

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 16 March 2026 (reference LA/Mi/4558) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of Midlothian Council (the Respondent), the ESC referred the matter to the Standards Commission on 8 June 2026.

The complaint was that the Respondent was discourteous and disrespectful towards the Complainer (a fellow councillor) after a meeting in March 2026 by aggressively accusing him of ignoring the chair's ruling, refusing to speak to him privately, saying in a raised voice "you can talk to yourself", and calling him "an arse".

The ESC reported that:

- The Respondent denied calling the Complainer "an arse" and contended her comment had been something to the effect of "if that had been someone else chairing that meeting, they would have handed you your arse". The ESC advised that, given the Respondent was criticising the Complainer's behaviour at the meeting, and in the absence of any independent evidence, he had concluded it was more likely than not the Respondent did not simply call the Complainer "an arse". The ESC suggested, in any event, that the word "arse" was generally considered to be a relatively mild insult.
- He did not consider that the Respondent's conduct in refusing to speak to the Complainer privately, in saying "you can talk to yourself", and accusing him of ignoring the chair would amount to disrespectful conduct. The ESC noted, in support of this, that the Respondent's accusation that the Complainer ignored the chair could be considered as being accurate, as the webcast of the meeting in question showed that he had argued against a decision made by the chair. The ESC accepted saying someone would have "handed you your arse" was slightly impolite but noted this was a criticism of the Complainer's own conduct (as opposed to a description of him), which was not particularly offensive.
- He considered that even if the Respondent spoke to the Complainer in a raised voice, she had done so during private row between them in respect of the Complainer's behaviour during the meeting. Given that councillors are accustomed, as political rivals, in engaging in heated and robust exchanges with each other, the ESC advised he had also concluded the raising of a voice in the circumstances would not meet the threshold for amounting to a breach of the respect provisions in the Code.
- The ESC advised he had concluded overall, for the reasons outlined above, that the Respondent's conduct was not sufficiently serious as to meet the threshold required to be a breach of the Code.

Reasons for Standards Commission's 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 provisions in the Code that require councillors to behave with courtesy and respect towards their colleagues could have the potential to bring the role of a councillor and the Council itself into disrepute. The Standards Commission also 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 considering proportionality, the Standards Commission noted that the ESC, in his referral, had reached the conclusion that the Respondent's conduct would not reach the threshold for amounting to a breach of the Code. Having reviewed the report, the Standards Commission had no reason to depart from the ESC's conclusion in this regard.

The Standards Commission further agreed, in any event, that even if the Respondent's conduct was found, on the face of it, to be disrespectful at a Hearing, it was highly unlikely a formal finding of breach and imposition of a sanction could be made. This was because it did not appear from the evidence of most witnesses, that the Respondent's conduct had been so aggressive or egregious as to justify a restriction on her right to freedom of expression that such a finding would entail.

For the reasons outlined above, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing. The Standards Commission determined, therefore, to take no action on the referral.

Date: 10 June 2026