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 that was initially made on 18 December 2025 (reference LA/NL/4498) concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by an elected member of North Lanarkshire Council (the Respondent), the ESC referred the matter to the Standards Commission on 14 October 2026.

The complaint alleged that the Respondent had engaged, between November 2025 and February 2026, in a course of disrespectful and bullying conduct towards the Complainer and other council officers, and had criticised them in public. It further alleged that the Respondent had disclosed confidential information.

The ESC reported that he had investigated eight issues of complaint that concerned:

- Emails the Respondent sent in November and December 2025 to, variously, the Complainer and other council officers, his fellow councillors, Audit Scotland, a Scottish Government Cabinet Secretary, the Scottish Public Services Ombudsman and to his [the ESC's] own office.
- Remarks made by the Respondent during a podcast published in December 2025.
- Comments made by the Respondent in the chat function of a Teams chat during a public meeting of the Accounts Commission in December 2025; and
- A social media post published by the Respondent in February 2026.

The ESC advised he had found that:

- The Respondent discussed his perceived concerns relating to Council governance and actions taken by Council officers. The ESC advised that while he considered the Respondent had expressed his concerns robustly and, in certain instances in a very critical manner, he nevertheless considered the Respondent was entitled to raise issues as part of the scrutiny role he was expected to undertake as an elected member.
- While the Respondent repeatedly criticised the Council's governance arrangements, he had not made any gratuitous personal insults or engaged in personal attacks that crossed the line between robust scrutiny and disrespect, or could be considered objectively as amounting to bullying. The ESC advised he had concluded, therefore, that the Respondent's conduct did not meet the threshold for amounting to a breach of the respect or bullying provisions in the Code.
- While some of the Respondent's criticisms had been directed at identifiable council officers, they had not been made publicly.
- While the Respondent had shared certain internal Council emails, these did not contain sensitive or confidential information. The ESC found that while the Respondent referred to a draft report during the podcast, this was already in the public domain. As such, the ESC advised he had concluded that the Respondent had not breached the confidentiality provisions in the Code.

- In any event, he did not consider that a restriction on the Respondent's enhanced right to freedom of expression that a formal finding of a breach of the Code and imposition of a sanction would entail could be justified. The ESC advised this was because he did not consider the Respondent's comments to have had a significant personal element, or to have been gratuitously offensive, abusive or shocking. The ESC further advised that, as value judgements (being expressions of his opinion rather than statements of fact), the Respondent's comments did not require a significant factual basis and that even if they were inaccurate, he was entitled to express them in the manner he did.

Standards Commission's Decision and Reasons

Having considered the terms of his referral, together with further correspondence received from the Complainer and Respondent, 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 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 reached the conclusion that the Respondent's conduct did not amount, on the face of it, to a breach of the Code. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion.

The Standards Commission 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 his comments related to his perceived concerns with the Council and its governance, being a matter of public interest. The Standards Commission agreed that it was 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 enhanced 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: 26 October 2026