

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 five complaints received 25 January and 27 February 2026 (reference LA/AB/4521) 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 17 August 2026.

The ESC reported that:

- He had investigated one issue of complaint concerning a meme and accompanying comments the Respondent posted on social media in January 2026 concerning an MSP's future plans, following a decision to step back from politics. The ESC advised that the Complainers considered the comments to be disrespectful and racist.
- The meme (which was not created by the Respondent) concerned a speech the then MSP made during a high profile debate entitled "Showing Solidarity with Anti-Racism", in which he mentioned the word 'white' multiple times and highlighted that people from ethnic minority backgrounds are underrepresented in high-ranking positions. The ESC noted that the meme poked fun at the speech and what concerns the then MSP might raise if he worked in football. The Respondent's comments were to the effect that all markings on football pitches are white.
- It was explained, on the Respondent's behalf that his post was intended as political satire. The ESC advised that he considered, nevertheless, that an ordinary member of the public unfamiliar with the background or the origin of the meme could reasonably regard it as disrespectful and racially insensitive. The ESC advised he had concluded, therefore, that it was disrespectful and, on the face of it, a breach of the Code
- He considered, however, that as the post was political satire and parody, rather than an expression of racial hostility, he did not consider the Respondent's conduct to be sufficiently offensive, gratuitous or egregious 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 respect 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 considered it was evident the Respondent's comments were intended to be political satire. The Standards Commission noted that determining whether a Respondent's conduct met the threshold for amounting, on the face of it, to a breach of the Code involved an objective assessment of the conduct in question including the context, intent and reasonably foreseeable impact. The Standards Commission considered, in this case, this would include that it was apparent from the context that the meme and comments evidently concerned a newsworthy event (being the MSP's speech). The Standards Commission considered it was apparent the Respondent's comments were not made in isolation and intended to suggest seriously that the MSP should only be involved in football if he was white. The Standards Commission considered that even if a member of the public had not immediately understood the meaning or context, a quick online search would have led to news articles and commentary on the speech. In the circumstances, it did not consider the Respondent's conduct would meet the requisite threshold to amount to a breach of the Code.

In any event, the Standards Commission agreed with the ESC, for the reasons he had provided, 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.

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.

The Standards Commission nevertheless reminds the Respondent of the importance of adhering to the courtesy and respect provisions in the Code, in order to ensure public confidence in the role of a councillor and the Council itself is maintained.

Date: 21 August 2026