. If you require more time, please contact our office to let us know.

The Commissioner's process is confidential in nature and your cooperation is requested in this regard.

Thank you in anticipation for your assistance.

Privacy notice

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- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Should you have any queries please contact me by telephone on 0131 347 3890 or email at investigations@ethicalstandards.org.uk.

Yours sincerely

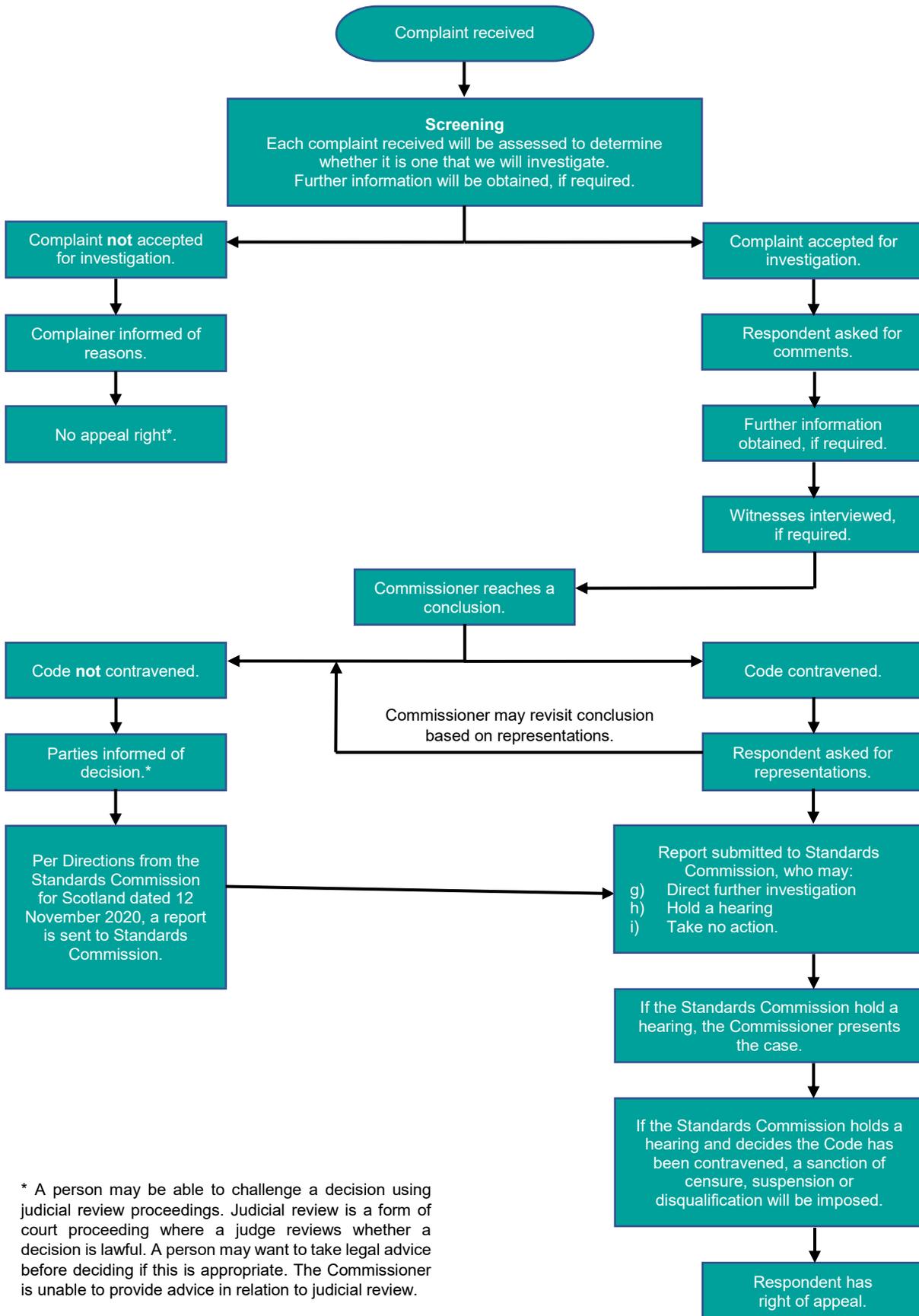
[Name]

[Role]

CC [Name of Chief Executive/Relevant contact]

Enc Complaint material

OVERALL INVESTIGATION PROCESS



* A person may be able to challenge a decision using judicial review proceedings. Judicial review is a form of court proceeding where a judge reviews whether a decision is lawful. A person may want to take legal advice before deciding if this is appropriate. The Commissioner is unable to provide advice in relation to judicial review.

L.7a Appendix 7a – Template Correspondence (Closure – Accepting
Withdrawal Request)

Complainer name

Reference: Xx/xx/xxxx

Sent by email to: x

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I refer to your complaint dated date and your request for withdrawal of that complaint dated date. Thank you for taking the time to write to us.

I write to confirm that we agree to your withdrawal request.

Reasons for accepting your request to withdraw the complaint

Our Investigations Manual sets out guidance on considering requests to withdraw a complaint.

The Manual outlines a variety of factors we are obliged to consider when reaching a decision whether to accept such a request. Below, I have quoted the relevant paragraphs from the Investigations Manual.

1. No reference to the withdrawal of a complaint is made in the 2000 Act. If, at any point during the process, a Complainer wishes to withdraw a Complaint, it will be for the Commissioner to decide whether to accept the withdrawal and terminate the investigation, or to nevertheless proceed and complete the investigation.
2. When reaching our decision whether to accept the withdrawal request, we will take into account:
 - the request,
 - the stage the investigation has reached,
 - the public interest in ending or concluding our investigations and
 - the wishes of any other person who has complained about, or who has been directly impacted by, the conduct in question.
3. Requests to withdraw a Complaint should be made, or confirmed, in writing. If not already specified, the IO should:
 - a. Ascertain the reasons for withdrawal;
 - b. Obtain relevant documentary evidence if necessary;
 - c. Where an explanation is made, this will be noted (eg an apology has been made and accepted) - although this will not necessarily result in closure of the complaint.

Refusal to give reasons for withdrawal will require careful assessment to eliminate any suggestion that the complainer has been inappropriately influenced by third parties to withdraw the complaint.

4. The IO will consider the potential reasons or consequences of withdrawal:
 - a. Any fear of repercussions;
 - b. The effect on other linked cases;
 - c. Whether the co-operation / evidence of the Complainer is an essential element in the investigation;
 - d. Whether there is reason to suppose that the Complainer has been inappropriately influenced, threatened or otherwise improperly persuaded to withdraw the Complaint by any person;
 - e. Whether the issues raised are of such importance as to require investigation in the public interest;
 - f. The Commissioner may be statutorily obligated to investigate further if proceeding with the complaint may have implications in any ongoing civil or criminal proceedings.
 - g. Would the personal circumstances of the complainer (or a close associate / relative) be adversely affected by continuing the investigation?

Having considered the above factors, along with the information and evidence obtained thus far, I have reached the decision to accept your withdrawal request. This means that we will cease our investigation of your complaint and close our file on that basis.

If, having reviewed these factors, there is anything that you would like to highlight to us, please let us know.

It would be helpful if you could get back to us within the next two weeks, by **[date in 2 weeks time]**. If we have not heard from you by then, we will proceed with closing the complaint file **(if at investigation stage)** and notify the Respondent and the Council that you have withdrawn the complaint.

OR

(if at assessment stage) It is our policy to inform the Respondent(s) of the details of your complaint and of our decision to accept your withdrawal request and we will do so by sending **him/her/them** a copy of this letter. Your contact details will be redacted so that your email address will not be visible. **(unless withdrawn due to whistleblower status in which case R is not informed)**

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

Ethical Standards Commissioner

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Should you have any queries please contact us on the following telephone number 0300 011 0550, or email investigations@ethicalstandards.org.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Bruce', written over a light blue horizontal line.

Ian Bruce

Acting Ethical Standards Commissioner

L.7b Appendix 7b – Template Correspondence (Rejecting Withdrawal Request)

Name

Our Reference: XX/XX/XXXX

Sent by email only to:
email

XXXX

Dear name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000

I refer to your email of [date] requesting to withdraw your complaint about [respondent].

I am writing to confirm that we do not agree to your withdrawal request.

Reasons for rejecting your request

Our Investigations Manual sets out guidance on considering requests to withdraw a complaint.

The Manual outlines a variety of factors we are obliged to consider when reaching a decision whether to accept such a request. Below, I have quoted the relevant paragraphs from the Investigations Manual.

1. No reference to the withdrawal of a complaint is made in the 2000 Act. If, at any point during the process, a Complainer wishes to withdraw a Complaint, it will be for the Commissioner to decide whether to accept the withdrawal and terminate the investigation, or to nevertheless proceed and complete the investigation.
2. When reaching our decision whether to accept the withdrawal request, we will take into account:
 - the request,
 - the stage the investigation has reached,
 - the public interest in ending or concluding our investigations and
 - the wishes of any other person who has complained about, or who has been directly impacted by, the conduct in question.
3. Requests to withdraw a Complaint should be made, or confirmed, in writing. If not already specified, the IO should:
 - d. Ascertain the reasons for withdrawal;
 - e. Obtain relevant documentary evidence if necessary;

- f. Where an explanation is made, this will be noted (eg an apology has been made and accepted) - although this will not necessarily result in closure of the complaint.

Refusal to give reasons for withdrawal will require careful assessment to eliminate any suggestion that the complainer has been inappropriately influenced by third parties to withdraw the complaint.

- 4. The IO will consider the potential reasons or consequences of withdrawal:
 - h. Any fear of repercussions ;
 - i. The effect on other linked cases;
 - j. Whether the co-operation / evidence of the Complainer is an essential element in the investigation;
 - k. Whether there is reason to suppose that the Complainer has been inappropriately influenced, threatened or otherwise improperly persuaded to withdraw the Complaint by any person;
 - l. Whether the issues raised are of such importance as to require investigation in the public interest;
 - m. The Commissioner may be statutorily obligated to investigate further if proceeding with the complaint may have implications in any ongoing civil or criminal proceedings.
 - n. Would the personal circumstances of the complainer (or a close associate / relative) be adversely affected by continuing the investigation?

Having considered the above factors, along with the information and evidence obtained thus far during the investigation, I have decided to reject your withdrawal request.

This means that we will continue with our investigation of your complaint.

If, having reviewed the above factors, there is anything that you would like to highlight to us, please let us know.

IF INVESTIGATION HAS STARTED:

We have also advised [respondent] and the Council of your request to withdraw the complaint, and our decision not to accept this.

How we use personal data

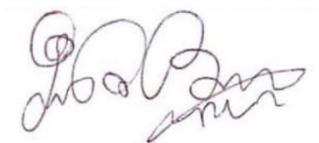
We process personal data to carry out our statutory function, which is to investigate and report on whether a person has breached the relevant code of conduct.

Further information on how we use personal data is set out in our Privacy Statement, which can be found at <http://www.ethicalstandards.org.uk/privacy-policy/>.

Ethical Standards Commissioner

Should you have any queries please contact us on the following telephone number 0300 011 0550, or email investigations@ethicalstandards.org.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Bruce', written in a cursive style.

Ian Bruce
Acting Ethical Standards Commissioner

L.7c Appendix 7c – Template Correspondence (Advising of Withdrawal Request - Respondent)

Name

Sent by email only to: **Email**

Our Reference: **XX/XX/XXXX**

Dear **name**

XXXX

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000

I refer to our previous communication regarding this complaint. Thank you for your assistance with the investigation of this complaint thus far.

The/one of the complainer(s), **[complainer name]**, has requested to withdraw their complaint about you. **(unless request is due to not meeting whistleblower status then this correspondence not sent)**

I am writing to advise that we have decided **not** to accept this request to withdraw.

Reasons for **rejecting/accepting the withdrawal request**

Our Investigations Manual (which is currently still in draft form) sets out guidance on considering requests to withdraw a complaint.

The Manual outlines a variety of factors we are obliged to consider when reaching a decision whether to accept such a request. Below, I have quoted the relevant paragraphs from the Investigations Manual.

Paragraph 60:

“No reference to the withdrawal of a complaint is made in the 2000 Act. If, at any point during the process, a Complainer wishes to withdraw a Complaint, it will be for the Commissioner to decide whether to accept the withdrawal and terminate the investigation, or to nevertheless proceed and complete the investigation.”

Paragraph 61:

“When reaching our decision whether to accept the withdrawal request, we will take into account:

- *the request,*
- *the stage the investigation has reached,*
- *the public interest in ending or concluding our investigations and*
- *the wishes of any other person who has complained about, or who has been directly impacted by, the conduct in question.”*

Paragraph 63:

“[We] will consider the potential reasons or consequences of withdrawal:

- a) Any fear of repercussions ;*
- b) The effect on other linked cases;*

- c) *Whether the co-operation / evidence of the Complainer is an essential element in the investigation;*
- d) *Whether there is reason to suppose that the Complainer has been inappropriately influenced, threatened or otherwise improperly persuaded to withdraw the Complaint by any person;*
- e) *Whether the issues raised are of such importance as to require investigation in the public interest;*
- f) *The Commissioner may be statutorily obligated to investigate further if proceeding with the complaint may have implications in any ongoing civil or criminal proceedings.*
- g) *Would the personal circumstances of the complainer (or a close associate / relative) be adversely affected by continuing the investigation?"*

Paragraph 66:

"Taking the above into account, the Commissioner may decide not to take an investigation forward. This could be for a number of reasons including:

- it is not in the public interest to proceed with an investigation;*
- the Respondent has demitted office or is not standing for re-election;*
- information is received about a deterioration in the health of a Respondent or a key witness."*

Having considered the above factors, along with the information and evidence obtained thus far during the investigation, we have decided to **reject/accept** the withdrawal request.

This means that we will continue with our investigation of the complaint OR This means that we have ceased our investigation of the complaint and have closed our file on that basis. No further action will be taken on this complaint.

(If at investigation stage) I have also updated the Council.

If, having reviewed the above factors, there is anything that you would like to highlight to us, please let us know.

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about](#)

Should you have any queries please contact us on the following telephone number 0300 011 0550, or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name

Role

L.7d Appendix 7d – Template Correspondence (Advising of Withdrawal Request- Council/Public Body)

Name

Our Reference: XX/XX/XXXX

Sent by email only to:

XXXX

Email

Dear name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000

I refer to our previous communication regarding this complaint. Thank you for your assistance with the investigation of this complaint thus far.

The/one of the complainer(s), [complainer name], has requested to withdraw their complaint about the Respondent(s).

I am writing to advise that we have decided not to accept this request to withdraw.

Reasons for rejecting the withdrawal request

Our Investigations Manual sets out guidance on considering requests to withdraw a complaint.

The Manual outlines a variety of factors we are obliged to consider when reaching a decision whether to accept such a request. Below, I have quoted the relevant paragraphs from the Investigations Manual.

1. No reference to the withdrawal of a complaint is made in the 2000 Act. If, at any point during the process, a Complainer wishes to withdraw a Complaint, it will be for the Commissioner to decide whether to accept the withdrawal and terminate the investigation, or to nevertheless proceed and complete the investigation.
2. When reaching our decision whether to accept the withdrawal request, we will take into account:
 - the request,
 - the stage the investigation has reached,
 - the public interest in ending or concluding our investigations and
 - the wishes of any other person who has complained about, or who has been directly impacted by, the conduct in question.
3. Requests to withdraw a Complaint should be made, or confirmed, in writing. If not already specified, the IO should:

- g. Ascertain the reasons for withdrawal;
- h. Obtain relevant documentary evidence if necessary;
- i. Where an explanation is made, this will be noted (eg an apology has been made and accepted) - although this will not necessarily result in closure of the complaint.

Refusal to give reasons for withdrawal will require careful assessment to eliminate any suggestion that the complainer has been inappropriately influenced by third parties to withdraw the complaint.

4. The IO will consider the potential reasons or consequences of withdrawal:

- o. Any fear of repercussions ;
- p. The effect on other linked cases;
- q. Whether the co-operation / evidence of the Complainer is an essential element in the investigation;
- r. Whether there is reason to suppose that the Complainer has been inappropriately influenced, threatened or otherwise improperly persuaded to withdraw the Complaint by any person;
- s. Whether the issues raised are of such importance as to require investigation in the public interest;
- t. The Commissioner may be statutorily obligated to investigate further if proceeding with the complaint may have implications in any ongoing civil or criminal proceedings.
- u. Would the personal circumstances of the complainer (or a close associate / relative) be adversely affected by continuing the investigation?

Having considered the above factors, along with the information and evidence obtained thus far during the investigation, we have decided to **reject/accept** the withdrawal request.

This means that we will continue with our investigation of the complaint OR This means that we have ceased our investigation of the complaint and have closed our file on that basis. No further action will be taken on this complaint.

I have also updated the Respondent(s).

If, having reviewed the above factors, there is anything that you would like to highlight to us, please let us know.

How we use personal data

We process personal data to carry out our statutory function, which is to investigate and report on whether a person has breached the relevant code of conduct.

Ethical Standards Commissioner

Further information on how we use personal data is set out in our Privacy Statement, which can be found at <http://www.ethicalstandards.org.uk/privacy-policy/>.

Should you have any queries please contact us on the following telephone number 0300 011 0550, or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name

Role

L.8 Appendix 8 – Investigation Plan

Note: this Plan is to be read with the Complaint Assessment Form / Appendix

Case Reference No.:	
Name of IO:	

Complainant:	
Respondent:	
Council / DB / Board:	
Date Complaint received:	
Date Complaint assessed:	
Investigation Start Date:	
3 Month Unable Date:	
Complaint Summary:	
Applicable Sections of [Code]:	

Investigation Strategy (Check 'Yes' box when the line item is complete)		Yes
1.	<i>List the relevant parties to be contacted in this space:</i> Have the relevant parties (i.e. C, R, MO, witnesses etc.) been contacted?	<input type="checkbox"/>
2.	<i>List the relevant documents to be requested (and indicate receipt) in this space:</i> Have the relevant documents been requested and received?	<input type="checkbox"/>
3.	<i>List the parties that have been interviewed or emailed responses in this space:</i> Have the relevant parties been interviewed / their views have been provided by email?	<input type="checkbox"/>
4.	<i>List the factual findings that will assist in analysing the relevant part(s) of the [Code]:</i> Do the factual findings assist in analysing the relevant part(s) of the [Code]?	<input type="checkbox"/>
5.	<i>List other potential and proportionate lines of enquiry (if any):</i> Are there no further lines of enquiry to be made to establish the factual findings?	<input type="checkbox"/>

AMENDMENT NOTES (IF ANY):

--

Investigation Plan approved by:

Initials:	
Date:	

L.9 Appendix 9 – Template Correspondence (Requests for Information)

Name
Address

Reference: XX/XX/XXXX

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I am writing to you to request information about a complaint that has been made against [you/Respondent(s)].

ONLY USE IF THE RECIPIENT IS UNLIKELY TO BE FAMILIAR WITH US AND/OR AWARE OF OUR INVOLVEMENT - We investigate complaints about MSPs, local authority councillors, board members of public bodies and lobbyists. The present investigation is being conducted under the above Act). The Act established a framework for securing the observance of high standards of conduct by councillors and other persons holding public appointments.

Our enquiry has led us to believe you may have information that is relevant to our consideration of the complaint.

The nature of the complaint relates to [Insert high level summary – it may be necessary to limit information provided due to confidentiality requirement].

Or

Thank you for the information you previously provided in relation to the above/Thank you for the information you provided by [Mode] on [Date]. I am writing to request further information from you.

Information requested

In order to assist my consideration of this complaint, please provide:

1. [Insert information requested]

[AGAIN, ONLY USE IF RECIPIENT IS UNLIKELY TO BE UNFAMILIAR WITH US - The above information is requested under s13 of the Act.]

I would be grateful if you could provide the information requested by **[Date 2 weeks from date of writing]**.

The Commissioner's process is confidential in nature and your cooperation is requested in this regard.

Thank you in anticipation for your assistance.

Should you have any queries please contact me by telephone on 0131 347 3890 or email at investigations@ethicalstandards.org.uk.

Yours sincerely

[Name]

[Role]

L.10a Appendix 10a – Template Correspondence (Requests for Interview)

Name

Address

Reference: XX/XX/XXXX

Dear Name

Date

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I refer to the above complaint and am writing to you to ask about your availability for interview.

Or

I am investigating a complaint that has been made about [Respondent(s)] and I have received information that suggests you may be able to assist with my investigation. I am writing to you to enquire about your availability for interview. [For witness who is unaware of the complaint]

The interview is in relation to a complaint that the above named [brief summary of complaint or what the witness is said to speak to. It is important not to give too much detail as part of the process is about understanding that the witness can recall!].

The interview process

I would propose holding a telephone/video conference interview with you. I would anticipate that I would need approximately [Time] of your time. I have enclosed further information about the interview process which I hope you will find helpful.

If you require any reasonable adjustments to be made in order to participate in the interview process, please do inform us and we will aim to accommodate these where we can.

What to do next

Please contact our office, telephone 0131 347 3890 or email investigations@ethicalstandards.org.uk, to make arrangements for interview. In order to make arrangements for your interview it would be helpful if you have available:

- our reference number;
- your availability over the next few weeks;
- in the case of a telephone or skype interview, the best way to contact you;
- any reasonable adjustments you require.

We would also be happy to answer any queries that you may have when you contact us.

The Commissioner's process is confidential in nature and your cooperation is requested in this regard.

Thank you in anticipation for your assistance.

Yours sincerely

[Name]

[Role]

Enc Interview Information

L.10b Appendix 10b – Template Interview Record

RECORD OF INTERVIEW

(under section 12 of the Ethical Standards in Public Life etc (Scotland) Act 2000 (“the Act”))

of [Interviewee]

in complaint about [Respondent], [Our ref]

Date:	[Date]		Time:	[Time]
Type:	[Telephone/video/in person]		Interviewer:	[ECS officer]
Contact(s):		[Interviewee contact details]		
Special arrangements:		[Any special arrangements including details of anyone accompanying interviewee/None]		

Pre-Interview checklist	
<input type="checkbox"/>	Introductions.
<input type="checkbox"/>	Explain Commissioner’s role: <ul style="list-style-type: none"> investigate complaints about behaviour of MSPs, Councillors and members of devolved public bodies and report on whether a person has contravened the Code.
<input type="checkbox"/>	Confidentiality – investigations to be conducted confidentially as far as possible.
<input type="checkbox"/>	If accompanied at interview: check no involvement with complaint; should not answer questions or make points on behalf of interviewee; confidentiality applies.
<input type="checkbox"/>	Use of personal data – refer to information and interview request fact sheet
<input type="checkbox"/>	Explain process to date: <ul style="list-style-type: none"> received complaint; now gathering evidence; interview will form part of that evidence.
<input type="checkbox"/>	Explain interview process: <ul style="list-style-type: none"> Interview will take form of series of questions – if don’t know or can’t remember – just say; important to record your own words about events; may clarify if evidence is from interviewee’s direct knowledge and which are matters of hearsay/belief; interview notes will be taken; notes are part of confidential process and exempted under FOISA so not normally disclosed but information shared at this interview may be included in the report. Where information is shared, we try our best to present it as “<i>The Complainer stated x</i>”, “<i>The Respondent stated y</i>”, or otherwise refer to parties as “<i>Witness A, Officer B, Neighbour C, Councillor D etc.</i>” rather than use individual names.

<input type="checkbox"/>	<p>Explain future process:</p> <ul style="list-style-type: none"> • we may send a summary of what is said and ask interviewee to confirm it is correct; • this can also take the form of a witness statement; • we will produce a report once all evidence gathered; • information shared at this interview may be included in the report, including the fact that the information was verified with you; • the email verifying our understanding of the substantive matters / evidence or the witness statement which summarises the information shared with us at interview may be included with or in the report when it is finalised. <p>All reports are shared with the Standards Commission for them to make a s 16 decision (to direct ESC for further investigation, hold a hearing or take no further action). Highlight there is always the chance that a case may proceed to a public hearing.</p> <p>If Complainer or Respondent:</p> <ul style="list-style-type: none"> • will be notified of outcome (copy of report shared); <p>If Monitoring Officer or Standards Officer:</p> <ul style="list-style-type: none"> • will be notified of outcome (copy of report shared); <p>If none of the above</p> <ul style="list-style-type: none"> • not notified of outcome unless required to attend hearing.
<input type="checkbox"/>	<p>Check interviewee is comfortable to proceed with interview and confirm that they can ask for a break any time they need one (If interview is likely to last longer than 45 mins- 1 hour, IO can build in a break in advance and advise interviewee of this. If interview is in person/over teams IO should also be mindful, where possible, of whether the interviewee looks or sounds like they need to take a break.).</p>
<input type="checkbox"/>	<p>Provide opportunity for questions.</p>

Interviewee's dates to avoid over next 2-6 months

Interviewer's notes
[Only use if something important emerges from the above – if it has an evidential bearing it should be discussed during the interview and recorded that way. Otherwise, None]

RECORD OF INTERVIEW

IO's notes of interview to be verified with interviewee

1. [Name of interviewee] is employed as [Employment]/is an elected Councillor at [Council] and have the following roles: [Roles]. They represent the [Party] and were first elected on [Date].
2. [name of interviewee] is/is not familiar with the Code of Conduct.]
3. [Interviewee] confirmed they had/had not discussed their evidence with anyone/ [Interviewee] discussed their evidence with [Name(s)]. because [Reason].
4. [interviewee] has known [Respondent] since [Year]. They know them through [Capacity]. They would describe their relationship with [Respondent] as follows: [Description].
5. [interviewee] has known [Complainer(s)] since [Year]. They know them through [Capacity]. They would describe their relationship with [Complainer(s)] as follows: [Description].
6. They would describe the relationship between [Respondent] and [Complainer] in the following terms:
7. [Detail about specific incidents – consider using chapter headings if there are multiple aspects to the complaint].
8. [interviewee] provided the following further information: [Information].

END OF INTERVIEW

L.10c Appendix 10c – Interview Information Factsheet

Appendix 10c- Interview Information Factsheet can be found on our website [here](#).

L.11 Appendix 11 – Witness Policy and Guidance

Appendix 11- Witness Policy and Guidance can be found on our website [here](#).

L.12 Appendix 12 – Guidance on Extension of Time

Appendix 12- Guidance on Extension of Time can be found on our website [here](#).

L.13a Appendix 13a – Template Correspondence (3 Month interim report-
Complainer))

[insert complainer(s) name]

Our Reference: LA/XXX/XXXX

Sent by email only to:

XXXXXXXXXXXXXXXXXXXXXXXXXX

[Insert date]

Dear Mr/Mrs/Miss/Dr/Cllr

No action required

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I refer to previous communication, regarding the above complaint reference number. I would like to thank you for your assistance with the investigation of this complaint thus far.

I am writing to advise you that the above investigation will not be completed within three months of it being commenced on [date]. I am sorry for any inconvenience caused by this. I appreciate your patience in the meantime.

In terms of its powers under Section 10 and 11 of the Act, the Standards Commission for Scotland requires the Commissioner’s Office to provide you with a written update every three months on the progress of the investigation.

As such, I am writing to let you know that, [provide brief progress update] ie: following review and analysis of all requested documentary evidence, a Report has been compiled with my findings, which requires to be reviewed and approved by our Senior Investigating Officer before final approval and sign off by the Acting Commissioner.

Thank you again for your assistance with this complaint. I will be back in touch by [insert date].

The Commissioner’s investigations process is confidential in nature and your cooperation is requested in this regard.

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Yours sincerely

[insert name]
Investigating Officer

L.13b Appendix 13b – Template Correspondence (3 Month interim report-Respondent))

[insert respondent(s) name]

Our Reference: XX/XXX/XXXX

Sent by email only to:

XXXXXXXXXXXXXXXXXXXXXXXXXX

[Insert date]

Dear Cllr/Mr/Mrs/Dr

No action required

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I refer to our previous communication, regarding the above complaint reference number. I would like to thank you for your assistance with the investigation of this complaint thus far.

I am writing to advise you that, as required by Section 12(5) of the Act, the above investigation will not be completed within three months of it being commenced on [date]. I am sorry for any inconvenience caused by this. I appreciate your patience in the meantime.

In terms of its powers under Section 10 and 11 of the Act, the Standards Commission for Scotland requires the Commissioner’s Office to provide you with a written update every three months on the progress of the investigation.

As such, I am writing to let you know that, [provide brief progress update] ie: following review and analysis of all requested documentary evidence, a Report has been compiled with my findings, which requires to be reviewed and approved by our Senior Investigating Officer before final approval and sign off by the Acting Commissioner.

We hope to complete our investigation process and issue our findings by [insert date], allowing for any revisions to the Report.

Thank you again for your assistance with this complaint. I will be back in touch by [insert date].

The Commissioner’s investigations process is confidential in nature and your cooperation is requested in this regard.

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Yours sincerely

[insert name]
Investigating Officer

L.13c Appendix 13c – Template Correspondence (3 Month interim report-
Council/Public Body))

[insert name of MO/Public Body Contact]

Our Reference: XX/XX/XXXX

Sent by email only to:

XXXXXXXXXXXXXXXXXXXXXX

[insert date]

cc: [name of Council CEO)

XXXXXXXXXXXXXXXXXXXXXX

Dear [insert name]

No action required

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I refer to our previous communication, regarding the above complaint reference number. I would like to thank you for your assistance with the investigation of this complaint thus far.

I am writing to advise you, as required by Section 12(5) of the Act, that the above investigation will not be completed within three months of it being commenced on [date]. I am sorry for any inconvenience caused by this. I appreciate your patience in the meantime.

In terms of its powers under Section 10 and 11 of the Act, the Standards Commission for Scotland requires the Commissioner’s Office to provide you with a written update every three months on the progress of the investigation.

As such, I am writing to let you know that, [provide brief progress update] ie: following review and analysis of all requested documentary evidence, a Report has been compiled with my findings, which requires to be reviewed and approved by our Senior Investigating Officer before final approval and sign off by the Acting Commissioner.

We expect to complete our investigation process and issue our findings by [insert date], allowing for any revisions to the Report.

[If the date is **less** than 3 months: If we are unable to conclude the investigation before that date, we will be in touch with an update.] OR

[If the date is **more** than 3 months: We will be in touch with another update by [next 3 MU date.]

Thank you again for your assistance with this complaint.

The Commissioner’s investigations process is confidential in nature and your cooperation is requested in this regard.

Privacy notice

Ethical Standards Commissioner

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Yours sincerely

[insert name]

Investigating Officer

L.13d Appendix 13d – Template Correspondence (3 Month interim report-
Standards Commission for Scotland))

Miss Lorna Johnston

Reference: XX/XX/XXXX

Sent by email to:

Enquiries@StandardsCommission.org.uk

Date

Dear Lorna

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I am writing pursuant to section 12(5) of the Act to let you know that our investigation of the above referenced complaint will not be completed within 3 months of the date on which it began on [date].

The complaint is against a [insert “councillor/member of a public body”] of [insert name of Council/Public Body] and relates to sections XX to XX under the [insert Code and relevant date ie: Councillors Code of Conduct dated July 2018].

Pursuant to the Direction dated 1 July 2020 (as renewed on 27 September 2022) issued by the Standards Commission for Scotland in terms of its powers under Section 10 and 11 of the Act (the “Direction”), I further provide an interim report on this investigation, setting out the information requested under paragraph 2 of the Direction, as follows:

Investigative work carried out

[amend/delete the following sections as appropriate]

- We have contacted the relevant parties and obtained supporting information relative to the complaint;
- We have reviewed and assessed the above information, and have requested and received supplementary information where appropriate, with the most recent information being received on [insert date];
- We have analysed and assessed the evidence received in terms of factual accuracy and against the Code and relevant legislation;
- A draft Report has been compiled with our findings on [insert date].

Work still required to be carried out

- The draft Report requires to be reviewed and approved by our Senior Investigating Officer before final approval and sign off by the Acting Commissioner. The review and approval of the draft Report has been delayed due to workload.

Expected date for completion of our investigation

Ethical Standards Commissioner

- We hope to issue our findings by [insert date], allowing for any revisions to the Report [amend as appropriate].
- [If the date is **less** than 3 months: If we are unable to conclude the investigation before that date, we will be in touch with an update.] OR
- [If the date is **more** than 3 months: We will be in touch with another update by [next 3 MU date.]

In accordance with paragraph 3 of the Direction, I confirm we have also provided written updates to the Respondent, Complainer and to the Council.

I trust the above information is helpful. If you require any further information or assistance, please don't hesitate to contact myself at [insert name] [@ethicalstandards.org.uk](mailto:[insert name]@ethicalstandards.org.uk).

Yours sincerely

[insert name]
Investigating Officer

L.14 Appendix 14 – Templates Report (Draft Report (Breach or No Breach))

Under s14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended (“the Act”).

Case Ref:	[XX/XX/XXXX]
Date:	[DATE]
Complainer(s):	
COMPLAINT AGAINST	
Respondent(s):	[Councillor xxx] / [xxx]
Council / Public Body: [delete as appropriate]	[Name of Council / Public Body]

<p>Report Summary: No Breach / Breach / Breach but not justifiable under Art 10</p> <p>In the Commissioner’s view, the Respondent has, on the face of it, breached / not breached the Councillors’ Code of Conduct dated December 2021 (“the Code”).</p> <p>[For Article 10 Reports:]</p> <p>However, the Commissioner considers that a restriction on the Respondent’s right to freedom of expression under Article 10 of the European Convention on Human Rights can / cannot be justified.</p>
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Overarching objective

The Act established an ethical standards framework for securing the observance and the promotion of high standards of conduct for Councillors and Members of Devolved Public Bodies.

The purpose of this document is to report on the Commissioner's investigation, the findings from investigation on a balance of probabilities, and the analysis of such findings supporting the investigation's outcome.

Complaint Background

1. [Provide a very brief statement of the Complaint: setting out the 'theme' (i.e. disrespectful conduct, bullying, harassment, failure to register/declare an interest, demonstrating bias or unfairness at a quasi-judicial setting), then provide more detail below].
2. [Provide details of the Respondent].
3. [Provide details of the Complainer].
4. On [date], [insert brief summary of complaint background].
5. On [date], [insert brief summary of complaint background].

Other Parties [Section to be included only if relevant, possibly as an Appendix]

6. There are a number of parties to the complaint and its background. A summary of other third parties, their role and how they are referred to in this Report is set out below. As all Reports are shared with the Complainer, the Respondent, the Council / Public Body and the Standards Commission for Scotland (the "SCS"), and as a data controller, the Commissioner is obliged to refer to parties other than the Complainer and Respondent in an anonymised way:
 - The Council's Monitoring Officer is referred to as the MO;
 - A Council planning officer involved in the complaint is referred to as "Council Planning Officer A";
 - The Complainer's neighbour is referred to as Mr B;
 - The Respondent's supporter is referred to as Councillor C;
 - The Respondent's party leader is referred to as the Party Leader;
 - A third party attendee of the meeting is referred to as Witness 1;
 - Witness 1's family member who also attended the meeting is referred to as Witness 2;

- A reporter whom the Respondent allegedly contacted after the meeting is referred to as Witness 3 etc.

Chronology [Section to be included only if relevant, possibly as an Appendix]

7. There are a number of key events which took place in this complaint. A timeline of events is set out below, for ease of reference:

Date	Event

Complaint

8. The complaint that the Commissioner is reporting on is as follows:

Issue 1:

Issue 2:

[particulars of complaint as set out in Initial Notification Letter]

9. The Commissioner has considered the complaint in terms of paragraphs [X.X, X.X, X.X] of the Code.

Investigation and approach

10. The Commissioner must be satisfied that the facts of the complaint have been established on the balance of probabilities. This means the Commissioner must be satisfied that it is more likely than not that the alleged conduct occurred.

11. Evidence obtained [is set out in **Appendix X** to this Report] **OR** [included the following]:

a. Documentary evidence

- i. the complaint form received [date];
- ii. correspondence and attachments from [source] dated [date];
- iii. an email from [source] dated [date] etc.
- iv. a copy of the agenda and meeting minutes from [source] dated [date] etc.
- v. a telephone note from [source] dated [date] etc.

vi. a copy of the witness statement of [x] [source] dated [date] etc.

b. Interviews conducted by the Investigating Officer (if any):

- i. Interview with [party] on [date] and interview note dated [date], which [the party] agreed to be an accurate reflection of the interview etc.
- ii. Interview with [party] on [date], verified to be accurate with the [party] on [date] etc.

Analysis of evidence and findings

12. In the Commissioner's view, there is no dispute that [list any evidence that is unlikely to be contentious and why not, for example:

- The Complainer and the Respondent both attended the Council meeting dated [x], as shown from [a webcast recording or the meeting minute];
- The Respondent was attending in their capacity as a councillor, which they acknowledge in their response dated [x];
- The Respondent stated to the Complainer "[quote]", as shown at [timing from the recording or shown from contemporaneous notes; etc.]

Issue 1

Witness Evidence relevant to Issue 1

13. [Insert witness evidence from interview relevant to Issue 1].

Witness Evidence in dispute under Issue 1

14. [Insert list of evidence in dispute].

General observations on witness evidence and approach

15. [Insert analysis of why one witness' evidence is more credible, reliable or preferred]

Factual Conclusions on Issue 1

16. The Commissioner is of the view that, from the evidence gathered at investigation, [details of the complaint] likely did / did not occur.

17. The Commissioner considers the facts of issue 1 are / are not proven [and/or insert the facts that are considered proven].

Application of the facts to the Code

18. [Insert reasons why the Respondent is acting or could be perceived to be acting as a councillor / member, if disputed]

19. The Commissioner went on to consider whether, on the basis of the facts that have been established on the balance of probabilities, the Respondent had breached the Code.
20. [Insert analysis on the Code – this includes consideration of SCS Advice Notes, Guidance, previous Panel decisions].
21. The Commissioner has reached the view that the Respondent **did / did not** breach the Code.

Course of Conduct [Section to be included only if relevant]

22. [The Commissioner further considered whether, taking the complaint as a whole, there could be a course of conduct or cumulative conduct which could amount to a breach of the Code.]
23. [The Commissioner considered the following factors (note: not all factors require to be present before finding a course of conduct has taken place):
 - a. there are more than two occasions of similar conduct taking place;
 - b. over an extended period of time;
 - c. the conduct is persistent, and consistently applied or targeted against a particular individual or group of individuals;
 - d. there may be signs of escalating conduct (i.e. the conduct is worsening, becoming more frequent, repetitious or more serious) and/or
 - e. the conduct is unreasonable and oppressive, causing objective alarm, fear or distress.

For circumstances where each occasion or issue of complaint is not likely a breach, consider if multiple occasions of similar conduct over any timeframe can cumulatively amount to a breach of the Code if the conduct, *taken as a whole*, could breach a Code provision. This will necessarily turn on the facts and circumstances of each case.]

Application of Article 10 the ECHR [Section to be included only if relevant]

24. In the Commissioner's view, [insert details of complaint that likely did occur and is a breach of the Code]. Having concluded this, the Commissioner will next consider the application of Article 10 of the ECHR (Note: this is Stage 1 *Sanders v Kingston*).
25. [Insert analysis of whether the conduct occurred in a political context or in respect of a debate on questions of public interest in order to determine whether the enhanced protection afforded to political expression applies] (Note: this is Stage 2 *Sanders v Kingston*)
26. [Insert analysis of whether Commissioner considers there are relevant and sufficient reasons to justify any interference, in terms of Article 10(2), to the Respondent's right

to freedom of expression and whether any such restriction is proportionate.] (Note: this is Stage 3 *Sanders v Kingston*)

[Use same format with Issue 2, 3, 4 etc. where applicable]

The Commissioner's views

27. Based on the evidence gathered at investigation, and the above reasoning, the Commissioner's views on the complaint are as follows:

Issue 1: [particulars of complaint as set out in Initial Notification Letter]

- This **has / has not been established.**
- **The Respondent did / did not breach the Code.**
- However, the Commissioner considers that a restriction on the Respondent's right to freedom of expression under Article 10 of the ECHR cannot be justified.

Issue 2: [particulars of complaint as set out in Initial Notification Letter]

- This **has / has not been established.**
- **The Respondent did / did not breach the Code.**
- However, the Commissioner considers that a restriction on the Respondent's right to freedom of expression under Article 10 of the ECHR cannot be justified.

The Respondent's representations

28. If the Commissioner considers the Respondent has breached the Code, a draft copy of this report must be sent to the Respondent. This is so they have the opportunity to make representations on the Commissioner's views. [The Standards Commission has requested that the Commissioner also shares reports with the Respondent where the Commissioner's view is that a breach cannot be upheld due to the application of Article 10 of the ECHR. The Commissioner has agreed to adopt this approach in the interests of procedural fairness, given that the Standards Commission may decide to hold a hearing upon the receipt of any report from the Commissioner.]

29. The Commissioner sent the Respondent a draft copy of this report on **XXXXX**. The Respondent provided comments on **XXXXX**. The following paragraphs of the draft report have been re-drafted to take account of the Respondent's comments: [list out paragraphs with narrative].

30. The Monitoring Officer / Standards Officer was also sent a draft copy of this report on XXXXX and provided comments on XXXXX. The following paragraphs of the draft report have been re-drafted to take account of the Monitoring Officer / Standards Officer's comments: [list out paragraphs with narrative].

OR

31. In accordance with the procedures set out in the Investigations Manual, the Complainer, the Respondent and the Council / Public Body has been sent a copy of this Report.



Ian Bruce
Ethical Standards Commissioner

END OF REPORT

L.15a Appendix 15a – Template Correspondence (Report- Complainer)

Name of Complainer

Sent by email only: email

Reference: XX/XX/XXXX

Dear Name

Date

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000

I refer to the above referenced complaint, I am writing to let you know that we have concluded our investigation and reached a view on your complaint.

We have taken the view that the Respondent(s) has/have not contravened the Code of Conduct for Councillors OR Members.

The Standards Commission

Please find enclosed a final version of the report that I have referred to the Standards Commission for Scotland (“the Standards Commission”).

As stated at paragraph 1.5 of the Standards Commission’s Section 16 Decision-Making Process, the Standards Commission is responsible for making the final disposal decision on all issues of complaint and that it may well reach a different conclusion on some or all of the issues of complaint outlined in the Ethical Standards Commissioner’s report.

The Standards Commission has the following options on receipt of a report:

direct that we carry out further investigations;

- a) hold a hearing;
- b) do neither.

The Standards Commission will write to you in due course as to what action it intends to take. For your ease of reference, the Standards Commission’s contact details are as follows:

Website:	www.standardscommission.org.uk
Telephone:	07790 389999 / 0131 348 6666
Email:	enquiries@standardscommission.org.uk

I have also sent a copy of the report to the Respondent(s) and Council/name of devolved public body.

Feedback Survey

We continually strive to improve our processes in respect of how we handle complaints and the service we provide. We would be grateful if you would to complete a short survey, which can be found [here](#) to tell us about your experience. The survey should take no more than ten minutes to complete and is anonymous.

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Should you have any queries please contact my office on the following telephone number 0300 011 0550, or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name
Role

Enc: Final Report

Ethical Standards in Public Life etc. (Scotland) Act 2000

Sections 14 to 16

14 The Public Standards Commissioner's reports

(1) Subject to section 10 above, it is for the Public Standards Commissioner for Scotland ("the Commissioner") to decide whether to report to the Standards Commission for Scotland on the outcome of any investigation.

(2) No report concluding that a councillor or a member of a devolved public body has contravened the councillors' or, as the case may be, the members' code shall be submitted to the Standards Commission unless the councillor or member has been given a copy of the proposed report and an opportunity to make representations on the alleged contravention and on the proposed report.

(3) At the same time as the Commissioner gives a copy of a proposed report to a councillor or a member of a devolved public body for the purposes of subsection (2) above, he shall give a further copy to the council or, as the case may be, the devolved public body.

15 Publication of reports

The Standards Commission for Scotland may publish a report submitted to it under section 14 above, and may do so in whatever way and send it to whomever it thinks fit.

16 Action on receipt of reports

On receiving a report from the Commissioner, the Standards Commission for Scotland may -

- (a) direct the Commissioner to carry out further investigations;
- (b) hold a hearing; or
- (c) do neither,

and, where it acts under paragraph (a) or (b) above, may do so at any time.

L.15b Appendix 15b – Template Correspondence (Report- Respondent)

Name of Respondent

Address

Reference: XX/XX/XXXX

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000

I refer to the above referenced complaint and the proposed report that I sent you recently. Thank you for your comments in response to this, which have been considered.

I am writing to let you know that we have now finalised the report.

Having considered your representations, our view remains that you have contravened the Code of Conduct for Councillors OR Members.

OR

We take the view that you have not contravened the Code of Conduct for Councillors OR Members.

The Standards Commission

Please find enclosed a final version of the report that I have referred to the Standards Commission for Scotland (“the Standards Commission”).

As stated at paragraph 1.5 of the Standards Commission’s Section 16 Decision-Making Process, the Standards Commission is responsible for making the final disposal decision on all issues of complaint and that it may well reach a different conclusion on some or all of the issues of complaint outlined in the Ethical Standards Commissioner’s report.

The Standards Commission has the following options on receipt of a report:

- c) direct that we carry out further investigations;
- d) hold a hearing;
- e) do neither.

The Standards Commission will write to you in due course as to what action it intends to take. For your ease of reference, the Standards Commission’s contact details are as follows:

Website:	www.standardscommission.org.uk
Telephone:	07790 389999 / 0131 348 6666
Email:	enquiries@standardscommission.org.uk

I have also sent a copy of the final report to **the Council/name of devolved public body and to the Complainer(s)**.

Your representations

A copy of your representations has been appended to the report.

Feedback Survey

We continually strive to improve our processes in respect of how we handle complaints and the service we provide. We would be grateful if you would to complete a short survey, which can be found [here](#) to tell us about your experience. The survey should take no more than ten minutes to complete and is anonymous.

Privacy notice

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- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Should you have any queries please contact my office on the following telephone number 0300 011 0550, or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name
Role

Enc: Final Report

Ethical Standards in Public Life etc. (Scotland) Act 2000

Sections 14 to 16

14 The Public Standards Commissioner's reports

(1) Subject to section 10 above, it is for the Public Standards Commissioner for Scotland ("the Commissioner") to decide whether to report to the Standards Commission for Scotland on the outcome of any investigation.

(2) No report concluding that a councillor or a member of a devolved public body has contravened the councillors' or, as the case may be, the members' code shall be submitted to the Standards Commission unless the councillor or member has been given a copy of the proposed report and an opportunity to make representations on the alleged contravention and on the proposed report.

(3) At the same time as the Commissioner gives a copy of a proposed report to a councillor or a member of a devolved public body for the purposes of subsection (2) above, he shall give a further copy to the council or, as the case may be, the devolved public body.

15 Publication of reports

The Standards Commission for Scotland may publish a report submitted to it under section 14 above, and may do so in whatever way and send it to whomever it thinks fit.

16 Action on receipt of reports

On receiving a report from the Commissioner, the Standards Commission for Scotland may -

- (a) direct the Commissioner to carry out further investigations;
- (b) hold a hearing; or
- (c) do neither,

and, where it acts under paragraph (a) or (b) above, may do so at any time.

L.15c Appendix 15c – Template Correspondence (Report- Council/PB)

Name of Monitoring/Standards Officer

Address

Reference: XX/XX/XXXX

Date

CC: Chief Executive

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000

I refer to the above referenced complaint and the proposed report that I sent you recently. Thank you for your comments in response to this, which have been considered.

I am writing to let you know that we have finalised the report.

The Respondent has also had an opportunity to make representations about the content of the proposed report. Having considered the comments, our view remains that the Respondent has contravened the Code of Conduct for Councillors OR Members. A copy of these comments has been appended to the report.

OR

We take the view that the Respondent(s) has/have not contravened the Code of Conduct for Councillors OR Members.

Please find enclosed a final version of the report that I have referred to the Standards Commission for Scotland (“the Standards Commission”).

As stated at paragraph 1.5 of the Standards Commission’s Section 16 Decision-Making Process, the Standards Commission is responsible for making the final disposal decision on all issues of complaint and that it may well reach a different conclusion on some or all of the issues of complaint outlined in the Ethical Standards Commissioner’s report.

The Standards Commission has the following options on receipt of a report:

- f) direct that we carry out further investigations;
- g) hold a hearing;

h) do neither.

The Standards Commission will write to you in due course as to what action it intends to take. For your ease of reference, the Standards Commission's contact details are as follows:

Website:	www.standardscommission.org.uk
Telephone:	0131 348 6666
Email:	enquiries@standardscommission.org.uk

I have also sent a copy of the report to **the Respondent(s) and the Complainer(s)**.

Feedback Survey

We continually strive to improve our processes in respect of how we handle complaints and the service we provide. We would be grateful if you would to complete a short survey, which can be found [here](#) to tell us about your experience. The survey should take no more than ten minutes to complete and is anonymous.

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- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Should you have any queries please contact my office on the following telephone number 0300 011 0550, or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name
Role

Enc: Final Report

Ethical Standards in Public Life etc. (Scotland) Act 2000

Sections 14 to 16

14 The Public Standards Commissioner's reports

(1) Subject to section 10 above, it is for the Public Standards Commissioner for Scotland ("the Commissioner") to decide whether to report to the Standards Commission for Scotland on the outcome of any investigation.

(2) No report concluding that a councillor or a member of a devolved public body has contravened the councillors' or, as the case may be, the members' code shall be submitted to the Standards Commission unless the councillor or member has been given a copy of the proposed report and an opportunity to make representations on the alleged contravention and on the proposed report.

(3) At the same time as the Commissioner gives a copy of a proposed report to a councillor or a member of a devolved public body for the purposes of subsection (2) above, he shall give a further copy to the council or, as the case may be, the devolved public body.

15 Publication of reports

The Standards Commission for Scotland may publish a report submitted to it under section 14 above, and may do so in whatever way and send it to whomever it thinks fit.

16 Action on receipt of reports

On receiving a report from the Commissioner, the Standards Commission for Scotland may -

(a) direct the Commissioner to carry out further investigations;

(b) hold a hearing; or

(c) do neither,

and, where it acts under paragraph (a) or (b) above, may do so at any time.

L.15d Appendix 15d – Template Correspondence (Report – refer to SCS)

Dear Lorna,

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

Further to our email dated XXXX, please find attached a report containing the Commissioner’s view that XXXXX (“the Respondent”) has **not** contravened the XXXX Code. The Respondent and **Council/relevant body** have also been provided with a copy of the report, and the Complainers have been informed of our findings. We attach copies of those letters. **We also attach copies of the representations on the proposed report received from the Respondent and the Monitoring/Standards Officer dated xxxxxxx.**

We have not enclosed copies of the documents referred to within the report, at this stage. Should you require any of the documentary evidence to make your decision as to how to proceed, please let us know.

Contact details for parties to the complaint are provided below:

Complainer(s)

Name

Email

Tel No

Respondent (s)

Name

Email

Tel No

We look forward to receiving your final disposal decision. Please let us know of any proposed dates, if you plan to hold a hearing for this complaint.

Should you have any queries please contact our office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Many thanks

Name

Role

L.16a Appendix 16a – Template Correspondence (Proposed Breach Report - Respondent)

Name of Respondent

Reference: XX/XX/XXXX

Address

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I am writing further to the complaint we have received that you allegedly contravened the Councillors’/name of body Code of Conduct (“the Code”). [Please accept our apologies for the delay in contacting you about this complaint].

Having concluded our investigation, we have reached the view that your conduct has contravened the Code. However, we consider that a restriction on your right to freedom of expression under Article 10 of the European Convention on Human Rights (“ECHR”) cannot be justified and therefore have concluded that there is not a breach of the Code.

Proposed report

I have enclosed a copy of our proposed report. I have also sent a copy of this proposed report to [the Council/Name of public body].

Response invited

In terms of the Act, you now have an opportunity to make representations on the alleged contravention and on the proposed report.

Your representations will help ensure we have a full record of your version of events. If you do decide to make representations, it would be helpful to understand what matters set out in the proposed report are accepted and what matters are not.

If you require a copy of any of the documentation that is listed in the report, please contact my office as soon as possible.

I would be grateful if you were able to make any representations by **[Date 2 weeks from date of writing – unless reason for a longer period]**. If we do not hear from you by that date, we will assume you do not wish to make representations, and will refer our final report to the Standards Commission without your input. If you require more time to make representations, please contact our office with a full explanation, as any extension will be granted at the Commissioners discretion.

Final report

We will consider any representations you make before finalising our report. At that stage, we will let you know when we have sent a copy of our final report to the Commission and provide you with a copy of the final report.

I have enclosed a copy of the relevant provisions of the Act for your information.

Your contact details

When we send a copy of our final report to the Commission, we will need to provide the Commission with the contact details that we currently hold for you, as follows:

[Insert respondent's email address/contact details here]

If we do not hear from you to the contrary, we will assume that you are content with this approach.

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- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Thank you in anticipation for your assistance.

Ethical Standards Commissioner

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name
Role

Enc: Note on Act
Proposed Report

Ethical Standards in Public Life etc. (Scotland) Act 2000

Sections 14 to 16

14 The Public Standards Commissioner's reports

(1) Subject to section 10 above, it is for the Public Standards Commissioner for Scotland ("the Commissioner") to decide whether to report to the Standards Commission for Scotland on the outcome of any investigation.

(2) No report concluding that a councillor or a member of a devolved public body has contravened the councillors' or, as the case may be, the members' code shall be submitted to the Standards Commission unless the councillor or member has been given a copy of the proposed report and an opportunity to make representations on the alleged contravention and on the proposed report.

(3) At the same time as the Commissioner gives a copy of a proposed report to a councillor or a member of a devolved public body for the purposes of subsection (2) above, he shall give a further copy to the council or, as the case may be, the devolved public body.

15 Publication of reports

The Standards Commission for Scotland may publish a report submitted to it under section 14 above, and may do so in whatever way and send it to whomever it thinks fit.

16 Action on receipt of reports

On receiving a report from the Commissioner, the Standards Commission for Scotland may -

- (a) direct the Commissioner to carry out further investigations;
- (b) hold a hearing; or
- (c) do neither,

and, where it acts under paragraph (a) or (b) above, may do so at any time.

L.16b Appendix 16b – Template Correspondence (Proposed Breach Report – Council or Public Body)

Name

Address

Reference: XX/XX/XXXX

***NB: If Aberdeen City Council, check ESC distribution**

Date

Dear Name

Complaint under the Ethical Standards in Public Life etc. (Scotland) Act 2000 (“the Act”)

I am writing further to the complaint we have received that [Respondent] (“the Respondent(s)”) allegedly contravened the Councillors’/name of body Code of Conduct (“the Code”). [Please accept our apologies for the delay in contacting you about this complaint].

Having concluded our investigation, we have reached the view that the Respondent’s conduct has contravened the Code. However, we consider that a restriction on the Respondent’s right to freedom of expression under Article 10 of the European Convention on Human Rights (“ECHR”) cannot be justified and therefore have concluded that there is not a breach of the Code.

Proposed report

I have sent a copy of our proposed report to the Respondent(s). The Act provides the Respondent(s) time to make representations before any report is sent to the Commission.

A copy of the proposed report is enclosed with this correspondence.

If you wish to provide any comments on the proposed report I would be grateful if you were able to make any representations by [Date 2 weeks from date of writing – unless reason for a longer period].

Final report

We will consider any representations or comments made before finalising our report. At that stage, we will let you know when we have sent a copy of our final report to the Commission and will provide you with a copy of the final report. Any response you provide will be annexed to the final report.

I have enclosed a copy of the relevant provisions of the Act for your information.

Privacy notice

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- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Thank you in anticipation for your assistance.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name
Role

Enc: Note on Act
Proposed Report

Ethical Standards in Public Life etc. (Scotland) Act 2000

Sections 14 to 16

14 The Public Standards Commissioner's reports

(1) Subject to section 10 above, it is for the Public Standards Commissioner for Scotland ("the Commissioner") to decide whether to report to the Standards Commission for Scotland on the outcome of any investigation.

(2) No report concluding that a councillor or a member of a devolved public body has contravened the councillors' or, as the case may be, the members' code shall be submitted to the Standards Commission unless the councillor or member has been given a copy of the proposed report and an opportunity to make representations on the alleged contravention and on the proposed report.

(3) At the same time as the Commissioner gives a copy of a proposed report to a councillor or a member of a devolved public body for the purposes of subsection (2) above, he shall give a further copy to the council or, as the case may be, the devolved public body.

15 Publication of reports

The Standards Commission for Scotland may publish a report submitted to it under section 14 above, and may do so in whatever way and send it to whomever it thinks fit.

16 Action on receipt of reports

On receiving a report from the Commissioner, the Standards Commission for Scotland may -

- (a) direct the Commissioner to carry out further investigations;
- (b) hold a hearing; or
- (c) do neither,

and, where it acts under paragraph (a) or (b) above, may do so at any time.

L.17 Appendix 17 – Bundle Preparation Guidance

Process and Responsibilities Around Creation of Bundle for All Breach Reports

1. Creating the bundle

Once a hearing is confirmed by the SCS, the bundle will be created. The documents referred to in the evidence section of the Report will be gathered, converted into PDFs and amalgamated into one document. A contents page will be created to reflect the contents of the bundle.

2. Redacting the bundle

Some documents may contain protected personal data. As such, the bundle should be redacted for protected personal data.

3. Reviewing the bundle contents page and the bundle

The handling IO will review the bundle contents page and the redacted bundle to check that all the documents that support the report's findings have been included and that protected data have been redacted.

4. Finalising the bundle

Once the bundle and contents page are finalised they can be combined and the redactions can be applied. This final bundle is then ready to be sent to the SCS.

L.18 Appendix 18 – Template Correspondence (Response to Press Enquiries)

Note: this is extracted and summarised from the internal Media Procedure and included with the Manual's appendices for public reference only.

1. Response to queries about complaints relating to Councillors / Members

"Dear xx

Thank you for your recent email.

[Text responding to the query about the complaint]

You can find out more about how we investigate complaints on [these pages](#) of our website.

Signed,

SISO / CSO / ISO"

2. Response to queries about complaints relating to MSPs

"Dear xx

Thank you for your recent email.

[Text responding to the query about the complaint]

You can find out more about how we investigate complaints on [these pages](#) of our website.

Signed,

SISO / CSO / ISO"

L.19 Appendix 19 – Complaint Handling Procedures (CAUs)

Appendix 19- Complaint Handling Procedures can be found on our website [here](#).

L.20 Appendix 20 – Unacceptable Behaviour Policy

Appendix 20- Unacceptable Behaviour Policy can be found on our website [here](#).

L.21 Appendix 21 – Post Decision Factsheet

Appendix 21- Post Decision Factsheet can be found on our website [here](#).

L.22 Appendix 22 – Redaction Guidance

Redaction – Overview

Why redact?

Documents are redacted in order to protect individuals' personal information when these are released externally.

What is the risk of not redacting?

Processing personal data or special category data incorrectly = breach of the General Data Protection Regulations (GDPR). Consequences may be significant fines.

What is personal data? [ICO guidelines](#) state:

“Personal data” is defined in the GDPR as: any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”

This may include (but not be limited to):

- Name
- National Insurance number
- IP address
- Cookie identifier
 - all signatures/signed initials
 - postal addresses
 - telephone numbers
 - email address
 - images of individuals
 - names provided by complainer or respondent who may not be directly relevant to the complaint (see [Witness Policy](#))
 - Facebook/Messenger names/Twitter handles (other than the complainer and respondent)
 - Facebook/Messenger/Twitter profile pictures
 - Facebook/Twitter messages and pictures not relevant to the complaint
 - screenshots not relevant to the complaint

What is special category data? [ICO guidelines](#) state this may include:

- race;
- ethnic origin;
- politics;
- religion;
- trade union membership;
- genetics;
- biometrics (where used for ID purposes);
- health;
- sex life; or
- sexual orientation.

Rules for redaction

General:

Consider personal data and sensitive personal data:

- on a cases by cases basis;
- is the data relevant to the case? If not redact;
- is the data necessary for understanding the complaint? If not redact;
- what is the risk of not redacting?

Generally, redactions made on documents will be the same for all recipients, however, there may be occasions where the redactions required for a document sent to the respondent, and that sent to the council/body may differ.

It is possible that the same information is personal data to one data controller but is not personal data for the purposes of another data controller. Generally, the ESC office redact all personal data from documents (however these will be looked at on a case by case basis).

- Do not redact if:
 - the complainer is an MSP, Councillor, CE or MO.
 - Then only the personal phone number/address/email should be redacted; although all signatures must be redacted.
 - the person mentioned is a chief official of council/body staff.
 - Only personal phone number/address/email etc should be redacted;
 - the information is necessary for the respondent to understand the complaint (eg if the address relates to a planning issue, this information should not be redacted).
- Refer to the [Witness Policy](#) for guidance
 - The [Witness Policy](#) states:
 - all respondents will be identified;
 - all complainers will be identified;
 - MSPs and Members of a council/public body will be identified;
 - Chief Officials and their equivalent will be identified;
 - in the case of any other official, only their job title will be disclosed.
 - the identity of any other witness will remain undisclosed, except in circumstances where their identity is a matter of public knowledge.
- If a respondent makes reference to their health or the health of others in their representations on the Report, these should be redacted. OR if relevant to the case, the IO may wish to ask the R/C for their consent to leave in. If in doubt, consult with SIO/Commissioner.

Useful Information

Information Commissioner's Office: <https://ico.org.uk/>

Guide to the General Data Protection Regulation (GDPR): <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr>

Style and Layout Guide

Overview

The object of having a layout guide is to produce fit for purpose documents which will project a good image of the organisation and help to get things right first time. It is for the person drafting the document to ensure it is fit for purpose.

Adhering to standard letters will assist in this and changes to these should only be made when necessary. When drafting documents, the wording and layout should normally follow the guidance given below. It is recognised there may be some exceptions where adjustments need to be made.

All draft documents

- refer to the standard document series and use the appropriate standard letter or document wherever possible (they are updated regularly for your benefit);
- use all standard documents in the series;
- do not use a previously approved document as outdated wording and the wrong information can easily be transferred accidentally;
- keep to the standard wording unless the complaint absolutely requires otherwise (to assist with minimising checking/approval process);
- ensure accuracy of content including names, dates, references, against/in favour, respondent/complainer etc;
- use Microsoft spell check (English not American);
- it may be advisable, certainly with longer or more complex documents, to leave checking until the day following completion;
- proof read thoroughly;

Punctuation

Apostrophes

- Councillors' (not Councillor's) Code of Conduct
- use the normal possessive endings after singular words or names that end in s: boss's, caucus's, Delors's, St James's, Jones's, Shanks's. Use it after plurals that do not end in s: children's, Frenchmen's, media's;
- use the ending s' on plurals that end in s—Danes', bosses', Joneses'—including plural names that take a singular verb, eg, Reuters', Barclays', Stewarts & Lloyds', Salomon Brothers';
- also as an abbreviation, eg it is = it's, to pinpoint missing letters in words/phrases;
- although singular in other respects, the United States, the United Nations, the Philippines, etc, have a plural possessive apostrophe: eg, Who will be the United States' next president?;
- people's = of (the) people;
- peoples'= of peoples;
- try to avoid using Lloyd's (the insurance market) as a possessive; it poses an insoluble problem. The vulnerable part of the hero of the Trojan war is best described as an Achilles heel;
- do not put apostrophes into decades: use the 1990s;

- do not use “its” as a personal pronoun, as in the dog chewed its lead;
- personal pronouns are already possessive and require no apostrophe eg: it is yours, it is theirs.

Commas

- use as an aid to understanding;
- use two commas, or none at all, when inserting a clause in the middle of a sentence;
- do not put a comma before and at the end of a sequence of items unless one of the items includes another and.

Semi-colons

- use to make a pause longer than a comma and shorter than a full stop; don't overdo them.

Colons

- use them to introduce a quotation which is longer than one line;
- use before a list (in preference to a semi-colon).

Dashes

- use in pairs for parenthesis - but not more than one pair per sentence - only sparingly.

Full stops

- use plenty; short sentences are generally easier to understand;
- do not use in abbreviations or at the end of headings and sub-headings.

ESC Style

Abbreviations and acronyms

- ensure the first reference in any correspondence to an organisation is written in full, eg 'Scottish Public Services Ombudsman ("SPSO")'. Further references use SPSO;
- write the full name of Acts of Parliament eg Ethical Standards in Public Life etc. (Scotland) Act 2000 ("the 2000 Act"). Further references use the 2000 Act;
- check for, and remove, any later reference points which have been written out in full in previous drafts;
- ensure no full stops between letters, eg UK not U.K., PSCS not P.S.C.S.
- use eg and ie (not e.g. or i.e.);
- use 'and' not '&';
- use paragraph (not para);
- do not abbreviate measurements or quantities, eg use one metre, not 1m and one litre not 1 ltr (but see measurements and quantities below).

Capitals

- use respondent, complainer, (lower case), except where the term is defined (e.g. Councillor A ("the Respondent"));
- use capital to refer to a specific Councillor (name), but lower case if referring to the role of councillor or member;
- use capital for East Lothian Council, the Council, refer generally to a council;
- use Labour, SNP, Conservative, Liberal Democrat etc for political parties;

- refer to a specific officer's job title as (Name) Monitoring Officer, (Name) Planning Officer, (Name) Chair but generally refer to posts using lower case, eg planning officer, committee clerk, council leader, chair unless already used as capitals earlier in report/letter;
- do not capitalise 'the' where it appears prior to the title eg the Director of Education, unless it is part of the formal title eg The Herald;
- use capitals for General Conduct and Key Principles if quoting a heading but lower case when not a heading;
- for geographical references use capitals in titles such as North East Area Committee, but lower case for general references, eg in the north east of the district;
- Councillors' Code of Conduct (not Code of Conduct for Councillors);
- the Code;
- the Model Code;
- section and paragraph.

Complaint numbering and references

- in letters, always include the other correspondent's reference number;
- refer to section 3 but paragraph 3.16 (not section 3.16);
- if multiple allegations, describe as first issue, second issue, third issue and so on (not part one, two or aspect one, two etc)

Dates and times

- use 1 September 2012 date format (not 1st or 1st September '12);
- use 12 hour clock, eg 10.30 am, 3.45 pm;
- where 24 hour clock necessary, use format 21:40.

Font and spacing

- use Ariel 11 as per standard documents;
- ensure two clear lines between address and salutation (unless this clashes with the reference);
- ensure one clear line between paragraphs;
- ensure five clear lines for signature (as per standard document);
- ensure no more than two spaces following a full stop;
- use justified text;
- use *italics* sparingly;
- use bullet points sparingly;
- avoid foreign phrases, but commonly used expressions such as ad hoc, ex officio or ultra vires can be used and do not need italics.

Headings/sub-headings

Main headings:

- position to the left;
- use bold font.

For letters:

- Underline main heading e.g. Ethical Standards in Public Life;
- for sub-headings use bold (do not underline).

For Notes/Reports:

- for sub-headings use underline (do not use bold).

Hyphens:

- use sub-committee;

- use sub-paragraph;
- for other examples see Economist writing guide (web address below).

No hyphens:

- use website;
- use email.

Names and titles

- use Mr Harry E M Smith (no full stops);
- use specific gender where necessary eg he/she/they;
- use convenor, unless a particular authority uses convenor; use chair;
- Rt Hon – Privy councillors only: IO to check.

Numbering (paragraphs and pagination)

- use 1.1, 1.2 etc;
- use sub-paragraphs 1.1.1 etc;
- for letters, use page numbers;
- for Notes/Reports, do use page numbers.

Numbers and figures

- do not start a sentence with a figure;
- use words for numbers from one to ten, eg three to four weeks (but where a lot of measurements or quantities need to be recorded, figures eg 5 metres, can be more effectively used);
- use figures for numbers from 11 upwards, eg 15-20 years;
- describe votes using the word to, eg they voted 15 to 10, unless using adjectivally when a 15-10 vote can be used;
- express thousand or million in full either as text or figures, eg three thousand or 3000 (not 3k unless contained in a quote);
- decimal points can be used for larger number, eg 1.3 million;
- percentages can be expressed as 'per cent' or %, but do not mix;
- fractions when expressed in words should have a hyphen, eg two-thirds.

Tenses

- present tense is acceptable when outlining what the complaint form or letter states, and in referring to any response from the respondent;
- use past tense when quoting or referring to what was said in a meeting, altercation, correspondence, or in any interview with parties or witnesses.
- ensure consistency of approach.

Quotations/footnotes/appendices

- ensure the first reference to an Appendix is in bold: further references to appendices should not be in bold;
- use “quotation” marks for reported speech or extracts from literature;
- any quotation which is longer than a single line should be preceded by a colon and the quotation should begin on the next line;
- quote legislation exactly as it is written in the original document;
- use single inverted commas only for quotations within quotations;
- if paraphrasing, ensure absolute accuracy;
- do not use footnotes unless absolutely necessary.

General

Plain English

- use every day English whenever possible;
- avoid jargon and legalistic words, and always explain any technical terms you have to use;
- say exactly what you mean; where possible, be specific and aim for clarity and brevity, eg four people voted, not less than half voted;
- where possible, avoid repetition.

Opinions

- opinions should never be preferred to evidence of what happened;
- comments as to what the respondent usually / normally did are of little value in establishing whether he or she acted as alleged;
- except where advice has been offered, officers' opinions as to how a councillor or board member behaved should be used sparingly, particularly where there is a continuing working relationship;
- where different opinions are presented, the decision on preferred evidence or insufficient evidence to prove breach should be set out clearly;
- avoid value-laden terms, when referring to actions or statements unless you are narrating the evidence of a witness and that evidence is directly relevant to a point at issue;
- avoid commentary as to how the respondent might better have dealt with the situation, unless you are setting out their own observations.

L.24a Appendix 24a –Template Correspondence (Inadmissible – Conduct in Parliament)

Mr/Ms/Mrs NAME OF COMPLAINER

Reference: MSP/SP/XXXX

Sent by email to: EMAIL ADDRESS

Xx XXXXXX 2023

Dear Mr/Ms/Mrs XXXX

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against XXXX XXXXXXXX MSP

This letter is in response to your complaint dated XXXXX regarding the conduct of XXX XXXXX MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. These rules are set out in the Code of Conduct for Members of the Scottish Parliament (“the Code”) and in the ‘other relevant provisions’. Certain types of conduct are specifically excluded from my remit.

I have concluded that I cannot investigate your complaint any further.

This is because the conduct about which you have complained is specifically excluded from my remit.

I appreciate this will be disappointing for you. You will find more detail on my reasons for reaching my conclusions below. I hope this and the factsheet will help you to understand my decision.

Your complaint

XXXXXXXXXXXX

[outline the complaint as expressed in the complaint form]

Relevant part of the Code or other relevant provisions

Your complaint did not indicate which part of the Code or other relevant provision you considered had been breached. Please be assured for the purposes of this assessment, all parts of the Code and other relevant provisions that could be relevant to your Complaint have been considered. To that end, we considered [insert sections and paragraphs] of the Code.

You indicated that you considered [insert sections and paragraphs] of the Code had been breached. For the purposes of this assessment, we considered [insert sections and paragraphs] of the Code.

[Quote relevant sections of Code, or:] You can view the Code here:

<https://www.parliament.scot/msps/-/media/c160dbee10264603aafe30f11d3ffaed.ashx>

Reasons for my decision

The factsheet describes the rules MSPs are expected to follow.

You will see from the factsheet that I am obliged to follow the procedures set out in the Scottish Parliamentary Standards Commissioner Act 2002 (the “2002 Act”). These require me, as a first step, to determine whether the complaint is admissible. To be admissible, the complaint:

- has to be about an MSP
- isn’t specifically excluded from my remit, unless I’ve been directed by the Scottish Parliament to investigate it
- appears to be about conduct that has breached one or more of the rules the MSP is meant to follow.

Your complaint is about an MSP. However, it is specifically excluded from my remit because it relates to conduct which took place in the Chamber of the Parliament.

I refer to Section 9 of the Code ([here](#)) which has the following to say at paragraphs 5 and 6:

Excluded Complaints

5. Section 3(2) of the Scottish Parliamentary Standards Commissioner Act 2002 excludes certain complaints from the remit of the Ethical Standards Commissioner.

6. The complaints mentioned in the following paragraphs are “Excluded Complaints” and should not be made to the Ethical Standards Commissioner—

(a) Complaints about a member’s conduct at a meeting of the Parliament, including a member’s treatment of another member: these are to be referred to the Presiding Officer. Complaints about a member’s conduct at a meeting of a committee, including a member’s treatment of another member: these are to be referred to that committee’s convener, unless the complaint is about the conduct of the convener (including the convener’s treatment of another committee member), in which case the complaint is to be referred to the Presiding Officer. The Presiding Officer, or as the case may be, the committee’s convener will consider the complaint and may refer the complaint to the Standards, Procedures and Public Appointments Committee.

This means I am unable to investigate your complaint any further.

If you still wish to complain about XXXXXXX’s conduct, you should raise it with the Presiding Officer of the Scottish Parliament, who can be contacted by post or email:

The Presiding Officer
The Scottish Parliament
Edinburgh
EH99 1SP

PresidingOfficers@parliament.scot

You can also find out more about making a complaint to the Scottish Parliament from this page on its website: www.parliament.scot/about/complaints

You will understand that, on the basis that your complaint is excluded from my remit, I have closed our complaint file on it.

Confidentiality

This process was conducted under the 2002 Act. I am obliged by the 2002 Act to notify **Mr/Ms XXXX [NAME OF MSP]** of my decision and will do so by sending **him/her** a copy of this letter. Your contact details will be redacted so that your **postal and email addresses** will not be visible.

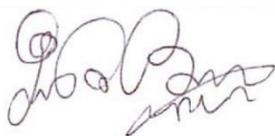
I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely



Ian Bruce
Acting Ethical Standards Commissioner

L.24b Appendix 24b –Template Correspondence (Inadmissible – Constituency Work)

Mr/Ms/Mrs NAME OF COMPLAINER

Reference: MSP/SP/XXXX

Sent by email to: EMAIL ADDRESS

Xx XXXXXX 2023

Dear Mr/Ms/Mrs XXXX

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against XXXX XXXXXXXX MSP

This letter is in response to your complaint dated XXXXX regarding the conduct of XXX XXXXX MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. These rules are set out in the Code of Conduct for Members of the Scottish Parliament (“the Code”) and in the ‘other relevant provisions’. Certain types of conduct are specifically excluded from my remit.

I have concluded that I cannot investigate your complaint any further.

This is because the conduct about which you have complained is specifically excluded from my remit.

I appreciate this will be disappointing for you. You will find more detail on my reasons for reaching my conclusions below. I hope this and the factsheet will help you to understand my decision.

Your complaint

XXXXXXXXXXXX

[outline the complaint as expressed in the complaint form]

Relevant part of the Code of Conduct or other relevant provisions

Your complaint did not indicate which part of the Code or other relevant provision you considered had been breached. Please be assured for the purposes of this assessment, all parts of the Code and other relevant provisions that could be relevant to your Complaint have been considered. To that end, we considered [insert sections and paragraphs] of the Code.

You indicated that you considered [insert sections and paragraphs] of the Code had been breached. For the purposes of this assessment, we considered [insert sections and paragraphs] of the Code.

[Quote relevant sections of Code, or:] You can view the Code here:

<https://www.parliament.scot/msps/-/media/c160dbec10264603aafe30f11d3ffaed.ashx>

Reasons for my decision

The factsheet describes the rules MSPs are expected to follow.

You will see from the factsheet that I am obliged to follow the procedures set out in the Scottish Parliamentary Standards Commissioner Act 2002 (the “2002 Act”). These require me, as a first step, to determine whether the complaint is admissible. To be admissible, the complaint:

- has to be about an MSP
- isn’t specifically excluded from my remit, unless I’ve been directed by the Scottish Parliament to investigate it
- appears to be about conduct that has breached one or more of the rules the MSP is meant to follow.

Your complaint is about an MSP. It is also about rules included in the Code that MSPs are meant to follow, in particular, rules in section 8 of the Code which concern dealing with constituents. I am setting these rules out here for your reference:

Section 8: Taking on constituents’ cases

2. An MSP must take on a constituent’s case when approached, unless they have a legitimate reason for declining it. Examples of legitimate reasons are —

- The constituent has asked the MSP to take inappropriate action;
- The case would lead to a conflict of interest with the MSP’s existing casework;
- The case is contrary to the MSP’s political beliefs.

3. If an MSP declines to take on a constituent’s case, they would be expected to inform the constituent of this.

Complaints of this nature are specifically excluded from my remit by the same Code of Conduct, section 9 of which says:

Section 9: Enforcement of the rules

6. The complaints mentioned in the following paragraphs are “Excluded Complaints” and should not be made to the Ethical Standards Commissioner—

...

(b) Complaints made under Section 8: Engaging with constituents: these are to be referred to the Presiding Officer.

This means I am unable to investigate your complaint any further.

If you feel that the conduct that you have complained about represents a breach of the requirement to engage with constituents, you should raise it with the Presiding Officer of the Scottish Parliament, who can be contacted by post or email:

The Presiding Officer
The Scottish Parliament
Edinburgh
EH99 1SP

PresidingOfficers@parliament.scot

You can also find out more about making a complaint to the Scottish Parliament from this page on its website: www.parliament.scot/about/complaints

As your complaint is excluded from my remit and therefore inadmissible, I am unable to investigate it further. For this reason, I have now closed our file on your complaint.

Confidentiality

This process was conducted under the 2002 Act. I am obliged by the 2002 Act to notify **Mr/Ms XXXX [NAME OF MSP]** of my decision and will do so by sending **him/her** a copy of this letter. Your contact details will be redacted so that your **postal and email addresses** will not be visible.

I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely



Ian Bruce
Acting Ethical Standards Commissioner

L.24c Appendix 24c –Template Correspondence (Inadmissible – Expenses, Facilities, CPWGs)

Mr/Ms/Mrs NAME OF COMPLAINER

Reference: MSP/SP/XXXX

Sent by email to: EMAIL ADDRESS

Xx XXXXXX 2023

Dear Mr/Ms/Mrs XXXX

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against XXXX XXXXXXXX MSP

This letter is in response to your complaint dated XXXXX regarding the conduct of XXX XXXXX MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. These rules are set out in the Code of Conduct for Members of the Scottish Parliament (“the Code”) and in the ‘other relevant provisions’. Certain types of conduct are specifically excluded from my remit.

I have concluded that I cannot investigate your complaint any further.

This is because the conduct about which you have complained is specifically excluded from my remit.

I appreciate this will be disappointing for you. You will find more detail on my reasons for reaching my conclusions below. I hope this and the factsheet will help you to understand my decision.

Your complaint

XXXXXXXXXXXX

[outline the complaint as expressed in the complaint form]

Relevant part of the Code or other relevant provisions

Your complaint did not indicate which part of the Code or other relevant provision you considered had been breached. Please be assured for the purposes of this assessment, all parts of the Code and other relevant provisions that could be relevant to your Complaint have been considered. To that end, we considered [insert sections and paragraphs] of the Code.

You indicated that you considered [insert sections and paragraphs] of the Code had been breached. For the purposes of this assessment, we considered [insert sections and paragraphs] of the Code.

[Quote relevant sections of Code, or:] You can view the Code here:

<https://www.parliament.scot/msps/-/media/c160dbee10264603aafe30f11d3ffaed.ashx>

Reasons for my decision

The factsheet describes the rules MSPs are expected to follow.

You will see from the factsheet that I am obliged to follow the procedures set out in the Scottish Parliamentary Standards Commissioner Act 2002 Act (the “2002 Act”). These require me, as a first step, to determine whether the complaint is admissible. To be admissible, the complaint:

- has to be about an MSP
- isn't specifically excluded from my remit, unless I've been directed by the Scottish Parliament to investigate it
- appears to be about conduct that has breached one or more of the rules the MSP is meant to follow.

Your complaint is about an MSP. However, it is specifically excluded from my remit because it relates to an MSP's use of the expenses scheme / an MSP's use of Scottish Parliamentary facilities / a Cross Party Working Group. [delete and amend as appropriate]

I refer to Section 9 of the Code ([here](#)) which has the following to say at paragraphs 5 and 6:

Excluded Complaints

5. Section 3(2) of the Scottish Parliamentary Standards Commissioner Act 2002 excludes certain complaints from the remit of the Ethical Standards Commissioner.

6. The complaints mentioned in the following paragraphs are “Excluded Complaints” and should not be made to the Ethical Standards Commissioner—

...

(c) Complaints about a member's use of the Reimbursement of Members' Expenses Scheme: these are to be referred to the Scottish Parliamentary Corporate Body (SPCB). Where, following an investigation (whether as a result of a complaint or claim submitted), the SPCB finds that a member has submitted an improper claim, the SPCB may report the matter to the Standards, Procedures and Public Appointments Committee and may recommend the removal of all or part of the member's entitlement to reimbursement of expenses under the Scheme for such period and to such extent as the SPCB may specify.

(d) Complaints about Cross-Party Groups: these are to be made to the Standards, Procedures and Public Appointments Committee unless the complaint relates to the use of Parliamentary facilities and services in which case it should be made to the SPCB. The SPCB may refer any complaint relating to the use of Parliamentary facilities and services by a Cross-Party Group to the Standards, Procedures and Public Appointments Committee together with a recommendation for action.

(e) Complaints about use of SPCB facilities and services and breaches of SPCB policies (which do not relate to conduct at a meeting of the Parliament or at a meeting of a committee): these are to be made to the SPCB. The SPCB may refer any complaint relating to the use of Parliamentary facilities and services and breaches of SPCB policies to the Standards, Procedures and Public Appointments Committee together with a recommendation for action.

[delete paragraphs which are not relevant to complaint]

This means I am unable to investigate your complaint any further.

If you still wish to complain about XXXXXXX's conduct, you should raise it with the Scottish Parliamentary Corporate Body ("SPCB"). Please go to the following link and select the tab 'Use of Parliament resources or allowances':

<https://www.parliament.scot/msps/complain-about-an-msp>

Alternatively, you can contact the SPCB by post at:

SPCB Secretariat
Room Q2.03
The Scottish Parliament
Edinburgh
EH99 1SP

You can also find out more about making a complaint to the Scottish Parliament from this page on its website: www.parliament.scot/about/complaints

You will understand that, on the basis that your complaint is excluded from my remit, I have closed our complaint file on it.

Confidentiality

This process was conducted under the 2002 Act. I am obliged by the 2002 Act to notify Mr/Ms XXXX [NAME OF MSP] of my decision and will do so by sending him/her a copy of this letter. Your contact details will be redacted so that your postal and email addresses will not be visible.

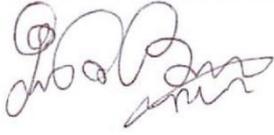
I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Bruce', written over a light blue horizontal line.

Ian Bruce
Acting Ethical Standards Commissioner

L.24d Appendix 24d –Template Correspondence (Inadmissible – Acting as a Minister)

Mr / Mrs / Ms XXXXXX

Reference: MSP/SP/XXXX

Sent by email to: XXXXXXXX

Xx XXXXX 2023

Dear Mr / Mrs / Ms

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against Mr / Mrs / Ms XXX XXXX MSP

This letter is in response to your complaint dated XX XXXXXXXX 2022 regarding the conduct of Mr / Mrs / Ms XXX XXXX MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. These rules are set out in the Code of Conduct for Members of the Scottish Parliament (“the Code”) and in the ‘other relevant provisions’. Certain types of conduct are specifically excluded from my remit.

I have concluded that I cannot investigate your complaint any further. This is because the conduct about which you have complained does not represent a breach of the Code or other relevant provisions. I therefore have to dismiss it.

I appreciate this will be disappointing for you. You will find more detail on my reasons for reaching my conclusions below. I hope this and the factsheet will help you to understand my decision.

Your complaint

XXXXXXXXXX

[outline details of complaint as expressed by the Complainer]

Reasons for my decision

The factsheet describes the rules MSPs are expected to follow.

You will see from the factsheet that I am obliged to follow the procedures set out in the Scottish Parliamentary Standards Commissioner Act 2002 (“the 2002 Act”). These require me, as a first step, to determine whether the complaint is admissible. To be admissible, the complaint:

- has to be about an MSP

- isn't specifically excluded from my remit, unless I've been directed by the Scottish Parliament to investigate it
- appears to be about conduct that has breached one or more of the rules the MSP is meant to follow.

Your complaint is about an MSP and is not specifically excluded from my remit.

However, I do not consider **Mr / Mrs / Ms XXXXX's** conduct as set out in your complaint, represents a breach of the Code. In reaching my decision, I refer to the introduction of the Code which has the following to say:

"The Code of Conduct for Members of the Scottish Parliament ("the Code of Conduct" or "the Code") sets out the standards of conduct for members of the Scottish Parliament in relation to their Parliamentary duties as an MSP."

It also states that the Code does not cover:

"Members who are Ministers, when acting as Ministers of the Scottish Government and carrying out functions of the Scottish Government covered by the Ministerial Code".

The conduct about which you have complained relates to **Mr / Mrs / Ms XXXXX's** role as a Government Minister. This means that the Code's provisions do not apply to it.

[If necessary, insert relevant analysis to explain why the conduct related to their role as a Minister and not MSP]

There is a separate Ministerial Code of Conduct (available here: <https://www.gov.scot/publications/scottish-ministerial-code-2018-edition/>) involved when you make a complaint against an MSP acting in their capacity as a Government Minister. Complaints about the conduct of Government Ministers (including the First Minister) should be made to the Office of the First Minister, which can be contacted by post or email:

St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

scottish.ministers@gov.scot

You will understand that, on this basis, I have concluded that your complaint is inadmissible for the purposes of the 2002 Act. I have therefore closed our complaint file on it.

This process was conducted under the 2002 Act. I am obliged by the 2002 Act to notify **Mr / Mrs / Ms XXXXX** of my decision and will do so by sending **him/her** a copy of this letter. Your contact details will be redacted so that your **postal and email addresses** won't be visible.

Confidentiality

Ethical Standards Commissioner

I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Bruce', written over a light blue horizontal line.

Ian Bruce
Acting Ethical Standards Commissioner

L.24e Appendix 24e –Template Correspondence (Inadmissible – Not re
Parliamentary Duties)

Mr / Mrs / Ms XXXXXX

Reference: MSP/SP/XXXX

Sent by email to: XXXXXXXX

Xx XXXXX 2023

Dear Mr / Mrs / Ms

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against Mr / Mrs / Ms XXX XXXX MSP

This letter is in response to your complaint dated XX XXXXXXXX 2023 regarding the conduct of Mr / Mrs / Ms XXX XXXX MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. These rules are set out in the Code of Conduct for Members of the Scottish Parliament (“the Code”) and in the ‘other relevant provisions’. Certain types of conduct are specifically excluded from my remit.

I have concluded that I cannot investigate your complaint any further. This is because the conduct about which you have complained does not represent a breach of the Code or other relevant provisions and I therefore have to dismiss it.

I appreciate this will be disappointing for you. You will find more detail on my reasons for reaching my conclusions below. I hope this and the factsheet will help you to understand my decision.

Your complaint

XXXXXXXXXX

[outline details of complaint as expressed by the Complainer]

Reasons for my decision

The factsheet describes the rules MSPs are expected to follow.

You will see from the factsheet that I am obliged to follow the procedures set out in the Scottish Parliamentary Standards Commissioner Act 2002 (the “2002 Act”). These require me, as a first step, to determine whether the complaint is admissible. To be admissible, the complaint:

- has to be about an MSP

- isn't specifically excluded from my remit, unless I've been directed by the Scottish Parliament to investigate it
- appears to be about conduct that has breached one or more of the rules the MSP is meant to follow.

Your complaint is about an MSP and is not specifically excluded from my remit.

However, I do not consider **Mr / Mrs / Ms XXXXX's** conduct as set out in your complaint, represents a breach of the Code. In reaching my decision, I refer to the introduction of the Code which has the following to say:

"The Code of Conduct for Members of the Scottish Parliament ("the Code of Conduct" or "the Code") sets out the standards of conduct for members of the Scottish Parliament in relation to their Parliamentary duties as an MSP."

As the conduct about which you have complained is not in any way related to **Mr / Mrs / Ms XXXXX's** parliamentary duties as an MSP, the Code's provisions do not apply to it. [Where possible, insert any reasons for why the conduct is not related to the MSP's parliamentary duties i.e. 'The conduct relates to the MSP's expression of their opinion on their social media account', or 'The conduct relates to the MSP's engagement with their political party at an electoral event' etc.]

You will understand that, on this basis, I have concluded that your complaint is inadmissible for the purposes of the 2002 Act. I have therefore closed our complaint file on it.

This process was conducted under the 2002 Act. I am obliged by the 2002 Act to notify **Mr / Mrs / Ms XXXXX** of my decision and will do so by sending **him/her** a copy of this letter. Your contact details will be redacted so that your **postal and email** addresses won't be visible.

Confidentiality

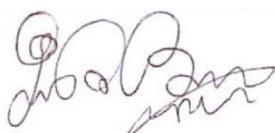
I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely



Ian Bruce
Acting Ethical Standards Commissioner

L.24f Appendix 24f –Template Correspondence (Inadmissible – Private Life or Political Views)

Mr/Ms/Mrs NAME OF COMPLAINER

Reference: MSP/SP/XXXX

Sent by email to: EMAIL ADDRESS

Xx XXXXXX 2023

Dear Mr/Ms/Mrs XXXX

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against XXXX XXXXXX MSP

This letter is in response to your complaint dated XXXXX regarding the conduct of XXX XXXXX MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. These rules are set out in the Code of Conduct for Members of the Scottish Parliament (“the Code”) and in the ‘other relevant provisions’. Certain types of conduct are specifically excluded from my remit.

I have concluded that I cannot investigate your complaint any further.

This is because the conduct about which you have complained does not represent a breach of the Code of Conduct or other relevant provisions, and I therefore have to dismiss it.

I appreciate this will be disappointing for you. You will find more detail on my reasons for reaching my conclusions below. I hope this and the factsheet will help you to understand my decision.

Your complaint

XXXXXXXXXXXX

[outline the complaint as expressed in the complaint form]

Relevant part of the Code and other relevant provisions

Your complaint did not indicate which part of the Code or other relevant provision you considered had been breached. Please be assured for the purposes of this assessment, all parts of the Code and other relevant provisions that could be relevant to your Complaint have been considered. To that end, we considered [insert sections and paragraphs] of the Code.

You indicated that you considered [insert sections and paragraphs] of the Code had been breached. For the purposes of this assessment, we considered [insert sections and paragraphs] of the Code.

[Quote relevant sections of Code, or:] You can view the Code here:

<https://www.parliament.scot/msps/-/media/c160dbec10264603aafe30f11d3ffaed.ashx>

Reasons for my decision

The factsheet describes the rules MSPs are expected to follow.

You will see from the factsheet that I am obliged to follow the procedures set out in the Parliamentary Standards Commissioner Act 2002 (the “2002 Act”). These require me, as a first step, to determine whether the complaint is admissible. To be admissible, the complaint:

- has to be about an MSP
- isn’t specifically excluded from my remit, unless I’ve been directed by the Scottish Parliament to investigate it
- appears to be about conduct that has breached one or more of the rules the MSP is meant to follow.

Your complaint is about an MSP, but from a consideration of the rules concerned, it is not covered by the Code or any of the other relevant provisions.

I will explain this further below. The introduction to the Code has the following to say:

Introduction

...

3. There are some activities which are not covered by the Code. The Code does not cover—

- Members’ private and family life
- Members expressing their political views (in their capacity as a member of a political party or organisation)

It is my view that [insert alleged conduct] was conducted in the capacity of a Member’s private and family life. [Insert reasons why if possible].

OR

It is my view that [insert alleged conduct] was representative of [the MSP] expressing their political views (in their capacity as a member of a political party or organisation). [Insert reasons why if possible].

You will understand that, on the basis that your complaint is inadmissible, I have closed our complaint file on it.

Confidentiality

This process was conducted under the 2002 Act. I am obliged by the 2002 Act to notify **Mr/Ms XXXX [NAME OF MSP]** of my decision and will do so by sending **him/her** a copy of this letter. Your contact details will be redacted so that your **postal and email addresses** will not be visible.

I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely



Ian Bruce
Acting Ethical Standards Commissioner

L.24g Appendix 24g –Template Correspondence (Inadmissible – Respect,
Bullying or Harassment)

Mr/Ms/Mrs NAME OF COMPLAINER

Reference: MSP/SP/XXXX

Sent by email to: EMAIL ADDRESS

Xx XXXXXX 2023

Dear Mr/Ms/Mrs XXXX

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against XXXX XXXXXX MSP

This letter is in response to your complaint dated XXXXX regarding the conduct of XXX
XXXXX MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. These rules are set out in the Code of Conduct for Members of the Scottish Parliament (“the Code”) and in the ‘other relevant provisions’. Certain types of conduct are specifically excluded from my remit.

I have concluded that I cannot investigate your complaint any further.

This is because the conduct about which you have complained does not represent a breach of the Code of Conduct or other relevant provisions, and I therefore have to dismiss it.

I appreciate this will be disappointing for you. You will find more detail on my reasons for reaching my conclusions below. I hope this and the factsheet will help you to understand my decision.

Your complaint

XXXXXXXXXX

[outline the complaint as expressed in the complaint form]

Relevant part of the Code and other relevant provisions

Your complaint did not indicate which part of the Code or other relevant provision you considered had been breached. Please be assured for the purposes of this assessment, all parts of the Code and other relevant provisions that could be relevant to your Complaint have been considered. To that end, we considered [insert sections and paragraphs] of the Code.

You indicated that you considered [insert sections and paragraphs] of the Code had been breached. For the purposes of this assessment, we considered [insert sections and paragraphs] of the Code.

[Quote relevant sections of Code, or:] You can view the Code here:

<https://www.parliament.scot/msps/-/media/c160dbee10264603aafe30f11d3ffaed.ashx>

Reasons for my decision

The factsheet describes the rules MSPs are expected to follow.

You will see from the factsheet that I am obliged to follow the procedures set out in the Scottish Parliamentary Standards Commissioner Act 2002 (the “2002 Act”). These require me, as a first step, to determine whether the complaint is admissible. To be admissible, the complaint:

- has to be about an MSP
- isn’t specifically excluded from my remit, unless I’ve been directed by the Scottish Parliament to investigate it
- appears to be about conduct that has breached one or more of the rules the MSP is meant to follow.

Your complaint is about an MSP and is not specifically excluded from my remit.

However, I do not consider **Mr/Ms XXXXX’s** conduct, as set out in your complaint, represents a breach of the Code. In reaching my decision, I refer to the provisions of the Code relevant to the treatment of others, set out in paragraphs 5 and 6 of section 7, which concerns MSPs’ general conduct:

Section 7: General conduct of MSPs

Treatment of others

5. Members must treat the following individuals with courtesy and respect:

- other MSPs;
- parliamentary staff (including contractors providing services to the Parliament);
- their own staff and the staff of other MSPs.

6. Members must not behave in a manner towards those individuals in 7.5 or any individuals they are in contact with in their capacity as MSPs that involves bullying, harassment (including sexual harassment) or any other inappropriate behaviour.

You will note from this that the provision relating to treating others with courtesy and respect does not extend to the treatment of members of the public. As such, section 7.5 is not applicable to **Mr/Ms XXXX’s** conduct in this case.

For this reason, XXXXXXXXXXXXXXXXXXXX does not represent a breach of the Code under section 7.5.

In order for section 7.6 to be engaged, the MSP concerned has to be “in contact” with an individual and also acting in their capacity as an MSP.

[Insert relevant analysis – was the MSP in contact with the individual in their capacity as an MSP?]

I went on to consider whether Mr/Ms XXXX's conduct involved “bullying, harassment...or any other inappropriate behaviour”. I should clarify my view that “any other inappropriate behaviour” should be construed in the context of section 7.6 overall and that the behaviour referred to must be associated with, connected to or similar to bullying and harassment in order for the Code to apply to the conduct concerned. It does not have the effect of extending the courtesy and respect provisions to individuals who are not listed in section 7.5.

The Scottish Parliament have published guidance on the application of the Code. This guidance states the following:

Bullying and/or Harassment (the terms are often used interchangeably) occurs when an individual engages in offensive, intimidating, malicious or insulting behaviour which can make someone feel uncomfortable, vulnerable, upset, undermined, humiliated, denigrated or threatened. Bullying and/or harassment can be between two individuals or it may involve groups of people. It might be obvious or it might be insidious. It may be persistent or an isolated incident.

Protected Characteristic Harassment occurs when an individual engages in unwanted behaviour related to a relevant protected characteristic which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. It can be an isolated incident or persistent behaviour and is essentially about the effect on the recipient, not about what was intended. Relevant protected characteristics under the Equality Act 2010 are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

[Insert relevant analysis – did the alleged conduct amount to bullying and harassment?]

I am not persuaded that the comments constitute bullying or harassment.

For this reason, XXXXXXXXXXXX does not represent a breach of the Code under section 7.6.

You will understand that, on this basis, I have concluded that your complaint is inadmissible for the purposes of the 2002 Act. I have therefore closed our complaint file on it.

Confidentiality

This process was conducted under the 2002 Act. I am obliged by the 2002 Act to notify Mr/Ms XXXX [NAME OF MSP] of my decision and will do so by sending him/her a copy of this letter.

Ethical Standards Commissioner

Your contact details will be redacted so that your **postal and email addresses** will not be visible.

I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Bruce', is positioned above the printed name.

Ian Bruce
Acting Ethical Standards Commissioner

L24h Appendix 24h- Template Correspondence (Inadmissible- Constituency
Work and Conduct as a Minister)

Mr/Ms/Mrs NAME OF COMPLAINER

Reference: MSP/SP/XXXX

Sent by email to: EMAIL ADDRESS

Xx XXXXXXX 2023

Dear Mr/Ms/Mrs XXXX

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against XXXX XXXXXXX MSP

This letter is in response to your complaint dated XXXXX regarding the conduct of XXX
XXXXX MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. These rules are set out in the Code of Conduct for Members of the Scottish Parliament (“the Code”) and in the ‘other relevant provisions’. Certain types of conduct are specifically excluded from my remit.

I have concluded that I cannot investigate your complaint any further.

This is because complaints about MSPs’ engagement with their constituents are specifically excluded from my remit. Further, insofar as any of your complaint might relate to XXX conduct in their ministerial capacity then that conduct could not represent a breach of the Code or other relevant provisions.

I appreciate this will be disappointing for you. You will find more detail on my reasons for reaching my conclusions below. I hope this and the factsheet will help you to understand my decision.

Your complaint

In your complaint form, you wrote:

XXXXXXXXXXXX

[outline the complaint as expressed in the complaint form]

Relevant part of the Code of Conduct or other relevant provisions

Your complaint did not indicate which part of the Code or other relevant provision you considered had been breached. Please be assured for the purposes of this assessment, all

parts of the Code and other relevant provisions that could be relevant to your Complaint have been considered. To that end, we considered Sections 8 and 9 of the Code.

You indicated that you considered [insert sections and paragraphs] of the Code had been breached. For the purposes of this assessment, we considered Sections 8 and 9 of the Code.

[Quote relevant sections of Code, or:] You can view the Code here:

<https://www.parliament.scot/msps/-/media/c160dbee10264603aafe30f11d3ffaed.ashx>

Reasons for my decision

I will first address whether I am able to consider your complaint as a constituency matter and then I address complaints about ministerial matters.

The factsheet describes the rules MSPs are expected to follow.

You will see from the factsheet that I am obliged to follow the procedures set out in the Scottish Parliamentary Standards Commissioner Act 2002 (the “2002 Act”). These require me, as a first step, to determine whether the complaint is admissible. To be admissible, the complaint:

- has to be about an MSP
- isn't specifically excluded from my remit, unless I've been directed by the Scottish Parliament to investigate it
- appears to be about conduct that has breached one or more of the rules the MSP is meant to follow.

Your complaint is about an MSP. It is also about rules included in the Code that MSPs are meant to follow, in particular, rules in section 8 of the Code which concern dealing with constituents. I am setting these rules out here for your reference:

Section 8: Taking on constituents' cases

2. An MSP must take on a constituent's case when approached, unless they have a legitimate reason for declining it. Examples of legitimate reasons are —

- The constituent has asked the MSP to take inappropriate action;
- The case would lead to a conflict of interest with the MSP's existing casework;
- The case is contrary to the MSP's political beliefs.

3. If an MSP declines to take on a constituent's case, they would be expected to inform the constituent of this.

Complaints of this nature are specifically excluded from my remit by the same Code of Conduct, section 9 of which says:

Section 9: Enforcement of the rules

6. The complaints mentioned in the following paragraphs are “Excluded Complaints” and should not be made to the Ethical Standards Commissioner—

...

(b) Complaints made under Section 8: Engaging with constituents: these are to be referred to the Presiding Officer.

This means I am unable to investigate your complaint any further.

If you feel that the conduct that you have complained about represents a breach of the requirement to engage with constituents, you should raise it with the Presiding Officer of the Scottish Parliament, who can be contacted by post or email:

The Presiding Officer
The Scottish Parliament
Edinburgh
EH99 1SP

PresidingOfficers@parliament.scot

You can also find out more about making a complaint to the Scottish Parliament from this page on its website: www.parliament.scot/about/complaints

I confirm that I am unable to investigate complaints about the conduct of Ministers. I refer to the introduction of the Code which has the following to say:

“The Code of Conduct for Members of the Scottish Parliament (“the Code of Conduct” or “the Code”) sets out the standards of conduct for members of the Scottish Parliament in relation to their Parliamentary duties as an MSP.”

It also states that the Code does not cover:

“Members who are Ministers, when acting as Ministers of the Scottish Government and carrying out functions of the Scottish Government covered by the Ministerial Code”.

Insofar as the conduct about which you have complained relates to **XXX** role as a Government Minister the Code’s provisions do not apply to it.

As you may be aware there is a separate Ministerial Code of Conduct (available here: <https://www.gov.scot/publications/scottish-ministerial-code-2018-edition/>) involved when you make a complaint against an MSP acting in their capacity as a Government Minister. Complaints about the conduct of Government Ministers (including the First Minister) should be made to the Office of the First Minister, which can be contacted by post or email:

St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

scottish.ministers@gov.scot

As your complaint falls outwith my remit and therefore is inadmissible, I am unable to investigate it further. For this reason, I have now closed our file on your complaint.

Confidentiality

This process was conducted under the 2002 Act. I am obliged by the 2002 Act to notify **Mr/Ms XXXX [NAME OF MSP]** of my decision and will do so by sending **him/her** a copy of this letter. Your contact details will be redacted so that your **postal and email addresses** will not be visible.

I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely



Ian Bruce
Ethical Standards Commissioner

L.24i Appendix 24i – Template Correspondence (Closure to MSP)

Mr/Ms/Mrs NAME OF MSP

Sent by email to: INSERT EMAIL

Reference: MSP/XXXX

XX XXXX 2023

Dear Mr/Ms/Mrs XXXX

Public Standards
Conduct of Members of the Scottish Parliament
Complaint by XXXXXXXXXXXX

I am writing to advise that I have received a complaint about your conduct from Mr/Ms/Mrs XXX XXX (“the Complainer”).

I have dismissed the complaint as inadmissible. This means no further action will be taken on this complaint.

Please find enclosed a copy of my letter to the Complainer, which sets out my decision. I trust this will be sufficient to explain my conclusions, but I would be happy to discuss it with you if you would find that helpful.

Confidentiality

The 2002 Act requires me to conduct each stage of an investigation in private. The Code of Conduct for MSPs at section 9 also precludes the disclosure of information to the press or other media relating to complaints that I am investigating. As such, I request that you do not discuss this complaint and my investigation with others.

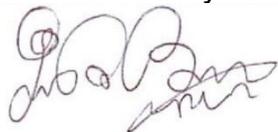
However, this does not preclude your seeking support or advice, on a wholly confidential basis, from a confidant, legal adviser, other professional or the Clerks to the Standards, Procedures and Public Appointments Committee, provided that such individuals are not party to the matters which I have under investigation.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely



Ian Bruce

Ethical Standards Commissioner

Ethical Standards Commissioner

Enc: Redacted Closure Letter

G. FIRST TEST

		Yes	No
1	Complaint is about the conduct of an MSP	<input type="checkbox"/>	<input type="checkbox"/>
2	Complaint is about conduct that is “in relation to their parliamentary duties as an MSP” (see the introduction to the Code: https://www.parliament.scot/msps/code-of-conduct)	<input type="checkbox"/>	<input type="checkbox"/>
3	Complaint is not an “excluded complaint”. Examples of excluded complaints: <ul style="list-style-type: none"> - complaints about MSP conduct at a meeting of parliament or in Committee (refer to Presiding Officer or the convener of the committee meeting as appropriate) - complaints about engaging with constituents under section 8 of the Code (refer to Presiding Officer) - complaints about MSP’s use of the Reimbursement of Members’ Expenses Scheme (refer to SPCB) <p>For a full list of excluded complaints and more guidance on this, please see section 9, paragraphs 5-6 of the Code: https://www.parliament.scot/msps/-/media/c160dbee10264603aafe30f11d3ffaed.ashx</p>	<input type="checkbox"/>	<input type="checkbox"/>
4	Does it appear, at first sight, that if all or part of the conduct complained about is established, it might amount to a breach of any of the relevant provisions? <i>(3) A “relevant provision” is any provision in force, or treated as having been in force under subsection (4A), at the relevant time—</i> <i>(a) in the standing orders;</i> <i>(b) in the Code of Conduct;</i> <i>(c) in the Scotland Act 1998 (Transitory and Transitional Provisions) (Members’ Interests) Order 1999 (S.I. 1999/1350); or</i> <i>(d) made by or under an Act of the Scottish Parliament in pursuance of section 39 (members’ interests) of the Scotland Act.</i>	<input type="checkbox"/>	<input type="checkbox"/>
	Does the complaint pass the first test? (If ‘Yes’ move to second test. If ‘No’, complaint is dismissed.)	<input type="checkbox"/>	<input type="checkbox"/>

H. SECOND TEST

		Yes	No
1	Complaint is made in writing	<input type="checkbox"/>	<input type="checkbox"/>

2	Complaint is made by an individual, and includes their name and address	<input type="checkbox"/>	<input type="checkbox"/>
3	Complaint names the MSP	<input type="checkbox"/>	<input type="checkbox"/>
4	Complaint sets out the facts relevant to the conduct complained about, and is accompanied by any supporting evidence the complainer wishes to submit	<input type="checkbox"/>	<input type="checkbox"/>
	Does the complaint pass the second test? (If 'Yes' move to third test. If 'No', complaint is dismissed.)	<input type="checkbox"/>	<input type="checkbox"/>

I. THIRD TEST

		Yes	No
1	Does the complaint warrant further investigation? (i.e. does it appear after the stage 1 investigation that the evidence is sufficient to suggest the conduct may have taken place?)	<input type="checkbox"/>	<input type="checkbox"/>
	Does the complaint pass the third test? (If 'Yes', complaint is admissible and moves to stage 2 investigation. If 'No', complaint is dismissed.)	<input type="checkbox"/>	<input type="checkbox"/>

J. CONCLUSIONS

Outcome of stage 1 investigation:	Next steps	
First test - fail	Dismiss complaint <ul style="list-style-type: none"> complaint is inadmissible Write to complainer and explain why the complaint is inadmissible Copy letter to MSP, redacting complainer's contact details. 	<input type="checkbox"/>
First test – pass Second test – fail Third test – pass	Draft a report to Parliament and set out: <ul style="list-style-type: none"> the reasons as to why the Commissioner considers that the complaint fails to meet one or more of the specified requirements; the reasons (if known) for that failure; any other matters which the Commissioner considers relevant; the recommendation of the Commissioner as to whether, having regard to all the circumstances of the case, the complaint should be dismissed as inadmissible for failing to satisfy the second test or should be treated as if it had met all of those requirements; and contain a statement that ESC considers complaint passes third test. 	<input type="checkbox"/>

	Parliament will then direct the ESC to either dismiss the complaint or treat it as though it had passed the second test (i.e. met all of the specified requirements).	
<p>First test – pass Second test – fail Third test - fail</p>	<p>Dismiss complaint</p> <ul style="list-style-type: none"> • Write to complainer and explain why the complaint is inadmissible. • Copy letter to MSP, redacting complainer’s contact details. • No need to send a report to Parliament. 	<input type="checkbox"/>
<p>First test – pass Second test – pass Third test - pass</p>	<p>Complaint is admissible. Progress to stage 2 investigation.</p> <ul style="list-style-type: none"> • Write to complainer and explain the complaint is going to be investigated. • Copy letter to MSP, redacting complainer’s contact details. • Write to the Parliament with notification that the complaint is going to be investigated. 	<input type="checkbox"/>

E. FOR COMMISSIONER TO COMPLETE

		Yes	No
1	Do you approve the above recommendation?	<input type="checkbox"/>	<input type="checkbox"/>
2	Do you approve the draft letters (subject to any notes below)?	<input type="checkbox"/>	<input type="checkbox"/>
3	Would you like to discuss this case further with the Investigating Officer?	<input type="checkbox"/>	<input type="checkbox"/>

COMMISSIONER’S NOTES AND COMMENTS:

Date:

L.26 Appendix 26 – MSP Template Report

COMMISSIONER'S REPORT

Under section 9 of the Scottish Parliamentary Standards Commissioner Act 2002, as amended (the “2002 Act”).

Confidentiality

The 2002 Act requires that the investigation process shall be conducted in private.

Case Ref:	MSP/SP/XXXX	
Date:	[DATE]	
Complainer(s):	[xxx]	
COMPLAINT AGAINST		
Respondent(s):	[xxx]	
	Member for:	[xxx]

Report Summary:

The Commissioner concluded the Respondent(s) has/have not breached the following relevant provisions:

- [xxx]

Introduction

The Scottish Parliamentary Standards Commissioner Act 2002 (the “2002 Act”) empowers the Commissioner to investigate complaints about the conduct of MSPs and report upon the outcome of such investigations to the Scottish Parliament.

The purpose of this document is to report on the outcome of the Commissioner’s investigation.

Background

22. [Provide details of the Respondent].
23. [Provide details of the Complainer].
24. On [date], [insert brief summary of complaint background].

Complaint

25. The complaint that the Commissioner is reporting on is as follows:

Issue 1:

Issue 2:

[particulars of complaint as set out Notification of Admissibility Letter]

26. Evidence obtained included:
 - a. The complaint form received on [date] annexed to this report at **Appendix 1**;
 - b. [xxx]

Stage 1: Admissibility

27. Section 6 of the 2022 Act requires the Commissioner to complete an assessment of admissibility of the complaint, known as ‘Stage 1’.

28. Three tests must be satisfied for a complaint to be admissible:

- 1) The complaint must be 'relevant' (including that the conduct complained about may amount to a breach of a relevant provision).
- 2) Specific requirements relating to the form, content and execution of the complaint.
- 3) The evidence must suggest the conduct complained about may have taken place.

29. The Commissioner was satisfied this complaint passed these tests. The Commissioner considered the evidence suggested the Respondent may have breached:

- section [X] of the Code of Conduct for Members of the Scottish Parliament, 8th Edition, dated 6 May 2021 (“the Code”); and
- [any other relevant provisions]

30. Therefore, the Commissioner concluded the complaint was admissible, and proceeded to a full investigation, known as 'Stage 2'.

Stage 2: Investigation

Approach to findings

31. This investigation was carried out in terms of the Commissioner's powers under the 2002 Act and the Directions.
32. The 2002 Act requires this report to outline the facts found by the Commissioner (i.e. whether the complaint can be factually proven), and the conclusions reached as to whether the Respondent breached a relevant provision.¹ The standard of proof the Commissioner must apply is that applicable to civil proceedings, the balance of probabilities. This means the Commissioner must be satisfied that it is more likely than not that a given event occurred.²

Commissioner's conclusions on the facts

33. [Insert analysis of evidence of factual findings].

34. The Commissioner is therefore satisfied that the complaint is factually proven.

Relevant provisions

35. The Commissioner went on to consider whether, based on the facts proven, the Respondent had breached any of the relevant provisions.
36. The Commissioner considers that section [X] of the Code, relating to [xxx], is relevant to this complaint.

¹ Under section 9(2) of the 2002 Act

² Under section 8(2) of the 2002 Act

37. The relevant provisions are set out in full below:

**The Code of Conduct for Members of the Scottish Parliament, 8th Edition,
dated May 2021**

SECTION X: [XXX]

[insert provisions]

38. The Commissioner also considered the Guidance on the Code of Conduct for Members of the Scottish Parliament, which was last updated 21 October 2021 (“**the Guidance**”).

39. The following paragraphs of section [x] of the Guidance are relevant to this complaint:

“[insert paragraphs]”

Evidence considered

Complainer’s position

40. The Complainer considers that the Respondent [insert Complainer’s position].

Respondent’s position

41. [insert Respondent’s position]

Other evidence

42. [insert other evidence]

Analysis of evidence and findings

43. The Commissioner has concluded the Respondent **has/ has not** breached section [x] of the Code.

44. [insert analysis on the Code – this includes consideration of the Guidance and Standing Orders]

The Commissioner’s views

45. Based on the evidence gathered at investigation, and the above reasoning, the Commissioner’s views on the complaint are as follows:

The Respondent [insert facts of the case]

- This complaint has been factually proven.
- The Respondent breached section [x] of the Code.

Draft report

46. As the Commissioner considers the Respondent breached the Code and other relevant provisions, he was required to send a draft copy of this report to her. This was to give the Respondent an opportunity to make comments on the Commissioner's conclusions.³

47. A draft report was sent to the Respondent on [date]. The Respondent provided their comments on [date], which are annexed to this report at **Appendix [x]**.



Ian Bruce
Acting Ethical Standards Commissioner

END OF REPORT

³ In accordance with section 9(3) of the 2002 Act

L.27 Appendix 27- Template Correspondence (Proposed Breach Report- Respondent)

[Name]

Reference: MSP/SP/XXXX

[date]

Sent by email only to: [email]

Dear Mr/Ms [Surname]

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against [Name] MSP

I am writing further to the complaint we have received that you allegedly contravened the Code of Conduct for Members of the Scottish Parliament (“the Code”) and [any other relevant provisions].

Having concluded our investigation, we have reached the view that you have contravened the Code. As a result, we intend to send a report to the Scottish Parliament on this matter in terms of section 9 of the Scottish Parliamentary Standards Commissioner Act 2002 (“the Act”).

Proposed report

The Act requires that, prior to sending a report concluding that a member has breached the Code, we must provide that member concerned with a copy of the draft report and provide an opportunity for the member to make representations.

Accordingly, I have enclosed a copy of our draft report.

Response invited

In terms of the Act, you now have an opportunity to make representations on the alleged contravention and on the draft report.

Your representations will help ensure we have a full record of your version of events. If you do decide to make representations, it would be helpful to understand what matters set out in the proposed report are accepted and what matters are not.

If you require a copy of any of the documentation that is referred to within the report, please contact my office as soon as possible.

I would be grateful if you were able to make any representations by **[2 weeks]**. If we do not hear from you by that date, we will assume you do not wish to make representations, and may refer the draft report to the Scottish Parliament without your input. If you require more time to make representations, please contact our office with a full explanation, as any extension will be granted at the Commissioners discretion.

Final report

We will consider any representations you make before finalising our report. At that stage, we will send our final report to the Scottish Parliament and provide you with a copy of the final report.

I have enclosed a copy of the relevant provisions of the Act for your information.

Your contact details

If we send a copy of our final report to the Scottish Parliament, we will need to provide the Commission with the contact details that we currently hold for you, as follows:

[Name]

[email]

If we do not hear from you to the contrary, we will assume that you are content with this approach.

Privacy notice

We collect and use your information in line with our statutory obligations under the UK General Data Protection Regulations and the UK Data Protection Act 2018. For more information, please click on the links below to view our:

- [Privacy Policy](#)
- [Data Collection Policy](#)
- [Privacy notice for those complaining about Councillors or Members](#)
- [Privacy notice for Councillors or Members being complained about.](#)

Thank you in anticipation for your assistance.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name
Role

Enc: Note on Act
Proposed Report

Scottish Parliamentary Standards Commissioner Act 2002

Section 9

(1) At the conclusion of an investigation into a complaint at Stage 2, the Commissioner shall make a report to the Parliament upon the outcome of the investigation.

(2) The report shall include—

- (a) details of the complaint;
- (b) details of the investigation carried out by the Commissioner;
- (c) the facts found by the Commissioner in relation to whether the member of the Parliament concerned (whether or not named in the complaint) has committed the conduct complained about;
- (d) the conclusion reached by the Commissioner as to whether that member has, as a result of that conduct, breached the relevant provision or provisions identified by the Commissioner for the purposes of the first test and the reasons for that view, but shall not express any view upon what sanction would be appropriate for any breach.

(3) No report concluding that a member of the Parliament, who is named in the report, has breached a relevant provision shall be made to the Parliament unless the member concerned has been given a copy of the draft report and an opportunity to make representations on the alleged breach and on the draft report; and there shall be annexed to the report made to the Parliament any representations made by that member which are not given effect to in that report.

Section 10

(1) The Parliament is not bound by the facts found, or the conclusions reached, by the Commissioner in a report made under section 9.

(2) The Parliament may direct the Commissioner to carry out such further investigations as may be specified in the direction and to report on the outcome of these investigations to it.

(3) Subject to any such direction, the provisions of this Act and of any other direction given under this Act shall apply, subject to any necessary modifications, in relation to any investigation and report by virtue of subsection (2) as they apply in relation to an investigation and report into a complaint made to the Commissioner.

L.28a Appendix 28a – Template Correspondence (Report - SPPAC)

Dr Katy Orr

Reference: MSP/SP/XXXX

[date]

Sent by email only to: SPPACcommittee@parliament.scot

Dear Dr Orr,

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against [Name] MSP

I refer to previous correspondence regarding the complaint under the above referenced complaint.

Our office has completed its investigation into the complaint.

Please find attached for the Committee's attention:

1. Report to the Scottish Parliament on the outcome of the investigation;
2. Appendix 1- the complaint form;
3. Appendix 2...

Contact details for parties to the complaint are provided below:

Complainer(s)

Name
Email

Respondent(s)

Name
Email

If you have any queries or require further information, please do not hesitate to contact us.

Yours sincerely

Name
Role

L.28b Appendix 28b – Template Correspondence (Report – MSP)

[Name]

Reference: MSP/SP/XXXX

[date]

Sent by email only to: [email]

Dear Mr/Ms [Surname]

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against [Name] MSP

If breach: Thank you for providing us with your representations to our draft breach report.

OR if no-breach: Thank you for your assistance with our above referenced investigation. We have concluded that you did not breach the Code of Conduct.

We have now sent our report and its appendices to the Standards, Procedures and Public Appointments Committee (SPPAC) of the Scottish Parliament. Copies of the documents sent to the SPPAC are attached for your information.

Confidentiality

This process is conducted under the Act. I would draw your attention to the confidential nature of the investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name
Role

Ethical Standards Commissioner

L.28c Appendix 28c – Template Correspondence (Informing Report Issued – Complainer)

[Name]

Reference: MSP/SP/XXXX

[date]

Sent by email only to: [email]

Dear Mr/Ms [Surname]

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against [Name] MSP

We have now completed our investigation into the complaint you made against [name], MSP.

As the Act requires this process to be conducted in private, we are unable to share the outcome and the report with you. However, in accordance with the Act, we have sent a copy of our report to the Standards, Procedures and Public Appointments Committee of the Scottish Parliament, which will consider the matter further.

Confidentiality

This process is conducted under the Act. I would draw your attention to the confidential nature of our investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact our office on the following telephone number 0131 347 3890 or email investigations@ethicalstandards.org.uk.

Yours sincerely

Name
Role

K. RELEVANCE

		Yes	No
1	At first sight, it appears that the Complaint is about a person who may be, or may have been, engaged or may be likely to engage in regulated lobbying	<input type="checkbox"/>	<input type="checkbox"/>
2	At first sight, it appears that, if it is established that all or part of the conduct complained about occurred, it might amount to a failure to comply with a requirement mentioned in section 22(1)(a) to (d) of the Act.	<input type="checkbox"/>	<input type="checkbox"/>
Is the complaint relevant for the purposes of the s 23(1)(a) and (2) of the Act? (If 'Yes' move to next test. If 'No', complaint is dismissed.)		<input type="checkbox"/>	<input type="checkbox"/>

L. CONDITIONS

		Yes	No
1	Complaint is made in writing	<input type="checkbox"/>	<input type="checkbox"/>
2	Complaint is made by an individual, is signed by that individual, and includes their name and address	<input type="checkbox"/>	<input type="checkbox"/>
3	Complaint names the lobbyist / lobbying organisation	<input type="checkbox"/>	<input type="checkbox"/>
4	Complaint sets out the facts related to the conduct complained about	<input type="checkbox"/>	<input type="checkbox"/>
5	Complaint is made before the end of the period of one year beginning on the date when the individual who made the complaint could reasonably have become aware of the conduct complained about	<input type="checkbox"/>	<input type="checkbox"/>
Does the complaint meet the conditions of s 23(1)(b) and (3) ? (If 'Yes' move to next test. If 'No', complaint is dismissed.)		<input type="checkbox"/>	<input type="checkbox"/>

M. WARRANT FURTHER INVESTIGATION

		Yes	No
1	Does the complaint warrant further investigation? A complaint warrants further investigation if, after an initial investigation, the evidence is sufficient to suggest that the person who is the subject of the complaint may have failed to comply with a requirement mentioned in section 22(1)(a) to (d).	<input type="checkbox"/>	<input type="checkbox"/>
Does the complaint warrant further investigation? (If 'Yes', complaint is admissible and moves to stage 2 investigation. If 'No', complaint is dismissed.)		<input type="checkbox"/>	<input type="checkbox"/>

N. CONCLUSIONS

Outcome of stage 1 investigation:	Next steps	
Relevance - fail	Dismiss complaint <ul style="list-style-type: none"> • complaint is inadmissible • Write to complainer and explain why the complaint is inadmissible • Copy letter to the subject of the complaint, redacting complainer’s contact details. 	<input type="checkbox"/>
Relevance– pass Conditions – fail Warrant Further investigation – pass	Is the complaint of a kind specified in a direction by Parliament? If yes – tick the box. If no – dismiss.	<input type="checkbox"/> Yes
	Is the complaint not a kind specified in a direction by Parliament, but warrants further investigation? If yes – tick the box. If no – dismiss.	<input type="checkbox"/> Yes
	If Yes to any of the above, draft a report to Parliament and set out: <ul style="list-style-type: none"> • the reasons as to why the Commissioner considers that the complaint fails to meet one or more of the conditions; • the reasons (if known) for that failure; • a statement that the complaint warrants further investigation; • the recommendation of the Commissioner as to whether, having regard to all the circumstances of the case, the complaint should be dismissed as inadmissible for failing to meet one or more of the conditions mentioned in section 23(3) or should be treated as if it had met all of those conditions; and • any other matters which the Commissioner considers appropriate. Parliament will then direct the ESC to either dismiss the complaint as inadmissible for failing to meet one or more of the conditions ins s 23(3) or treat it as though it had met all those conditions.	<input type="checkbox"/>
Relevance – pass Conditions – fail Warrant Further investigation - fail	Dismiss complaint <ul style="list-style-type: none"> • Write to complainer and explain why the complaint is inadmissible. • Copy letter to MSP, redacting complainer’s contact details. • No need to send a report to Parliament. 	<input type="checkbox"/>
Relevance– pass Conditions – pass	Complaint is admissible. Progress to further investigation. The Commissioner must inform—	<input type="checkbox"/>

Warrant further investigation - pass	(a)the Parliament, by making a report to the Parliament, (b)the individual who made the complaint, and (c)the person who is the subject of the complaint.	
Relevance– pass Conditions – pass Warrant further investigation - fail	Dismiss complaint <ul style="list-style-type: none"> • Write to complainer and explain why the complaint is inadmissible. • Copy letter to subject of the complaint, redacting complainer’s contact details. • No need to send a report to Parliament. 	<input type="checkbox"/>

E. FOR COMMISSIONER TO COMPLETE

		Yes	No
1	Do you approve the above recommendation?	<input type="checkbox"/>	<input type="checkbox"/>
2	Do you approve the draft letters (subject to any notes below)?	<input type="checkbox"/>	<input type="checkbox"/>
3	Would you like to discuss this case further with the Investigating Officer?	<input type="checkbox"/>	<input type="checkbox"/>

COMMISSIONER’S NOTES AND COMMENTS:

Date: