

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 28 January 2026, (reference LA/As/4523) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of Aberdeenshire Council (the Respondent), the ESC referred the matter to the Standards Commission on 1 July 2026.

The complaint concerned a comment the Respondent made in late January 2026, on social media, in response to a video posted by Ms A about a motion, 'A105 Zionism Is Racism' made by the Green Party of England and Wales, which she had co-authored.

The Respondent's comment that is the subject of the complaint is:

"What an inherently stupid person, anyone who agrees with anything this lunatic says in this video, should have someone responsible to supervise any life decisions that they make. Wow, he/her/they/them/that has shown everyone why the greens should never ever be near power".

The ESC reported that:

- He had identified the complaint as being that: *'On 28 January 2026, the Respondent posted a comment on a video on X, stating that the person speaking in a video was "inherently stupid", referred to her as "a lunatic", said anyone who agreed with her "should have someone responsible to supervise any life decisions that they make" and referred to her pronouns as "she/her/they/them/that". The comments made by the Respondent appear to question the individual's mental capacity based on her political views and her identity which is disrespectful in nature.'*
- The ESC advised he had concluded the conduct was, on the face of it disrespectful and, accordingly, a breach of the Code. This was because it amounted to a personal attack and called into question Ms A's mental capacity. The ESC advised he further considered that "downplaying the importance of pronouns and questioning someone's mental capacity solely because of their political views or identity is a failure to foster good relations between different people", which also represented a breach of the Code.
- The ESC advised that as he considered the Respondent had used offensive or abusive language (albeit not any profanity) and had resorted to a personal attack on an identifiable individual based on her political views, his conduct in making the comment was egregious and shocking in nature.
- The ESC acknowledged that the Respondent was expressing value judgments or opinions and, further, that there was some basis in fact about the part of the comment that concerned Ms A's pronouns. This was because the Respondent explained that Ms A had stated online that she did not "care about [the person] being he, him, they, them, that, he is a Zionist and all you need to know. I'll be a she, her, they, them, that and I have the moral high ground".

- The ESC advised he had concluded, therefore that the Respondent's conduct in making the comment was sufficiently gratuitous and excessive as to justify a restriction on his enhanced right to freedom of expression, that a finding of a breach of the Code would entail.

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 provisions in the Code that require councillors to behave with courtesy and respect, and to foster good relations between different people, 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 first sentence of the issue identified by the ESC did not allege any wrongdoing. The Standards Commission therefore only considered the aspect of the complaint that alleged 'the comments made by the Respondent appear to question the individual's mental capacity based on her political views and her identity which is disrespectful in nature.'

The Standards Commission the wording of the issue appeared to tie the Respondent's reference to Ms A's pronouns to his comment about her mental capacity (presumably being the description of her as a "lunatic", given the part that concerned being responsible enough to make life choices appeared to relate to anyone who agreed with her). Having reviewed the structure of the Respondent's actual comment, the Standards Commission was not satisfied that was the case. The Standards Commission noted that the question of whether pronouns were important was subjective and considered the fact that they were downplayed (if indeed that was the case) would not, in itself, amount to a failure to foster good relations between different people.

The Standards Commission agreed with the ESC that questioning Ms A's mental capacity was disrespectful and potentially could meet the threshold for amounting to a breach of the Code. The Standards Commission was of the view, however, that it was evident from the Respondent's comment and context in which it had been posted, that his criticism was based on the public views expressed by Ms A. The Standards Commission noted it was not unusual for politicians to question each other's competence or intelligence, on the basis of their views or opinions.

In this case, the Standards Commission noted that while Ms A was not an elected politician, she was a party member and political activist making what she must have known was a very contentious comment publicly, via a motion, on an extremely polarising issue. As such, it was reasonable to assume Ms A knew it was likely her views, and even potentially her competence and conduct, would be the subject of robust challenge. In the circumstances, the Standards Commission was of the view that even if the Respondent's conduct was to be found, on the face of it, to be disrespectful at a Hearing, it was highly likely a restriction on his right to freedom of expression could not be justified.

The Standards Commission concluded, therefore, that it was neither proportionate, nor in the public interest, for it to hold a Hearing in respect of the complaint and determined to take no action on the referral.

Date: 7 July 2026