

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 July 2025 (reference LA/EL/4360) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of East Lothian Council (the Respondent), the ESC referred the matter to the Standards Commission on 22 April 2026.

The ESC advised that he had investigated two issues of complaint, which were:

1. That at a community council meeting in June 2025, the Respondent was disrespectful towards and bullied the Complainer (a Council officer) by: "aggressively" asking her if her lanyard was her East Lothian Council ID.
2. The Respondent then contacted the Complainer's line manager, 'with the intention of getting her sacked'.

The ESC reported that:

- In respect of the first issue, he considered the Respondent was entitled to ask the Complainer, who was the Secretary of the Community Council, about why she was wearing her Council lanyard, in order to confirm the capacity in which she was asking him questions at the meeting (given she challenged comments he made). The ESC advised he considered, however, that "it should have been possible for the Respondent to do this without being disrespectful or criticising her for wearing her lanyard". This was because "the Complainer's conduct at the meeting, including the wearing of her lanyard, was her own responsibility". The ESC advised he concluded the Respondent should not have raised his concerns about this at a public meeting. The ESC advised he considered that doing so was disrespectful. The ESC further advised he considered the Respondent had bullied the Complainer as "there was a significant power imbalance between the Respondent and the Complainer. He is a councillor and she is a council officer, meaning the Complainer was inherently in a more vulnerable position".
- He considered a restriction on the Respondent's right to freedom of expression that a finding of a breach of the Code and imposition of a sanction would entail could be justified.
- In respect of the second issue, he had found the Respondent had genuine concerns and raised them in the appropriate way. As such, he had not breached the Code.

Reasons for Standards Commission's 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 that require councillors to behave with courtesy and respect and to refrain from bullying council officers could have the potential to adversely affect working relationships between councillors and elected members, and could bring the role of a councillor and the Council itself into disrepute. The Standards Commission also 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 in respect of the second issue would not reach the threshold for amounting to a breach of the Code. Having reviewed the report, the Standards Commission had no reason to depart from the ESC's conclusion in this regard.

Turning to the first issue, the Standards Commission noted that there was a wide variation in the accounts given to the ESC by those who had witnessed the exchange in question at the Community Council meeting, in terms of the manner in which the Respondent had challenged the Complainer. The Standards Commission considered, nevertheless, that it was appropriate for the Respondent to have publicly asked the Complainer about the wearing of the lanyard, both so that he could understand the capacity in which the Complainer was there and was asking questions (i.e. as a Council employee or a community council member) and also so others present understood this. The Standards Commission was further of the view that it was evident the Complainer was attending the meeting in her capacity as a member of the Community Council. The Standards Commission did not accept, therefore, that there was a significant power imbalance between her and the Respondent (indeed, it noted the ESC's report stated that the Complainer had previously stood for election against the Respondent). In the circumstances, the Standards Commission was not satisfied the Respondent's conduct would meet the threshold for amounting to a breach of the Code.

The Standards Commission further agreed, in any event, that even if the Respondent's conduct was found, on the face of it, to be disrespectful at a Hearing, it was highly unlikely a formal finding of breach and imposition of a sanction could be made. This was because it did not appear from the evidence of most witnesses, that the Respondent's conduct had been so aggressive or egregious as to justify a restriction on his right to freedom of expression that such a finding would entail.

For the reasons outlined above, 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: 27 April 2026



**Lorna Johnston
Executive Director**