

Decision of the Standards Commission for Scotland

On receipt of a report 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. It provides that complaints about breaches of these Codes are to be investigated by the ESC and adjudicated upon by the Standards Commission.

Report to the Standards Commission

Following his investigation into a complaint (reference LA/R/3579) concerning an alleged contravention of the Councillors' Code of Conduct dated July 2018 (the Code) by a councillor of Renfrewshire Council (the Respondent), the Acting ESC referred a report to the Standards Commission, on 24 May 2022, in accordance with section 14(2) of the 2000 Act.

The first issue of complaint alleges that the Respondent falsely accused the Complainer of vandalising windows on his home, in an article published in the Daily Record on 28 July 2021 (the Article).

The second issue of complaint alleges that, on an unknown date, the Respondent told a fellow elected member (Councillor C) that the Complainer had vandalised his windows. The Complainer alleges that one of her neighbours, Ms B, advised her that Councillor C had subsequently passed that information on to other members of the public.

In his investigation report, the Acting ESC investigated whether the Respondent's conduct would amount to a contravention of paragraphs 3.2 and 3.6 of the Code, which state:

Paragraph 3.2: *You must respect your colleagues and members of the public and treat them with courtesy at all times when acting as a councillor.*

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

In his report, the Acting ESC advised that:

1. The Complainer's name and gender were not mentioned in the Article. Instead, it described the culprit as a "yob" and a "thug". The Complainer had concluded the Article was about her because of a reference within it to a previous similar incident where her downstairs neighbour, Ms A, had accused her of smashing her window.
2. When questioned, the Respondent advised that he had not accused the Complainer of breaking his windows in the Article. The Respondent stated that he knew the Complainer was not the culprit as the alleged vandal was a man wearing black who had been on a bicycle. Councillor C, when questioned, confirmed that the Respondent had told him that his neighbours had witnessed a male in dark clothing on a bicycle.
3. The Article was a follow-up story about the Respondent calling for more protection for councillors. In the original story covering the incident, published on 22 March 2021, the Respondent was quoted as stating that two neighbours had witnessed the incident and described the vandal as a "guy".

4. No other evidence was found during the investigation to support the allegation that the Respondent told the press that the Complainer was responsible for breaking his windows.
5. In relation to the second issue of complaint, there was no other evidence to suggest that the Respondent advised Councillor C that the Complainer had been the culprit. Councillor C confirmed the Respondent had not told him that the Complainer was responsible. The Acting ESC noted that the Respondent cannot be held accountable for the way any further information about the conversation may have been reported.

Having considered the various factors of the issues of complaint and the evidence gathered, the Acting ESC concluded, on the balance of probabilities, that the conduct complained of had not occurred. As such, the Acting ESC concluded there had not been any breach of the Code by the Respondent.

Reasons for Decision

Having considered the terms of his report, the Standards Commission did not consider that it was necessary or appropriate to direct the Acting 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 respect and / or bullying and harassment provisions in the Code could have the potential to lower the tone of political discourse and to 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, if it was found that the Respondent's conduct amounted to a breach of the Code. There could, therefore, be some limited public interest in holding a Hearing. Regardless of this, the Standards Commission was, however, also required to consider whether it would be proportionate to do so.

In considering proportionality, the Standards Commission noted that the Acting ESC, in his report, had concluded, on the balance of probabilities, that the events that were the subject of the complaint had not occurred. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion.

The Standards Commission noted 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 unnecessary administrative or legal processes in cases that did not, on balance, warrant such action.

Having taken into account the above factors, and in particular the fact that it was not satisfied, on the face of it, that the conduct complained of had occurred, 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: 30 May 2022



**Lorna Johnston
Executive Director**