



Ethical Standards in Public Life etc. (Scotland) Act 2000

2000 asp 7

PART 2

ENFORCEMENT

22 Appeals from Commission

- (1) A councillor or member of a devolved public body—
- (a) who is the subject of a finding under section 18 above of a contravention of the councillors' or, as the case may be, the members' code;
 - (b) on whom a sanction under section 19(1)(b) to (e), (4) or (5) above has been imposed; or
 - (c) who has been suspended under section 21(2) above,
- may appeal to the sheriff principal of the sheriffdom in which the relevant council or devolved public body has its principal office.
- (2) The relevant council or, as the case may be, devolved public body is—
- (a) in the case, where—
 - (i) a finding of a contravention of the councillors' or the members' code has been made under section 18 above;
 - (ii) a sanction under section 19(1) above has been imposed following such a finding;
 - (iii) a sanction under section 19(4) or (5) above has been imposed following such a finding,the council or devolved public body to which the finding relates;
 - (b) where suspension under section 21(2) above has been imposed, the council or devolved public body from which the councillor or member has been suspended;
 - (c) where the appeal is in respect of findings which relate to more than one council or devolved public body, any one of those councils or devolved public bodies.
- (3) An appeal—

- (a) under subsection (1)(a) above may be made on one or more of the following grounds—
 - (i) that the Commission’s finding was based on an error of law;
 - (ii) that there has been procedural impropriety in the conduct of any hearing held under section 16(b) above;
 - (iii) that the Commission has acted unreasonably in the exercise of its discretion;
 - (iv) that the Commission’s finding was not supported by the facts found to be proved by the Commission;
 - (b) under subsection (1)(b) above, may be made on one or both of the following grounds—
 - (i) that the sanction imposed was excessive;
 - (ii) that the Commission has acted unreasonably in the exercise of its discretion;
 - (c) under subsection (1)(c) above, may be made only on the ground that the Commission has acted unreasonably in the exercise of its discretion.
- (4) An appeal under subsection (1) above shall be lodged within 21 days of—
- (a) the sending of the finding under section 18 above to the councillor or member;
 - (b) the imposition of the sanction under section 19(1) above; or, as the case may be,
 - (c) the imposition of the suspension under section 21(2) above.
- (5) A finding made or sanction imposed by the Commission continues to have effect notwithstanding the lodging of an appeal under subsection (1) above.
- (6) The sheriff principal may—
- (a) in an appeal under subsection (1)(a) above—
 - (i) confirm the finding under section 18 above;
 - (ii) quash the finding;
 - (iii) quash the finding and remit the matter to the Commission to reconsider its decision;
 - (b) in an appeal under subsection (1)(b) above—
 - (i) confirm the sanction;
 - (ii) quash the sanction and either substitute a lesser sanction or remit the matter back to the Commission;
 - (c) in an appeal under subsection (1)(c) above, quash the suspension;
 - (d) award expenses.
- (7) The decision of the sheriff principal under subsection (1) above is a final judgment for the purposes of section 28 (appeals to the Court of Session) of the Sheriff Courts (Scotland) Act 1907 (c. 51).
- (8) In an appeal from the sheriff principal by virtue of subsection (7) above, the Court of Session has the powers specified in subsection (6) above.
- (9) The Commission may be a party to any appeal under subsection (1) above and in any appeal from the decision of the sheriff principal.