

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

**Taken by a Panel comprising of 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 upon receipt of an interim report from the Commissioner for Ethical Standards in Public Life in Scotland (ESC) on an ongoing investigation.

A decision to impose or renew an interim suspension is not, and should not be seen as, a finding on the merits or validity of any allegations against the councillor or member concerned. The imposition of an interim suspension should also not be viewed as a disciplinary measure.

In making a decision about whether to impose or renew an interim suspension, the Standards Commission is not making findings of fact, nor making findings as to whether any allegations are or are not established. It is sufficient for the Standards Commission to act if it is satisfied that there is a *prima facie* case to do so. It should be noted that any differences in the recollections and accounts of witnesses can be explored during the investigation, before being weighed and tested during the adjudication process (should any complaints reach that stage).

Following receipt of an interim report from the ESC, the above Panel of the Standards Commission determined, on 4 March 2020, to impose an interim suspension on Councillor Donnelly for a period of three months.

### **REPORT ON PROGRESS OF ESC'S INVESTIGATION**

The ESC reported, by email of 20 May 2020, that her investigation had concluded and that a draft breach report had been sent to Councillor Donnelly for comment. The ESC advised that she envisaged that the report would be finalised and provided to the Standards Commission within four to six weeks.

### **DECISION**

The Panel considered all the evidence before it, including the representations received. It concluded that:

1. A failure to renew the interim suspension was unlikely to prejudice the further conduct of the ESC's investigation to any significant degree, given a draft breach report has now been issued to the Respondent.
2. It was nevertheless in the public interest to renew the interim suspension for a further three months.

### **Reasons for Decision**

In accordance with its Interim Suspension Pending Completion of Investigation Policy, the Panel considered whether it was in the public interest for the interim suspension to be renewed.

The Panel remained concerned 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 the interim suspension was not renewed. The Panel was satisfied that it had not been presented with any evidence or representations that would allay its concerns about these matters.

The Panel concluded, therefore, that it was satisfied that it was both proportionate and in public interest for it to renew the interim suspension for a further three months.

### **REVIEW**

The Panel will consider renewing the interim suspension again, in terms of Section 21(10) of the Act no later than 3 September 2020 (if the ESC has not issued a final report by that date).

**Date:** 2 June 2020

**LORNA JOHNSTON  
Executive Director**