
DECISION-MAKING AT HEARINGS

1. Introduction

- 1.2 This paper outlines how Hearing Panels of the Standards Commission make decisions (in terms of by consensus or majority) on whether or not there has been a breach of a Code of Conduct by the Respondent and, if so, what sanction should be imposed. This paper should be read in conjunction with the Standards Commission's Hearing Rules and its Policy on the Application of Sanctions. Both can be found on the website at: www.standardscommissionscotland.org.uk/cases.

2. Decision-Making on Breach

- 2.1 The three Members comprising a Hearing Panel will normally make a decision on whether or not the Respondent has breached of a Code of Conduct by consensus. If, however, no consensus can be reached, the decision will be made by majority vote. The fact that the decision was made by majority will be recorded (without specifying how each individual member voted) although only one decision will be produced, with the minority member's reservations incorporated.

3. Decision-Making on Sanction

- 3.1 Section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 obliges Hearing Panels to impose a sanction (censure, suspension or disqualification) where a breach of a Code of Conduct has been found. All members of the Hearing Panel will take part in the decision-making on the sanction to be imposed, even if they did not vote in favour of a finding of breach. It should be noted that the Hearing Panel will look at different matters (such as any aggravating and mitigating factors), when determining the sanction to be applied to those it will have considered when making a decision on breach. Factors that the Hearing Panel may take into consideration when determining the sanction to be applied are outlined in the Standards Commission's Policy on the Application of Sanctions, a copy of which can be found [here](#).
- 3.2 The Hearing Panel will normally reach a decision by consensus on the type (and, if applicable, the extent and length) of sanction to be imposed. The decision will be made by majority vote, however, if no consensus can be reached.

4. General

- 4.1 Decisions will only be taken by majority in cases where sufficient time been given to fully deliberating all issues and to discussing any areas of disagreement, and where it has become apparent that nothing new can be added to the debate. A vote will not be taken purely to expedite matters. If the Hearing Panel considers it simply has insufficient time to reach a decision on the day, the Hearing will be adjourned and reconvened.