
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 there has been a breach of a Code of Conduct by the Respondent and, if so, the sanction to 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 of which can be found on its website.

2. Decision-Making on Breach

- 2.1 The three Members of the Standards Commission comprising a Hearing Panel will normally make a decision on whether the Respondent has breached the applicable Code 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 written 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 has been found. All members of a 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 Hearing Panels 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 Hearing Panels may take into consideration when determining the sanction to be applied are outlined in the Policy on the Application of Sanctions.
- 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, after sufficient time has been taken to deliberate fully all issues and discuss any areas of disagreement, 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.