

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 on 14 August 2023 (reference LA/NL/3944) concerning an alleged contravention of the Councillors' Code of Conduct dated December 2021 (the Code) by an elected member of North Lanarkshire Council (the Respondent), the ESC referred the matter to the Standards Commission on 11 March 2024.

The complaint concerned an allegation that the Respondent had used his influence or position as a councillor to secure his nephew a new council flat.

The ESC reported that:

1. The Complainer had provided no background information or evidence to substantiate her complaint, despite repeated requests from the ESC's office for further information.
2. The Council had confirmed while the Respondent's nephew had applied for a council tenancy and had disclosed his family relationship with the Respondent in line with council procedures, he ultimately accepted a tenancy from a housing association. The property was not, therefore, one that was owned by the Council.
3. The ESC further reported that Council officers had confirmed that at no point had the Respondent discussed his nephew's application either with them or the Housing Association. The Respondent's relationship to his nephew had no impact on the application, in terms of the points or list placement.
4. As such, the ESC advised that there was no suggestion that the Respondent used his influence or position as a councillor to secure his nephew a new council tenancy. The ESC concluded, therefore, that the Respondent had not breached the Code.

Reasons for Decision

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 regarding the seeking of preferential treatment could bring the role of a councillor and the Council itself into disrepute. In this case, however, the Standards Commission was of the view that, on the face of it, there was no evidence of any such breach of the Code.

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, had concluded that there had been no breach of the Code. Having reviewed the evidence before it, the Standards Commission found no reason to depart from that conclusion.

Having taken into account the above factors, and in particular the fact that it was not satisfied that there was any evidence of a breach of the Code, 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: 12 March 2024



**Lorna Johnston
Executive Director**