

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 20 November 2025 (reference LA/PK/4479) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of Perth and Kinross Council (the Respondent), the ESC referred the matter to the Standards Commission on 9 February 2026.

The complaint was that in November 2025, the Respondent posted a comment in response to a Facebook post by "Perth Against Racism" (PAR) referring to two members of the public as 'the Cadaver' and 'the wee weirdo with the drum'.

The ESC reported that:

- He had found the Respondent posted the comment on a personal Facebook account in which she had not identified herself as a councillor, either in the biography section or account name. The ESC advised he had found that the Respondent had a separate Facebook account for councillor related business and that while she discusses political issues on the account in question, they concerned international matters, as opposed to local ones.
- He had concluded that the Respondent was not acting in her capacity as a councillor when she made the Facebook comment and therefore the Code did not apply to her conduct.

Standards Commission's Decision and Reasons

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 the provisions that require councillors to behave in a respectful manner is a key requirement of the Code. The Standards Commission noted that a failure to adhere to these provisions can lower the tone of political discourse and bring the role of a councillor, the Council's committee system and the Council itself into disrepute.

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 was not covered by the Code and, therefore, that a breach of it could not be found. Having reviewed the evidence before it, the Standards Commission had some reservations as to whether this was the case. This was because it noted the fact that the Respondent may have had a separate councillor related account would not necessarily be known to members of the public. The Standards Commission further noted that it appeared the account on which the comment had been made was public and, further, that the Respondent had shared on it posts made by the Council. The Standards Commission noted, nevertheless, that she had not published anything that only a councillor would post or shared anything further than any politically aware member of the public might post. The Standards Commission further noted that the Respondent had also clearly taken steps to separate her councillor-related account, with no mention being made of her role as an elected member on the page in question.

In any event, the Standards Commission noted that it was unclear from the referral as to whether the individuals that were the subject of the comments were identifiable and, as such, whether, if the Code did apply, the Respondent's conduct in making them would reach the threshold for amounting to disrespectful or discourteous behaviour. The Standards Commission agreed that even if the Respondent's conduct was found at a Hearing to amount, on the face of it, to a breach of the Code, it was highly likely that she would enjoy enhanced protection in respect of her right to freedom of expression, given the comments related to a matter of public interest (being arrests made at an immigration protest). The Standards Commission agreed that while the comments appeared personal, they were somewhat mild in nature and, therefore, it was very unlikely that the conduct in question would be found to be sufficiently egregious or shocking as to justify a restriction on this right.

Having taken into account the fact that it was not satisfied that the Code would definitely apply and, even if it did, the nature of the potential breach, and the likelihood of the Respondent's conduct being protected by her enhanced right to freedom of expression, 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 February 2026



**Lorna Johnston
Executive Director**