

## 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 (reference LA/AC/3864b) into a complaint received on 10 March 2023, concerning an alleged contravention of the Councillors' Code of Conduct dated December 2021 (the Code) by an elected member of Aberdeen City Council (the Respondent), the ESC referred a report to the Standards Commission on 10 April 2024.

The complaint alleged that the Respondent failed to timeously update his Register of Interests to record his role as a trustee of a community trust, and that he had failed to declare that interest at a Council budget meeting in March 2023.

In his investigation report, the ESC advised that:

- He had found, and it was not in dispute, that the Respondent was appointed as a trustee of the community trust on 4 January 2023. Councillors have one month to record any new interest in their Register of Interests. It was not in dispute that the Respondent did not register the interest until 10 March 2023. The ESC recommended, therefore, that the Respondent had breached the Code by failing to register the interest within the required one-month period. The ESC also advised that the Respondent had apologised and confirmed that the failure to timeously register the interest was an "oversight".
- He had also considered whether there was any failure to declare the interest at the Council budget meeting held on 1 March 2023. Having viewed the webcast of the meeting, the ESC confirmed that the Respondent had not made any declaration of interest. The ESC advised, nonetheless, that he did not consider that a member of the public with knowledge of the relevant facts would reasonably regard the Respondent's status as a trustee of the community trust as being so significant, both in scale and nature to the overall budget, that it would be considered likely to influence his decision-making on the overall budget, even though a grant for the community trust to purchase and upgrade a church was included within the proposed expenditure.

### 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 had breached the provision in the Code that requires councillors to register their non-financial interests within one month of those interests arising.

Having reviewed the ESC's report, the Standards Commission noted that the Respondent had apologised for the failure to register timeously his trusteeship. The Standards Commission further noted that there appeared to be no evidence to suggest that the Respondent had tried to conceal his interest and, therefore, it had no reason to doubt that the breach of the Code was inadvertent. The Standards Commission also noted that it was of limited duration.

The Standards Commission noted that, in his report, the ESC had reached the conclusion that the Respondent's non-financial connection to the community trust, both in scale and nature, in the context of the overall budget, was not an interest that required to be declared. The Standards Commission agreed with the ESC's conclusions in that regard.

In the circumstances, and having taken into account the above factors, 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.

The Standards Commission nevertheless agreed that the Respondent should be reminded of the importance of adhering to provisions in the Code concerning the timeous registration of interests as these allow for transparency and help ensure the public can have confidence that elected members are making decisions in the public interest.

**Date: 16 April 2024**



**Richard Wilson  
Case Manager**