

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 7 November 2025 (reference LA/H/4469) concerning alleged contraventions of the Councillors' Code of Conduct (the Code) by an elected member of Highland Council (the Respondent), the ESC referred the matter to the Standards Commission on 3 June 2026.

The ESC reported that:

- He had investigated one issue of complaint being that, in October 2025, the Respondent posted on his blog that he had been “quietly doing work behind the scenes” to prevent an Environment and Infrastructure Committee special meeting from taking place in September 2025 and to then remove two sites in his ward for consideration as a Masterplan Consent Area by the Environment and Infrastructure Committee in November 2025.
- Masterplan Consent Areas are new and are intended to allow planning authorities to take a leadership role in the development process by proactively consenting the type and quality of development they wish to see in their areas. This is done by preparing a Masterplan Consent Area Scheme. The longlisting and shortlisting of Masterplan Consent Area sites is done by council officers in accordance with set criteria
- He investigated whether the Respondent took or sought to take unfair advantage of his position as a councillor in bringing undue influence to bear upon council officers to prevent the meeting from taking place and to ensure the two sites were not included. The ESC advised he had found no evidence of this and, further, that council officers confirmed the Respondent did not do so.
- He also considered whether the Respondent's comments could amount to a breach of the provisions in the Code that prohibit councillors from lobbying councillors who sit on quasi-judicial committees to recommend or make a specific decision in respect of a quasi-judicial matter (such as a planning application). The ESC advised, however, that he did not consider it was clear that the Masterplan Consent Area process had progressed to a stage where it could reasonably be considered to be a quasi-judicial or regulatory matter at the time the Respondent made his post. The ESC noted that while there will be quasi-judicial and regulatory aspects to the process, these did not necessarily exist at the initial stages.
- The ESC further acknowledged that the longlisting and shortlisting of Masterplan Consent Area sites is done by officers in accordance with set criteria. The ESC reported that the sites in the Respondent's ward had been removed from consideration because they did not match the criteria.
- The ESC reported that, in the circumstances, he had not found any breach of the Code by the Respondent.

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.

In considering proportionality, the Standards Commission noted that the ESC had not found any breach of the Code had occurred. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion. It agreed with the ESC that it was not clear that the Masterplan Consent Area process had progressed to a stage where it could reasonably be considered to be a quasi-judicial or regulatory matter at the time the Respondent made his post. The Standards Commission noted that it would seek to update its Guidance on the Code to try to provide clarity on when the provisions concerning quasi-judicial and regulatory matters apply in respect of Masterplan Consent Area Schemes.

In the circumstances outlined above, 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: 5 June 2026