

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 complaints received on 6 and 24 March 2025, and 11 April 2025, (reference LA/AB/4265) 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 8 May 2026.

The ESC reported that:

- He had investigated three issues of complaint. The first two alleged that the Respondent was disrespectful to members of the public at two meetings in early March 2025 that concerned proposals for a new learning campus in Tobermory, Mull.
- Having listened to a recording and interviewed witnesses present, he considered it was clear that, at both meetings, there were disagreements and conflict about the site of the new campus. The ESC advised it was likely that there were occasions when the Respondent and others raised their voices to express their views, but that he had found the evidence did not support the allegation that the Respondent behaved in a threatening, discriminatory or aggressive manner. The ESC found that the Respondent referred to one of the Complainers as a "child", and implied that his opinion was not welcome, and noted this could be perceived as being disrespectful. The ESC advised, however, that he had found that, at the time, the Complainer in question was "clearly and deliberately goading the Respondent in order to elicit a response that would undermine him". The ESC contended this was supported by the fact the Complainer was recording the interaction.
- In the circumstances, he considered there may have been a "borderline" breach of the respect provisions in the Code in respect of comments towards the one Complainer only. The ESC advised he considered, however, that, given the circumstances in which they were made, it was unlikely that a restriction on the respondent's right to freedom of expression (that a finding of breach and imposition of a sanction would entail) could be justified.
- The third issue alleged the Respondent failed to declare an interest at a Council meeting in March 2025 when a decision on the site of the campus was being made. This was despite the Respondent living in Tobermory and having a business there. The ESC reported that he had not found the Respondent had shown a bias towards Tobermory or that he had an interest that required to be declared. As such, he had not found any breach of the Code in respect of the issue.

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 respect provisions in 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.

In considering proportionality, the Standards Commission noted the ESC had only found one aspect of the complaint that concerned the Respondent's conduct at the two meetings to be potentially disrespectful. The Standards Commission agreed with the ESC that even if this aspect of his conduct was to be found, on the face of it, to be disrespectful at a Hearing, it was highly likely a restriction on his right to freedom of expression could not be justified.

The Standards Commission noted that the ESC had not found any breach of the Code in respect of the third issue. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion. It noted that councillors are only required to declare an interest in circumstances where the objective test is met. The objective test is: *where a member of the public, with knowledge of the relevant facts, would reasonably regard the councillor's connection to a particular matter to be considered as being so significant that it would be considered as being likely to influence their discussion or decision-making.*

In this case, the Standards Commission noted that it was entirely normal and appropriate for councillors to take part in the consideration of matters that could affect the towns in which they lived. The Standards Commission did not consider that the Respondent's connections to the town, as identified by the Complainers, would be regarded reasonably as being sufficiently significant as to be likely to affect his discussion or decision-making on the location of the new campus.

In the circumstances, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing in respect of the complaint. The Standards Commission determined, therefore, to take no action on the referral.

Date: 11 May 2026



**Lorna Johnston
Executive Director**