

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 complaints received on 4 December 2024 and 7 May 2024 (references LA/SA/4220b and LA/SA/4134b) concerning alleged contraventions of the Councillors' Code of Conduct (the Code) by an elected member of South Ayrshire Council (the Respondent), the ESC referred the matter to the Standards Commission on 7 October 2026.

The ESC reported, in relation to the first complaint (LA/SA/4220b) that:

- He had investigated two issues, which related to the Respondent's support for Council funding to redevelop a public building. The first issue was the Respondent improperly accepted another councillor's offer of support for funding the project, in exchange for political support. The ESC advised he had found evidence in the public domain that there had been an agreement between the two councillors. The ESC considered, however, that the making of such was not contrary to the Code. The ESC further advised he had found no evidence of any pressure or undue influence being placed on council officers regarding the budget for the project, which received appropriate scrutiny and was approved by the full Council.
- The second issue was that the Respondent publicly announced the Council was financially committed to the project, before any public consultation or formal decision had been made. The ESC accepted the Respondent's announcements made it sound like funding was confirmed before it had been. The ESC advised he did not consider the Respondent intentionally misled the public, however, and advised he had found no evidence the Respondent was using his position to improperly influence the process. Instead, the ESC was of the view that the public statements made by the Respondent about were more likely politically motivated and intended to either put pressure on the other councillor to stick to the agreement reached or keep the project at the forefront of peoples' minds.

The ESC reported, in relation to the second complaint (LA/SA/4134b), that:

- He had investigated one issue of complaint, which concerned an allegation that the Respondent engaged in disrespectful and bullying behaviour towards a council officer.
- While he was unable to obtain information directly from the council officer (who no longer worked for the Council), the ESC noted his investigation obtained some evidence suggesting the council officer felt significant pressure regarding her work, including from some elected members. The ESC advised, however, that he had found no specific evidence of the Respondent engaging in disrespectful or bullying behaviour towards the council officer. As such, he found the facts of the complaint were not proven.

In the circumstances and for the reasons outlined above, the ESC reported he had not found any breach of the Code by the Respondent in respect of either complaint.

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 provisions in the Code requiring councillors to refrain from using their position to seek unfair advantage or preferential treatment, as well as the respect or bullying 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 in respect of the first complaint would amount to a breach of the Code. The Standards Commission found no reason to depart from the ESC's conclusions in that regard. It noted that any decision on funding, in respect of the first issue, was not quasi-judicial or regulatory in nature (meaning that there was no requirement on any councillors involved in the decision-making to determine the matter independently and solely on its individual merits).

In respect of the second complaint, the Standards Commission noted the ESC had not found any breach of the Code by the Respondent based on the evidence available. The Standards Commission considered it unlikely that any further evidence would become available at a Hearing to cause it 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: 13 October 2026