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 in June 2026 (reference LA/EL/4658) 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 24 November 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. This was despite her owning and residing in the town at a property located within an area affected by the introduction of the 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that in this case, he considered the objective test was met and the Respondent should have declared an interest and withdrawn from the meeting while the item was being considered. As such, the ESC concluded the Respondent had 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 public interest in holding a Hearing. In this case, however, given the Respondent's acceptance that she should have declared an interest and the lack of any factual dispute requiring resolution, the Standards Commission considered that the wider public interest benefits of a Hearing would be limited. The Standards Commission noted 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 advised that the Complainer wished to remain anonymous and withdrew the complaint when told that would not be possible. The ESC advised nevertheless that he had decided to proceed with the investigation in his name.

The Standards Commission noted that the ESC's Investigations Manual states that the ESC would only proceed with an investigation in his name where any allegation outlined in the complaint was "very serious".

In this case, the Standards Commission was not satisfied that the allegation or complaint could be categorised as such. While it agreed it appeared the Respondent should have declared an interest, it noted she accepted this and explained any breach of the Code was inadvertent and that she had not benefited personally in any way from her participation. The Standards Commission further noted the Respondent had registered her property and, therefore, accepted there was no evidence she was trying to conceal any interest. The Standards Commission agreed that in a small community like the one in question it was likely the majority of residents would be potentially impacted by any decision on traffic management. As such, it accepted the Respondent's position that, at the time of the meeting, she had not considered the location of her property, in particular, meant she may need to declare an interest.

In the circumstances and given the above factors, the Standards Commission concluded that, while there may have been a breach of the Code, it was not one that could be categorised as being "very serious" in nature. Given this, and in the circumstances of the complaint about the matter having been withdrawn and the Respondent having accepted she should have declared an interest, the Standards Commission determined it was neither proportionate, nor in the public interest, for it to hold a Hearing in respect of the matter. The Standards Commission determined, therefore, to take no action on the referral.

Date: 27 November 2026