

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 28 August 2025 (reference LA/AB/4402) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of Argyll and Bute Council (the Respondent), the ESC referred the matter to the Standards Commission on 10 February 2026.

The complaint was that in August 2025, the Respondent disclosed, on social media, an email from a senior officer to all elected members of Argyll and Bute Council, in breach of the confidentiality requirements of the Code.

The officer noted in the email that while information had been circulating on social media and in the press suggesting grooming gangs were operating in the area, there was no intelligence to suggest that was the case. The officer further noted that if anyone had concerns about any individual being abused, or being at risk of abuse, they should contact the police or the Council using an online form on its website.

The ESC reported that:

- The Respondent identified himself as a councillor on the social media account on which he posted the email. As such, the Code applied to his conduct.
- He had found the email was headed 'OFFICIAL-SENSITIVE-NONE' and was therefore classified, under the Council's system, as confidential. The ESC accepted that the officer had sent the email so that elected members could use the information it contained to answer any questions they might receive from constituents. The ESC noted, however, that the email was not intended as a public statement and that the officer did not expect it to be disclosed in full. The ESC and advised he had concluded that, by disclosing it, the Respondent breached the provisions in the Code that require councillors to maintain confidentiality.
- He was of the view that there were other ways in which that the Respondent could have reassured his constituents, without sharing a confidential email. The ESC advised he considered there was a need to maintain the confidentiality of the email "in order to avoid any unnecessary anxiety and potential racial unrest among members of the community" as well as to protect the mutual bond of trust and confidence between councillors and officers that enables local government to function effectively. The ESC advised that, as such, he had concluded that a restriction on the Respondent's right to freedom of expression, that a formal finding of a breach of the Code and imposition of a sanction would entail, could be justified.

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 preserve confidentiality are key requirements of the Code. The Standards Commission noted that a failure to adhere to these provisions affect adversely the relationship between councillors and officers, and bring the role of a councillor 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 accepted it appeared the Respondent may have breached the Council policy in respect of how emails were labelled and whether the information they contained could be disclosed (being a policy he should have been aware of). The Standards Commission further accepted it was the Respondent's responsibility to seek the permission of the email's author in the event he thought it necessary to share it in its entirety. The Standards Commission had sympathy with the email's author as it agreed that officers had a right to send emails to councillors, properly labelled, containing information they might make use of, without expecting them to then disclose the email in full. Indeed, the Standards Commission acknowledged there was a risk that officers would be less candid in future if they were concerned that every word they write, or say, will be publicised by elected members.

The Standards Commission nevertheless noted that the police had already made public the information the email contained by the time it was disclosed by the Respondent, meaning its contents were already in the public domain (even if the email itself was not). The Standards Commission did not consider that disclosing the email and providing the assurance that there was no intelligence to suggest grooming gangs were operating in the area would be likely to cause unnecessary anxiety or racial unrest. As such, the Standards Commission considered the consequences of the Respondent's actions were minimal and were never likely to be otherwise. It was not persuaded, therefore, 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, a restriction on his right to freedom of expression under Article 10 of the European Convention on Human Rights could be justified.

Having taken into account the nature of the potential breach, and the likelihood of the Respondent's conduct being protected by his enhanced right to freedom of expression, the Standards Commission concluded that it was not proportionate for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.

The Standards Commission nevertheless wishes to remind all councillors of the importance of maintaining confidentiality to help protect the bond of mutual confidence and trust between councillors and officers, and to ensure the role of a councillor and the Council itself are not brought into disrepute.

Date: 16 February 2026

ARGYLL & BUTE COUNCILLOR

Lorna Johnston

**Lorna Johnston
Executive Director**