

## **Interim Suspension - Decision of the Standards Commission for Scotland**

**Standard Commission Members:** Professor Kevin Dunion, OBE  
Mr Michael McCormick  
Mr Paul Walker

### **BACKGROUND**

#### **General**

Section 21 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the Act), as amended, provides the Standards Commission for Scotland (Standards Commission) with the power to impose an interim suspension on a councillor or member of a devolved public body on receipt of an interim report from the Commissioner for Ethical Standards in Public Life in Scotland (ESC) on an ongoing investigation.

It should be noted that the imposition of an interim suspension should not be seen as a finding on the validity of any allegations against the councillor or member concerned, nor should it be viewed as a disciplinary measure.

#### **Councillor Alan Donnelly**

The Standards Commission received an interim report from the ESC, dated 25 February 2020, concerning complaints she had received about the conduct of Councillor Alan Donnelly.

### **INTERIM REPORT**

The ESC advised that the complaints related to Councillor Donnelly being convicted for a sexual assault that took place while he was attending an event in his capacity as a councillor.

The ESC advised that:

- she was unaware of any information which suggests the conduct of the investigation is likely to be prejudiced in the absence of a suspension being imposed; and
- there was no suggestion, at this stage, that a suspension is required to protect witnesses or that cooperation with the investigation would be inhibited without a suspension.

The ESC noted, however, that:

- an inference could be drawn that the conduct caused emotional harm to the individual who was the victim of the sexual assault; and
- there was a potential impact on public confidence in the Council or the ethical standards framework in Scotland if Councillor Donnelly was allowed to continue to act as a councillor while complaints of such a serious nature, involving criminal conduct, were outstanding against him.

The ESC further noted that the conviction had likely damaged Councillor Donnelly's reputation. The ESC advised that she considered that the imposition of a suspension order may further damage this.

Following a request from the Standards Commission, the ESC subsequently indicated that a six-week period would be required to conclude the investigation, produce a report and, in the event of a report concluding there has been a contravention of the Code, allow Councillor Donnelly an opportunity to provide representations (as required by the Act).

The Standards Commission noted that the crux of the complaints was that Councillor Donnelly had failed to comply with the provisions of the Councillors' Code of Conduct and, in particular, had contravened paragraphs 3.1, 3.2 and 3.6.

The relevant provisions are:

*3.1 The rules of good conduct in this section must be observed in all situations where you act as a councillor or are perceived as acting as a councillor, including representing the Council on official business and when using social media.*

***Relationship with other councillors and members of the public***

*3.2 You must respect your colleagues and members of the public and treat them with courtesy at all times when acting as a councillor.*

*3.6 Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.*

In accordance with its Interim Suspension Pending Completion of Investigation Policy, the Standards Commission sent a copy of the interim report to Councillor Donnelly on 26 February 2020. The Standards Commission invited Councillor Donnelly to submit, within five days, any representations he wished to make on:

- The interim report; and
- Whether an interim suspension should be imposed.

**REPRESENTATIONS RECEIVED**

Councillor Donnelly's representative advised, by letter of 2 March 2020, that Councillor Donnelly does not wish an interim suspension from the full Council to be imposed. Councillor Donnelly's representative advised that Councillor Donnelly had already been suspended by the Council from all the council committees of which he is a member. Councillor Donnelly's representative further advised that he was considering lodging an appeal against conviction.

**DECISION**

A Panel of the Standards Commission considered all the evidence before it, including the representations received on behalf of Councillor Donnelly.

The Panel noted that it appeared that the conduct complained of had taken place while Councillor Donnelly attended an event in his capacity as a councillor and that it had resulted in him being convicted for a sexual assault and placed on the sex offenders register (being a further ground of complaint). The Panel noted that while the allegations against Councillor Donnelly had not yet been fully investigated by the ESC and, as such, were unsubstantiated, they were of a particularly serious nature. The Panel was satisfied, therefore, that there was *prima facie* evidence of a serious contravention of the Councillors' Code, which, if upheld, was likely to attract a more severe sanction than a censure.

The Panel was not satisfied that there was any evidence or suggestion that the further conduct of the ESC's investigation was likely to be prejudiced if an interim suspension was not imposed.

The Panel did not consider that the imposition of an interim suspension would have a significant impact on Councillor Donnelly's reputation. The Panel noted that the Standards Commission had no control over any damage Councillor Donnelly may have suffered already as a result of press coverage about the conviction and considered that the impact of the imposition of an interim suspension was unlikely to add significantly to the reputational damage already accrued. The Panel further noted that the impact of an interim suspension on Councillor Donnelly might be less serious than it otherwise could have been, given he had already been suspended by the Council from its committees.

The Panel determined that it was in the public interest to impose an interim suspension, to maintain public confidence in the ethical standards framework in Scotland. The Panel considered that public confidence in the ethical standards framework would be adversely affected if Councillor Donnelly was allowed to continue to act while complaints of such a serious nature, involving criminal conduct, were outstanding against him. The Panel further considered that the Council's reputation could be adversely affected if an interim suspension was not imposed. The Panel noted that there could also be a risk to others if the conduct that was the subject of the conviction was repeated.

The Panel concluded, therefore, that it was satisfied that it was both proportionate and in public interest for it to impose an interim suspension.

The Panel suspended Councillor Donnelly from Aberdeen City Council. Having noted that the ESC had advised that it was unlikely that the investigation would be completed within six weeks, the Panel determined that the suspension should, in the first instance, be for a period of up to three months, commencing on 4 March 2020.

Advice on the extent of the activities in which a councillor can engage while they are subject to a period of full suspension (either on the finding of a breach of the Councillors' Code of Conduct at a Hearing or as an interim measure while an investigation about their conduct is ongoing) can be found in the Standards Commission's Suspension Guidance. A copy of the Guidance is on the Standards Commission's website at:

[www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings](http://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings) .

## **REVIEW**

If the investigation does not conclude within the period of the interim suspension, the Standards Commission will consider renewing it, in terms of Section 21(10). In making a decision about whether or not to renew the interim suspension, the Standards Commission will again consider the factors as outlined under section 3 in its Interim Suspension Pending Completion of Investigation Policy.

**Date:** 4 March 2020

**LORNA JOHNSTON  
Executive Director**