

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 November 2025 (reference LA/SL/4465) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of South Lanarkshire Council (the Respondent), the ESC referred the matter to the Standards Commission on 26 May 2026.

The ESC reported that:

- He had investigated one issue of complaint being that at a consultation meeting in November 2025, the Respondent said a proposed housing development (which was still subject to consultation), was a 'done deal'. The ESC advised that, while there was no live application at the time, if one was made, it would be considered by the Council's Planning Committee. The consultation meeting was being held in addition to, and in advance of, any statutory consultation required in respect of a future planning application.
- The Respondent's position was that he had simply been expressing an opinion on the outcome of previous meetings about the proposed development and potential support for it from political parties.
- He considered paragraph 7.1 of the Code requires councillors to avoid the impression of bias during the 'whole decision-making process' on quasi-judicial matters, such as planning applications, and is not contingent on a Respondent councillor ultimately participating in a decision on any specific application. The ESC advised he was of the view that the Respondent's comment could lead members of the public to consider that he had "pre-determined any future application and may not act fairly or without bias." As such, the ESC advised he had concluded the Respondent has breached paragraph 7.1 of the Code.

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 a breach of the requirements in the Code to declare interests and act impartially 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.

The Standards Commission noted that paragraph 7.10 of the Code provides that councillors are allowed to demonstrate and organise support for, or opposition to, an application, provided they then declare an interest and do not participate in any decision-making on it.

The Standards Commission further noted that, in explaining what could constitute pre-judging, the following example was provided to councillors in its Guidance on the Code: *“if you state that ‘wind farms are blots on the landscape and I will oppose each and every one that comes before the committee’, you cannot claim to have retained an open mind on the issue and say that you are prepared to determine each application on its merit. However, saying: ‘some people find wind farms ugly and noisy so I will need to be persuaded we should allow more in this area’, demonstrates you are willing to listen to the merits of an application.”*

In considering proportionality in this case, the Standards Commission was not satisfied that the Respondent’s comment at the consultation meeting could be interpreted reasonably only as an expression of predetermination or pre-judgement, or as a demonstration that he had a closed mind. This was because the Respondent did not say anything that demonstrated he was not prepared to determine any application on its merits. The Standards Commission considered the Respondent could objectively be understood as referring to the principle of housing on the site on question, which had been confirmed by the Council previously in two strategic plans.

The Standards Commission further noted that, at the time of the comment, no specific planning application had been made and, even if it was likely one would be made, it was not clear the Respondent would be involved as a decision-maker. It noted the Code permits a councillor to express support for an application as long as they do not then participate in the subsequent decision making. The Standards Commission noted, in this regard, that while the Respondent was a member of the Planning Committee, there was always the possibility that he would decide to recuse himself on the basis that his actions, in making the comment, had created a conflict of interest.

The Standards Commission noted the Respondent had indeed advised that, although he had not intended to give rise to any perception that he had prejudged any future planning application, he would recuse himself from the decision making if and when such an application was submitted. The Standards Commission noted the ESC seemed to be suggesting that, as an application had not been made, it was too soon for the Respondent to give such an undertaking. The Standards Commission considered, however, that this created a somewhat unfair and contradictory situation in which the Respondent was considered to be prejudging an application, while simultaneously being told he could not recuse himself from participating in the same future application as it had not yet been made.

The Standards Commission considered whether the Respondent’s comment could be taken objectively as suggesting the Council as an entity has pre-judged the matter. It again noted, however, that no specific application had been submitted and further agreed that it would have been evident the Respondent was not speaking for Council as a whole. The Standards Commission did not consider the Respondent’s comment could be taken, objectively, as being an expression of pre-judgment.

In the circumstances, the Standards Commission did not consider there was, on the face of it, evidence that the Respondent had breached the Code. It 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: 1 June 2026