

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 31 March 2026 (reference LA/OI/4575) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of Orkney Islands Council (the Respondent), the ESC referred the matter to the Standards Commission on 21 September 2026.

The ESC reported that he had investigated three issues of complaint. The ESC advised that:

- The first issue concerned a social media post the Respondent published, in which he provided an update on what had happened at a Planning Committee meeting in March 2026. The ESC reported that the Respondent referred to applications made by another councillor and a planning officer and stated that these had been approved with no objections. The complaint was that, in posting information about these two specific applications, and by referring to one applicant's role as a planning officer, the Respondent was insinuating they received preferential treatment from the Council's Planning Committee and, therefore, was disrespectful. The ESC reported that he considered that as the information provided was factually accurate, he did not consider the Respondent's conduct to be disrespectful. The ESC further reported that the Respondent apologised and removed the post when approached by the councillor it mentioned.
- The second issue was that the Respondent shared confidential information when he posted a photo on social media showing contact details of a member of staff from a private company. The ESC advised he had found the information shared was not confidential. The ESC further advised the information was only uploaded for a short amount of time and that he was satisfied the Respondent had included it inadvertently.
- The third issue was that the Respondent had been disrespectful by posting a photo on social media of an individual asleep in a bed. The ESC advised that found the photo was part of a private joke between the Respondent and the individual concerned. The ESC further noted the Respondent had uploaded it accidentally and temporarily.
- Having considered the various factors of the complaint and the evidence gathered, he concluded that the Respondent's conduct did not amount to a breach of 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 respect and confidentiality 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 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 respect of issues two and three.

The Standards Commission noted, in respect of the first issue, that both the councillor and planning officer had made the applications in a personal capacity as they were fully entitled to do. The Standards Commission noted however, that the Respondent's post nevertheless referred to the officer as a "planning official". The Standards Commission considered that the Respondent's actions in doing so could be interpreted, reasonably, as him trying to insinuate preferential treatment had been sought by or provided to the applicant because they were a council officer. It noted, however, that it was equally possible that, as the information the Respondent provided was factual, and he had not provided any opinion or elaborated further, it would be reasonable to conclude he was not trying to make such an insinuation. The Standards Commission noted the Respondent removed the information and apologised when he was made aware of concerns about the post. In the circumstances, it was content to accept, as reasonable and likely, that he had not intended to do so.

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 in respect of the complaint. The Standards Commission determined, therefore, to take no action on the referral.

The Standards Commission nevertheless reminds councillors of the importance of ensuring they behave in a respectful and courteous manner, including when they are posting online in that capacity.

Date: 24 September 2026