

Decision of the Standards Commission for Scotland

On receipt of a referral from the Ethical Standards Commissioner (ESC), the Standards Commission has three options available, in terms of Section 16 of The Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act). These are: (a) to direct the ESC to carry out further investigations; (b) to hold a hearing; or (c) to do neither.

In this case, the Standards Commission determined to **do neither**.

Background

The Standards Commission is a statutory body established under the 2000 Act. The 2000 Act created an ethical standards framework, under which councillors and members of devolved public bodies in Scotland are required to comply with Codes of Conduct. Under the framework, complaints about breaches of these Codes are investigated by the ESC and adjudicated upon by the Standards Commission.

Referral to the Standards Commission

Following his investigation into a complaint received on 10 March 2023 (reference LA/AC/3864a) concerning an alleged contravention of the Councillors' Code of Conduct dated December 2021 (the Code) by an elected member of Aberdeen City Council (the Respondent), the ESC referred the matter to the Standards Commission on 8 March 2024.

The complaint alleged that the Respondent failed to register his interest in a local community trust and failed to declare his interest in the trust at a budget meeting of the Council on 1 March 2023.

The ESC reported that:

- he had found that the Respondent had not been appointed or nominated to the Trust by the Council and was not one of its trustees. The Respondent did not live in the area that benefitted from the work of the Trust. Instead, the Trust's website referred to him as being a member of its 'team'. The ESC found that this was a result of the Respondent having been a member of a named community group that was a predecessor of the Trust. The ESC advised that he had found the Respondent had last been involved with the Trust in the autumn of 2022, following attendance of two of its meetings.
- Given these findings, he did not consider that a member of the public, with the knowledge of the relevant facts, being that the Respondent was simply a supporter of the Trust, without any right to vote or attend its meetings, would reasonably consider his association to it as sufficiently significant as to be likely to influence his overall actions, votes or decision making as a councillor. As such, the ESC did not consider the Respondent's connection amounted to an interest that required to be registered under the Code or required to be declared at the Council meeting on 1 March.
- As such, the ESC did not consider that there was evidence the Respondent had breached the Code.

Reasons for Decision

Having considered the terms of his referral, the Standards Commission did not consider that it was necessary or appropriate to direct the ESC to undertake any further investigation into the matter.

In making a decision about whether to hold a Hearing, the Standards Commission took into account both public interest and proportionality considerations, in accordance with its policy on Section 16 of the 2000 Act. A copy of the policy can be found at: <https://www.standardscommissionscotland.org.uk/cases>.

In assessing the public interest, the Standards Commission noted that a breach of the provisions in the Code requiring councillors to register and declare certain interests could bring the role of a councillor and the

Council itself into disrepute. In this case, however, the Standards Commission was of the view that, on the face of it, there was no evidence of any such breach of the Code.

The Standards Commission noted that holding a Hearing (with the associated publicity) could promote the provisions of the Code and, therefore, there could be some limited public interest in holding a Hearing. The Standards Commission noted, however, that the option to take no action had been included in the 2000 Act to ensure that neither the ethical standards framework, nor the Standards Commission, was brought into disrepute by spending public funds on administrative or legal processes in cases that did not, on balance, warrant such action.

In considering proportionality, the Standards Commission noted that the ESC, in his referral, had reached the conclusion that the Respondent's conduct did not amount, on the face of it, to a breach of the Code. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion.

Having taken into account the above factors, and in particular the fact that it is not satisfied that there was evidence of any breach of the Code, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.

Date: 12 March 2024



**Lorna Johnston
Executive Director**