

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 complaints received on 6 February 2026 (reference LA/Mo/4530) concerning alleged contraventions of the Councillors' Code of Conduct (the Code) by two elected members of Moray Council (the Respondents), the ESC referred the matter to the Standards Commission on 13 July 2026.

The complaints were that the Respondents was discourteous and disrespectful towards the Complainer (a council officer) and made public comments about his conduct and performance at a council meeting in January 2026.

The ESC reported that:

- Having reviewed a webcast of the meeting and obtained evidence from witnesses, he was satisfied that the first Respondent made comments to the effect that figures presented by the Complainer in a report were wrong and that he (the Respondent) did not trust them.
- As Councillors are entitled, and indeed expected, to scrutinise evidence and challenge perceived inaccuracies, in order to make informed decisions, and as the first Respondent did not use language that was personal, demeaning or offensive, he did not consider the first Respondent was disrespectful towards the Complainer. In addition, the ESC considered that while the first Respondent's remarks were 'robust' in nature, they concerned the substance of the information being presented and did not stray into personal criticism of the Complainer.
- He had found the second Respondent made comments to the effect that it was "clear" what the Complainer's "favoured option" was in the report he prepared, and that the Complainer was "making his own assumptions".
- Having considered the full context in which the second Respondent's comments were made, the ESC was satisfied they constituted criticism of the evidential basis and methodology underpinning the recommendation being presented to councillors (and the second Respondent's disagreement with the Complainer's analysis). The ESC advised he did not consider a reasonable observer would conclude that they amounted to a personal attack on the Complainer's character, motives or integrity, or were intended to undermine or disparage him.
- The ESC advised he had concluded overall, for the reasons outlined above, that neither Respondents' conduct was 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 officers, and to refrain from criticising their conduct or performance in public, could have the potential to undermine the relationship of mutual trust between councillors and officers that enables a local authority to function effectively. It can also damage public confidence in a local authority. 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, nevertheless, 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 neither Respondents' conduct would 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 Respondents' 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 that their conduct was so gratuitous or egregious as to justify a restriction on their 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: 14 July 2026