

Decision of the Standards Commission for Scotland

On receipt of a report 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.

Report to the Standards Commission

Following his investigation into a complaint received on 26 January 2023 (reference LA/G/3846) concerning an alleged contravention of the Councillors' Code of Conduct dated December 2021 (the Code) by an elected member of Glasgow City Council (the Respondent), the ESC referred a report to the Standards Commission on 29 November 2023.

The complaint was that the Respondent failed to declare an interest and leave a Licensing Board meeting, in January 2023, until prompted by the Complainer.

In his investigation report, the ESC advised that:

- It was not disputed that the Respondent had previously advised the Complainer, in 2021, that she would support his objection to the granting of an Occasional Licence Application. It was also not disputed that the Respondent did not then declare this support, as an interest, when a Major Variation Application was being considered by the Licensing Board at a meeting in January 2023, in respect of the same premises, until prompted to do so by the Complainer.
- He was satisfied that the two licences that had been sought were distinct, even though they were for the same premises. The ESC further advised that he had found that no formal objection had been submitted in respect of the Occasional Licence Application. As such, the ESC concluded the Respondent did not have any connection to the Major Variation Application being considered by the Licensing Board on 20 January 2023. The ESC noted, therefore, there was no requirement for the Respondent to have declared an interest in the matter or to have refrained from taking part in the discussion or decision-making.
- The ESC was further satisfied that the Respondent had not pre-judged the specific application that was before the Licensing Board on 20 January 2023. As the Respondent had declared an interest (even though she had not been obliged to do so), she had not been involved in the decision-making and had not, therefore, breached any provisions in the Code concerning the making of quasi-judicial and regulatory decisions.

The ESC concluded, therefore, that he was not satisfied that there had been any breach of the Code.

Reasons for Decision

Having considered the terms of his report, 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>.

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 report, had reached the conclusion that the Respondent's conduct did not amount to a breach of the provisions in the Code that required councillors to declare certain interests, or to the provisions that concerned how quasi-judicial and regulatory decisions (including ones on licensing and planning applications) are made. Having reviewed the ESC's factual findings and reasoning, the Standards Commission found no reason to depart from his conclusions.

In the circumstances and 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. The Standards Commission determined, therefore, to take no action on the referral.

Date: 4 December 2023



**Lorna Johnston
Executive Director**