



INTEGRITY IN PUBLIC LIFE

SUSPENSION GUIDANCE

1. Introduction

- 1.1 Section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act) outlines the options available to the Standards Commission, following the finding of a breach of their respective Codes of Conduct by a councillor or member of a devolved public body, at a Hearing it has conducted.
- 1.2 Section 19 obliges the Standards Commission to impose a sanction upon the finding of a breach. The options available to the Standards Commission under Section 19(1) are to censure, suspend or disqualify the councillor or member. Section 19(1) is reproduced below.

19 Action on finding of contravention

(1) Where the members of the Commission conducting a hearing find that a councillor has contravened the councillors' code or a member of a devolved public body the members' code, they shall impose one of the following sanctions—

- (a) censuring, but otherwise taking no action against, the councillor or member;**
- (b) suspending, for a period not exceeding one year, the councillor's or member's entitlement to attend one or more but not all of the following—**
 - (i) all meetings of the council or body;**
 - (ii) all meetings of one or more committees or sub-committees of the council or body;**
 - (iii) all meetings of any other body on which the councillor or member is a representative or nominee of the council or body;**
- (c) suspending, for a period not exceeding one year, the councillor's or member's entitlement to attend meetings of the council or body and of any committee or sub-committee thereof and of any other body on which the councillor or member is a representative or nominee of the council or body;**
- (d) in the case of a councillor, disqualifying the councillor for a period not exceeding five years, from being, or from being nominated for election as, or from being elected, a councillor;**
- (e) in the case of a member of a devolved public body, removing the member from membership of the body and disqualifying the member, for a period not exceeding five years, from membership of the body.**

- 1.3 Section 21 of the 2000 Act provides the 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 Ethical Standards Commissioner (ESC) on an ongoing investigation.

- 1.4 Section 19(8) provides that the Standards Commission should, after undertaking a consultation, issue guidance to councils on the extent to which a councillor should engage in activities (other than those mentioned in subsection 1(c)) which are, or could be perceived to be, the activities of a councillor during a period of suspension.
- 1.5 The purpose of this document is to provide such guidance. It is only intended to cover the activities of a councillor where a period of full suspension has been imposed (either on the finding of a breach under Section 19(1)(c), or as an interim measure under Section 21), as opposed to a partial suspension under Section 19(1)(b).

2. Aims

- 2.1 The overriding aim of this guidance is to provide clarity in respect of the impact / effect of a suspension. The purpose of imposing any restrictions on the activities of a councillor during a period of suspension is to:
- discourage or prevent them from any future failure to comply with the Councillors' Code of Conduct;
 - to deter similar conduct by other elected members;
 - protect other individuals who may be impacted adversely by the councillor's conduct;
 - to prevent the Council from being brought into disrepute; and
 - to help ensure that public confidence in councils and councillors is maintained.
- 2.2 The Standards Commission recognises that councillors have been elected democratically to undertake certain tasks and that their ability to help and serve constituents should only be restricted where such a restriction is justified in the specific circumstances of the case.
- 2.3 This guidance is not intended to be exhaustive as it is not possible to cover every activity or duty a councillor may be expected to undertake in their role.

3. Guidance

- 3.1 **Activities:** Councillors who have been suspended by the Standards Commission under Section 19(1)(c) or Section 21 cannot, during the period of suspension, engage in any of the following:
- council decision-making;
 - developing and reviewing policy;
 - regulatory, quasi-judicial and statutory duties;
 - formal scrutiny of service performance;
 - member / officer working groups;
 - attending meetings of any other body on which the councillor is a representative or nominee of the Council;
 - meetings with council officers (other than those an objective individual with knowledge of a councillor's role would consider to be reasonably required to undertake the duties listed under paragraphs 3.3 and 3.4 below); and
 - partnership work with outside bodies.
- 3.2 Councillors who have been suspended by the Standards Commission under Section 19(1)(c) or Section 21 are not, during the period of suspension, to undertake any ceremonial duties or attend any external events or functions where they are representing the Council.

- 3.3 Councillors who have been suspended by the Standards Commission under Section 19(1)(c) or Section 21 are not, during the period of suspension, entitled to send a substitute along to meetings (including committee meetings).
- 3.4 Councillors who have been suspended by the Standards Commission under Section 19(1)(c) or Section 21 should still be entitled, during the period of suspension, to attend and participate in:
- local bodies such as Community Councils, Local Area Forums and voluntary organisations (except meetings of any other body on which the councillor is a representative or nominee of the Council);
 - political group meetings, campaigns and events; and
 - training events;
- unless the Hearing Panel of the Standards Commission has confirmed in its written decision that the councillor should not do so.
- 3.5 Councillors who have been suspended by the Standards Commission under Section 19(1)(c) and Section 21 are entitled, during the period of suspension, to hold constituent surgeries and to:
- seek information on a constituent's behalf in respect of a case;
 - advise Council officers of a constituent's views;
 - help a constituent make their views known to the relevant Council officer;
 - give a constituent advice on the correct procedure to follow and who to contact; and
 - raise concerns a constituent may have about a Council service / decision,
- unless the Hearing Panel of the Standards Commission has confirmed that they should not do so in its written decision.
- 3.6 A Hearing Panel of the Standards Commission, in imposing a suspension under Section 19(1)(c) or Section 21, may restrict the councillor's entitlement to contact officers or hold constituent surgeries and / or assist constituents. This may be in circumstances where it has concerns (based on the complaint, the ESC's interim or final report and / or its findings at a Hearing), that the councillor either poses a threat to officers or constituents, could bring the council or the role of a councillor into disrepute or disrupt the effective operation of the Council. In making such a determination, a Panel will consider the principles of fairness, public interest and proportionality. The following list provides some examples of circumstances where it might do so:
- where the Hearing Panel has found that the councillor was repeatedly or seriously disrespectful to officers or third parties;
 - where the Hearing Panel has found that the councillor participated in, or condoned, any acts of harassment, discrimination, victimisation, bullying or other threatening behaviour; and / or
 - where the Hearing Panel has found that the councillor deliberately abused confidential, privileged or sensitive information for personal gain or for the gain of a close personal associate.
- 3.7 Nothing in this Guidance precludes a councillor who has been suspended by the Standards Commission under Section 19(1)(c) or Section 21 from contacting the council, council officers or using council services in their capacity as a member of the public, and in the same way as any other member of the public would be entitled.
- 3.8 **Access to Information:** Councillors who have been suspended by the Standards Commission under Section 19(1)(c) or Section 21 are entitled, during the period of suspension, to receive papers and correspondence from officers that they would normally expect to receive, had they not been suspended.

4. Assistance

Any councillor or officer requiring assistance in interpreting and applying this guidance should contact the Standards Commission: enquiries@standardscommission.org.uk.

