

## **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 3 September 2025 (reference LA/Mi/4405 and NHS/MiIJB/4415) concerning the conduct of a member of Midlothian Integrated Joint Board (MIJB), who had been appointed to the MIJB by Midlothian Council (the Respondent), the ESC referred the matter to the Standards Commission on 4 June 2026.

The complaint alleged that the Respondent disclosed confidential information in a social media post, in breach of both the Councillors' Code of Conduct and the Code of Conduct for Members of MIJB.

The ESC reported that:

- He did not consider the Code of Conduct for Members of MIJB applied. This was because the Respondent posted the information on an account where he had both named and described himself as a councillor. The ESC advised he considered, therefore, that "the Respondent was acting as a councillor and referred to himself as such at the time of his post". While the ESC acknowledged that the Respondent only had access to information because he was a member of MIJB, he did not consider the MIJB Code applied as the post was published on his councillor account.
- In his post, the Respondent disclosed information from a report prepared for the MIJB's annual budget, which concerned a report on an inspection of a charity undertaken by Midlothian Council. The ESC explained that, at the time, the Council had refused to provide a copy of its report to the charity.
- The Respondent had received the information by email. The ESC reported that while the email had not been marked as confidential, its recipients were instructed not to share the information "at this stage". The ESC noted that some of the information was in the public domain by the time the Respondent published it and advised that none of the remaining information could not be considered as private or sensitive (whether accurate or not). This was because it referred to matters such as whether the charity provided personal care, the number of places per day and week, the length of each session, and whether service users were attending more than once a week, all of which were factual and could have been confirmed by the charity.
- In the circumstances, while he accepted that the report's terms were not known to the charity, the ESC did not consider the information posted was confidential in nature. The ESC reported that, in the circumstances, he did not consider the Respondent had breached the Councillors' Code of Conduct.

### **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 confidentiality provisions in either Code of Conduct had the potential to affect adversely the mutual bond of trust between board members / councillors and officers, which allow Health and Social Care Partnerships (as governed by Integration Joint Boards) and Councils to operate effectively. It further can erode public confidence in such organisations.

The Standards Commission 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 this case, the Standards Commission was of the view that the MIJB Code would apply to the Respondent's conduct. This was because he was provided with the information in question in his capacity as a board member of MIJB and, as such, any duty of confidentiality was to it, rather than to the Council. The Standards Commission considered that the method used to disclose the information was irrelevant to this.

The Standards Commission nevertheless noted that the ESC had concluded that the information disclosed in the Respondent's post was not confidential in nature. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion. It did not consider, therefore, that there was evidence to support the contention that the MIJB's Code had been breached.

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: 8 June 2026**