

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.

Section 21 provides that an interim suspension can be renewed by the Standards Commission for a period not exceeding three months and that a renewed period may likewise be further renewed. A period of suspension imposed will end upon:

- a) a finding that the councillor or member has not contravened their Code of Conduct;
- b) the imposition of a sanction following a finding that there has been a contravention of the Code; or
- c) a decision by the Standards Commission not to hold a Hearing.

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.

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. The ESC reported, by email of 20 May 2020, that while her investigation had concluded and that a draft breach report had been issued to Councillor Donnelly for comment, she did not consider that she would be in a position to finalise and send the report to the Standards Commission for another four weeks. The Panel therefore renewed the interim suspension, on 2 June 2020, for a further three months.

The ESC sent the Standards Commission a report on 16 June 2020 advising that, in her view, Councillor Donnelly may have contravened the Councillors' Code of Conduct. Having reviewed the report, the Standards Commission determined, on 23 June 2020, that it was proportionate and in the public interest to hold a Hearing. A Hearing was scheduled to take place in Aberdeen on 6 October 2020.

Following receipt of a request made on behalf of the Respondent, who provided evidence to demonstrate that he was unable to attend, the Hearing scheduled to take place on 6 October 2020 was postponed on 29 September 2020. The Hearing will now take place on Friday, 20 November 2020.

DECISION

Having noted that the period of interim suspension would end before the date of the rescheduled Hearing, the Panel has reviewed it again. The Panel considered all the evidence before it and concluded that:

1. A failure to renew the interim suspension would not prejudice the ESC's investigation given that this has now concluded.
2. It was nevertheless in the public interest to renew the interim suspension until 20 November 2020, being the date of the rescheduled Hearing.

Reasons for Decision

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.

Date: 2 October 2020

**LORNA JOHNSTON
Executive Director**