

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 24 November 2025 (reference LA/As/4482) 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 24 August 2026.

The ESC reported that:

- The complaint was that the Respondent incorrectly suggested during a social media exchange (in which she was explaining why she had not responded to an enquiry from him) that the Complainer had been charged in the past with assault. The Respondent advised the ESC she knew the victim of the alleged assault.
- As the alleged assault happened a long time ago, he had been unable to establish whether the suggestion that the Complainer faced such a charge was correct or not. The ESC considered making such a public accusation was nevertheless disrespectful as it amounted to a personal attack.
- He had concluded, however, that a restriction on the Respondent's right to freedom of expression (that a finding of a breach of the Code would entail) could not be justified. This was because he was satisfied the Respondent was expressing a value judgement (or opinion) in good faith.

Standards Commission's Decision and Reasons

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 noted that the ESC, in his referral, had concluded that even if the Respondent's conduct was found, at a Hearing, to reach the threshold for amounting to a breach of the Code it was highly likely a restriction on her right to freedom of expression could not be justified. Having reviewed the report, the Standards Commission had no reason to depart from the ESC's conclusion in this regard. While the Standards Commission noted that stating categorically that someone had been charged with a crime could not be categorised as a value judgement (given it would be something that was capable of proof), it acknowledged that the Respondent had not made such a direct accusation and, instead, had only implied that was the case. The Standards Commission agreed with the ESC that there was no reason to doubt the Respondent's comment, inferring the Complainer had been charged with assault in the past had been made in good faith, even if it was incorrect.

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 noted that the Respondent's comment was made during a social media exchange with the Complainer in which he had called her an "impudent bastard". While the Standards Commission understood the Respondent had engaged in the exchange in order to defend herself from an accusation that she had failed to respond to a request for assistance, it noted that the Code does not require councillors to respond, either to request for assistance or to comments on social media. The Standards Commission noted it can sometimes be better for councillors to refrain from engaging, particularly when they are facing abuse.

Date: 27 August 2026