

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 4 October 2025 (reference LA/PK/4434) 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 23 February 2026.

The ESC reported that:

- He had investigated one issue of complaint; being that when a third party commented on an article a news outlet shared on its Facebook page in September 2025, the Respondent asked, in a response to the third party's comment, "are you actually on drugs?"
- He considered the Respondent was "best placed to speak to her intentions" and, therefore, had accepted her account that she was merely expressing concern for the third party's state of mind or health.
- He had concluded, in the circumstances that the Respondent's conduct would not meet the threshold for amounting to a breach of the respect and courtesy provision in the Code.
- He considered, in any event, that a restriction on the Respondent's right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR) could not be justified as any perceived criticism of the third party was minimal and had not involved the use of profanity or offensive or abusive language. The ESC advised he accepted the Respondent's remark to be "a genuine question based on the terms of the third-party's comments".

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 Code could have the potential to bring the role of a councillor and the Council itself into disrepute.

The Standards Commission further 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 also 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.

Having reviewed the ESC's report, the Standards Commission agreed it was unlikely the Respondent's conduct would be found, at a Hearing, to meet the threshold for amounting to a breach of the Code. The Standards Commission considered the Respondent's explanation that she was merely expressing concern for the third party, to be entirely disingenuous. This was because the Standards Commission did not consider it likely that an individual would express genuine concern for another person by questioning publicly whether they were on drugs. Instead, the Standards Commission considered it was evident the Respondent's comment was intended to be sarcastic in nature. The Standards Commission was satisfied, nevertheless, that the comment was clearly aimed at the third party's own views and how these had been expressed, rather than a serious attempt to portray them as someone who was under the influence of drugs.

The Standards Commission agreed with the ESC, in any event, that even if the Respondent's conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that she would enjoy the enhanced protection to freedom of expression afforded by Article 10 of the ECHR. The Standards Commission agreed that it was very unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on this right.

Having taken into account the foregoing, 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.

The Standards Commission nevertheless wishes to remind the Respondent that the requirement for councillors to behave in a respectful and courteous manner at all times, including when engaging on social media, is a fundamental requirement of the Code. The Standards Commission notes that a failure to do so can undermine public confidence in the role of an elected member and the council itself.

Date: 25 February 2026



**Lorna Johnston
Executive Director**