

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 29 June 2026 (reference LA/EL/4634) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of East Lothian Council (the Respondent), the ESC referred the matter to the Standards Commission on 18 September 2026.

The ESC reported that he had investigated one issue of complaint; being that, at a meeting of the full Council in late June 2026, the Respondent failed to declare an interest in a motion about parking charges in a town within the local authority area and to then withdraw while it was being considered. This was despite the Respondent being employed as a caseworker for an MSP who had spoken publicly about his position in respect of the proposed parking charges.

The ESC noted that the Code requires councillors to declare interests when the objective test is met. The objective test is where a member of the public with knowledge of the relevant facts would reasonably regard any connection a councillor has to a matter to be discussed as being so significant that it would be considered likely to influence the discussion or decision-making.

The ESC reported that in this case, he did not consider the objective test was met. This was because he did not consider members of the public, with knowledge of the relevant following facts, would reasonably regard the Respondent's connection, arising from her employment as being so significant that it would be considered as being likely to influence her discussion or decision-making on the motion. This was because:

- The Respondent represents a ward directly affected by the introduction of parking charges. As such, it was likely it would be the concerns of her own constituents that would influence any view she had on the issue. Indeed, the ESC noted he had found evidence that the Respondent's party's local branch members (and many constituents) supported pausing the proposal to introduce parking charges.
- Parking is a matter on which Councils can and do regulate, without input from MSPs, so the view of the Respondent's employer could not impact the Council's decision-making role beyond the ordinary influence which an MSP might exercise in their constituency area.

The ESC advised he had concluded, therefore, that the Respondent did not have a declarable interest and, as such, had not breached the Code.

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 requirements in the Code to declare interests, as required, 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 would amount to a breach of the Code. The Standards Commission found no reason to depart from the ESC's conclusions in that regard.

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: 22 September 2026

**Lorna Johnston
Executive Director**