

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.

Initial Referral to the Standards Commission

Following his investigation into a complaint received on 6 November 2025 (reference LA/EL/4472) 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 13 April 2026.

The ESC reported that:

- He had investigated one issue of complaint, being that in August 2025, at a Local Review Body meeting, the Respondent was disrespectful towards the Complainer (an applicant), including stating that she had wasted the "Council's time and money".
- The Complainer had been making planning applications and associated appeals relating to a particular building since 2019. The ESC noted that councillors are entitled to consider and scrutinise the procedural history of applications, and considered the comments represented a critical assessment, rather than a personal attack. The ESC advised he had found no evidence of abusive language, personal insult, or disrespectful conduct directed at the Complainer beyond that comment. The ESC advised he had concluded, therefore, there was no breach of the respect provisions in the Code.

Standards Commission's Initial Decision

The Standards Commission noted that the matter being considered at the meeting was quasi-judicial in nature and, as such, Section 7 of the Councillor's Code would apply. The Standards Commission noted that this required the Respondent to refrain from doing or saying anything that could be perceived as showing bias or being unfair. The Standards Commission further noted that a key aspect of the Complainer's concerns appeared to be that the Respondent mentioned and took into account, at the meeting, irrelevant information (being that that she personally knew three of the parties who had made offers on the property in question), which was unfair.

The Standards Commission agreed that the matter should be referred back to the ESC for further investigation to be undertaken in respect of whether the Respondent breached Section 7 of the Code at the Local Review Body meeting on 21 August 2025 in respect of any comments made.

Further Referral to the Standards Commission

Having undertaken the further investigation as directed, the ESC referred the matter back to the Standards Commission on 19 May 2026.

The ESC reported that he had not found evidence to demonstrate that the Respondent acted unfairly, demonstrated bias or improperly introduced irrelevant considerations into the decision-making process. The

ESC advised that, instead, he had found that the Respondent's comments formed part of the wider deliberative discussion undertaken by the Committee when it was assessing the application and reaching their determination and on the basis of the relevant material considerations before it. As such, he had not found any breach of Section 7 of the Code.

Standards Commission's Final 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 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.

In considering proportionality, the Standards Commission noted the ESC did not consider the Respondent's conduct would amount to a breach of either the respect provision in the Code or the provisions that concern how councillors should make decisions on quasi-judicial matters (such as planning applications). The Standards Commission found no reason to depart from the ESC's conclusions in that regard. 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: 21 May 2026