

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 14 April 2026 (reference LA/AB/4580) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of Argyll and Bute Council (the Respondent), the ESC referred the matter to the Standards Commission on 28 July 2026.

The ESC reported that:

- The complaint was that, in April 2026, the Respondent made disrespectful remarks on social media about the Complainer (a fellow councillor) who had previously made a complaint about him. The ESC reported that the Respondent referred to the Complainer as being "not only vexatious but also mendacious".
- While he considered that the Respondent's remarks were robust and suggested the Complainer was annoying or irritating and untruthful, it was not unusual for politicians to criticise the credibility and conduct of their colleagues. The ESC further noted that the Complainer, as a councillor herself, was able to respond publicly.
- In light of this and the fact that no gratuitously offensive or egregious terms were used, he considered the Respondent's conduct in making the comments would not reach the threshold required to amount to a breach of the respect provisions of the Code.
- He considered, in any event, that the Respondent was expressing value judgements (or opinions), and even if untrue or incorrect, it was unlikely that a restriction on his right to freedom of expression (that a finding of a breach of the Code would entail) could be justified.

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 respect and bullying and harassment provisions in 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 the ESC did not consider the Respondent's conduct met the threshold for amounting to a breach of the Code. The Standards Commission found no reason to depart from the ESC's conclusions in that regard. The Standards Commission agreed with the ESC, in any event, 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. This was because it was evident he had been expressing an opinion on the Complainer's conduct in making a complaint about him.

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: 31 July 2026