

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 6 April 2023 (reference LA/G/3872) concerning an alleged contravention of the Councillors' Code of Conduct by an elected member of Glasgow City Council (the Respondent), the ESC referred the matter to the Standards Commission on 20 June 2024.

The complaint concerned two issues, both relating to the Respondent's conduct during a full Council meeting on 30 March 2023. The first issue is that the Respondent shouted "shut up" or words to that effect at fellow councillors. The second issue is that after the meeting was adjourned, and in response to the Complainer attempting to raise a point of order with the Lord Provost, the Respondent said "you can address it with me outside", beckoned to the Complainer, left the meeting room and stood at the door.

The ESC reported that:

- Having watched a webcast of the meeting, he found the Respondent shouted "shut it" in the direction of councillors from another political party. While the ESC noted the Respondent was entitled to express his concerns or views about the contributions of other councillors, he nevertheless considered that shouting "shut it" was discourteous and, on the face of it, a breach of the requirement under paragraph 3.1 of the Code to behave with courtesy and respect.
- He did not consider the Respondent's conduct amounted to bullying as, given the remark was aimed at fellow councillors, there was no misuse of power.
- The Respondent's comment was made after the Convener had raised her voice to say, "can we have some peace and quiet in here" before shouting "order, order". The ESC advised that the Respondent reported suffering from partial deafness in his right ear. In the circumstances, the ESC did not consider that the Respondent's behaviour was sufficiently shocking, offensive or gratuitous as to justify a restriction on his enhanced right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR).
- In respect of the second issue, it was more likely than not the Respondent made the comment as alleged. The ESC found, however, that it had been made after the Lord Provost had refused to accept a point of order raised by the Complainer. The ESC found, however, on the balance of probabilities, that the Respondent was inferring that the Complainer could address the issue with him outwith the meeting (as opposed to suggesting an altercation). In the circumstances, the ESC did not consider the Respondent's conduct would amount to a breach of 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 courtesy and respect provisions in the 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, in respect of the first issue, that:

- the comment was not directed at a specific individual;
- it appeared others present were engaging in shouting and heckling and, in the specific circumstances, the conduct could not be said to be to be unduly disruptive in itself; and
- the Respondent had explained that his partial deafness had caused him to feel frustrated.

In light of these factors, the Standards Commission was unclear as to whether the conduct in respect of issue one would amount to a breach of the Code.

In any event, the Standards Commission agreed with the ESC that it was very 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.

The Standards Commission agreed with the ESC that the Respondent's conduct in respect of the second issue would not amount to a breach of the Code.

In the circumstances, the Standards Commission concluded that it was neither proportionate, nor in the public interest, for it to hold a Hearing on either issue. The Standards Commission determined, therefore, to take no action on the referral.

Date: 24 June 2024



**Lorna Johnston
Executive Director**