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 28 March 2026 and 11 June 2026 (reference LA/AB/4572) 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 13 October 2026.

The complaint was that the Respondent was disrespectful towards and bullied the two Complainers (being fellow councillors) in comments in a private Whatsapp group chat, and in liking and sharing a social media post.

The ESC reported that:

- It was not in dispute that the Respondent made comments about the two Complainers in the private group chat. The ESC advised he considered, however, that the Respondent was not acting as a councillor at the time as, instead, he was commenting on a party-political matter as a private individual and party member in a group for members and supporters of his political party (as opposed to one for just councillors). A such, the ESC advised he had concluded that the Code did not apply to the Respondent's conduct in respect of this part of the complaint.
- The Respondent also shared and expressed support, on a social media account, for a post that referred to the Complainers as being part of group of "bitter political chancers" and accused them of "deliberately misleading the public" in connection with a pay award for senior council officers.
- The ESC advised that he considered the Respondent could objectively be considered as acting as a councillor when doing so, as the account's title referred to his role as a councillor. The ESC advised he nevertheless did not consider the conduct met the threshold for amounting to either disrespect or bullying. This was because the ESC considered the criticism in the post concerned the conduct of the Complainers as politicians and was not, therefore, personally abusive. The ESC argued that, as politicians, the Complainers could expect a degree of criticism and challenge in respect of decisions and actions they took in that capacity and noted they would have a right of public reply.
- The ESC advised that, in any event, he had concluded that the Respondent's comments were not sufficiently egregious or shocking as to justify a restriction on his enhanced right to freedom of expression under Article 10 of the European Convention on Human Rights, that a formal finding of a breach of the Code would entail.

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 bullying provisions in the Code could have the potential to lower the tone of political discourse and to bring the role of a councillor and the Council itself into disrepute.

The Standards Commission 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 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, that the ESC had not found any breach of the Code had occurred. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion.

The Standards Commission also agreed with the ESC that even if the Respondent's conduct was found to be disrespectful or discourteous at a Hearing, it was highly likely that he would enjoy the enhanced protection to freedom of expression afforded by Article 10, given the post the Respondent endorsed concerned a matter of public interest (being a Council pay award for senior officers). The Standards Commission agreed with the ESC that it was very unlikely that the conduct in question would be found to be sufficiently offensive, gratuitous or egregious as to justify a restriction on the Respondent's right to freedom of expression.

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: 16 October 2026