

**Decision of the Hearing Panel of the Standards Commission
for Scotland following the Hearing held at the Best Western
Park Hotel, Falkirk on 17 April 2013**

Panel Members: Mrs Julie Ward - Chair
Mr Ian Gordon OBE QPM
Ms Jan Polley

This Hearing arose in respect of a report by D Stuart Allan, Public Standards Commissioner for Scotland ("the PSC") further to complaint No. LA/FA/1264 ("the Complaint") concerning an alleged contravention of the Councillors' Code of Conduct ("the Code") by Councillor William F. Buchanan of Falkirk Council ("the Respondent").

The PSC was represented by Mr David Sillars, Senior Investigating Officer. The Respondent, who attended the Hearing, was not represented. No witnesses were called by either the PSC or the Respondent.

At the outset the Chair advised that Mrs Lindsey Gallanders was attending in an observational capacity as a newly appointed Member of the Commission.

The Complaint

The Complainant was Mr Thomas Coleman, a Councillor with Falkirk Council. The Complainant alleged that the Respondent had contravened the Councillors' Code of Conduct and in particular paragraph 3.16 which relates to Use of Council Facilities.

The PSC investigated the complaint and concluded that the Respondent had contravened:-

- (1) paragraph 3.16 of the Code by using Council staff and facilities in the distribution of campaigning material contrary to the Council's in-house protocols.

The relevant provisions are:-

Councillors' Code of Conduct

Section 3: General Conduct

Use of Council Facilities

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

The PSC's Report ("the Report") (in full at Appendix 1) was submitted to the Standards Commission for Scotland ("Standards Commission") in accordance with section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Joint Statement of Facts

The PSC and the Respondent provided a Joint Statement of Facts signed on 26 March 2013 in respect of facts which were agreed.

Parts 1 – 5 of the PSC's Report were agreed.

Appendices A to K of the PSC's report were agreed as accurate records of the matters which they purport to record.

Annexes A and B of the PSC's report were agreed as accurate records of the matters which they purport to record.

There were no matters of dispute between the PSC and the Respondent in respect of the PSC's report.

Evidence Presented at Hearing

Mr Sillars outlined the facts and presented his case on behalf of the PSC, to the effect that on 4 April 2012, by asking a clerical assistant in the members' support service team at Falkirk Council to e-mail a press release and a newspaper article (originally published in the Sun newspaper on Saturday, 18 June 2011) to the Falkirk Herald and to Central FM a local radio station covering the Forth Valley area, the Respondent had used Council staff and facilities in the distribution of campaigning material contrary to the Council's in-house protocols and paragraph 3.16 of the Code.

Mr Sillars asked the Hearing Panel to adopt the findings and conclusions contained in the PSC's report.

The Respondent admitted to the breach as presented by the PSC and invited the Hearing Panel to consider the circumstances under which the breach had occurred.

The Decision

The Hearing Panel considered all of the evidence and submissions given both in writing and orally at the Hearing and found that:-

1. The Councillors' Code of Conduct applied to the Respondent
2. The Respondent had breached paragraph 3.16 of the Code in so far as he had used Council staff and facilities for campaigning activities in the distribution of political campaigning material.

Sanction

The Hearing Panel decided to censure the respondent, Councillor William F Buchanan. The sanction is made under the terms of Section 19 (1) (a) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Reasons for Sanction

In reaching the decision, the Panel had taken into account that:

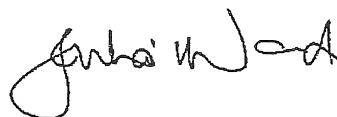
- INTEGRITY IN PUBLIC LIFE
1. Paragraph 3.16 is a fundamental principle of the Councillors' Code of Conduct. The requirement was established by the Local Government Act 1986 and was incorporated into the Code in 2003 and repeated in the revised Code issued in 2011.
 2. It is a personal responsibility of every Councillor to comply with the Code of Conduct.
 3. Councillor Buchanan has been a Councillor for 22 years and the Hearing Panel would have expected him to have a clear understanding of the Code and his own Council's protocol.
 4. Councillor Buchanan had apologised for his actions at an early stage and now accepted he had breached the Code of Conduct.

The Hearing Panel recommended that Councillor Buchanan should re-fresh his knowledge of the Code and the Council's own protocol and attend any training opportunities.

The Standards Commission applauded the Council's quick action in dealing with the issue and having a specific protocol for the guidance of councillors.

Right of Appeal

The attention of the Respondent is drawn to Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 which details the Right to Appeal in respect of this Decision



Date: 17th April 2013

Julie Ward
Chair of the Hearing Panel