



2014 CHAPTER 8

PART 9

CONDUCT OF COUNCILLORS

Decisions and recommendations

Decision following report

59.—(1) The Commissioner may make an adjudication on any matter by deciding whether or not any person to which that matter relates has failed to comply with the code of conduct.

(2) Where the Commissioner decides that a person has not failed to comply with the code of conduct, the Commissioner must give notice to that effect to the clerk of the council concerned.

(3) Where the Commissioner decides that a person has failed to comply with the code of conduct, the Commissioner must decide whether no action should be taken or whether the nature of the failure is such that the Commissioner should—

- (a) censure the person;
- (b) suspend or partially suspend the person from being a councillor; or
- (c) disqualify the person for being, or becoming (whether by election or otherwise), a councillor.

(4) Where the Commissioner makes such a decision as is mentioned in subsection (3)(a), the Commissioner must censure the person in such terms as the Commissioner thinks appropriate.

(5) Where the Commissioner makes such a decision as is mentioned in subsection (3)(b), the Commissioner must suspend or partially suspend the

person from being a councillor for such period as the Commissioner thinks appropriate but not exceeding one year or, if shorter, the remainder of the person's term of office.

(6) Where the Commissioner makes such a decision as is mentioned in subsection (3)(c), the Commissioner must disqualify the person for being, or becoming (whether by election or otherwise), a councillor for such period as the Commissioner thinks appropriate but not exceeding five years.

(7) Where the Commissioner decides that a person has failed to comply with the code of conduct but should not be censured, suspended or disqualified as mentioned in subsection (3), the Commissioner must give notice to the clerk of the council concerned—

- (a) stating that the person has failed to comply with the code of conduct;
- (b) specifying the details of that failure; and
- (c) stating that the Commissioner has decided not to censure, suspend or disqualify the person.

(8) Where the Commissioner suspends or partially suspends a person under subsection (5), the Commissioner must give notice to the clerk of the council concerned—

- (a) stating that the person has failed to comply with the code of conduct;
- (b) specifying the details of that failure; and
- (c) stating that the person is suspended or partially suspended for the period, and in the way, which the Commissioner has decided.

(9) Where the Commissioner disqualifies a person under subsection (6), the Commissioner must give notice to the clerk of the council concerned—

- (a) stating that the person has failed to comply with the code of conduct;
- (b) specifying the details of that failure; and
- (c) stating that the person is disqualified for being, or becoming (whether by election or otherwise), a councillor for the period which the Commissioner has decided.

(10) A copy of any notice under this section—

- (a) must be given to any person who is the subject of the decision to which the notice relates; and
- (b) must be published in one or more newspapers circulating in the district of the council concerned.

(11) Where the person concerned is no longer a councillor of the council concerned but is a councillor of another council—

- (a) a copy of any notice under this section to the clerk of the council concerned must also be given to the clerk of that other council; and

(b) the reference in subsection (10)(b) to the council concerned is to be treated as including a reference to that other council.

(12) The Commissioner must take reasonable steps to inform any person who made any allegation which gave rise to the adjudication of the Commissioner's decision under this section.

(13) A person who is censured, suspended or disqualified by the Commissioner as mentioned in subsection (3) may appeal to the High Court if the High Court gives the person leave to do so.

(14) An appeal under subsection (13) may be made on one or more of the following grounds—

- (a) that the Commissioner's decision was based on an error of law;
- (b) that there has been procedural impropriety in the conduct of the investigation under section 58;
- (c) that the Commissioner has acted unreasonably in the exercise of the Commissioner's discretion;
- (d) that the Commissioner's decision was not supported by the facts found to be proved by the Commissioner;
- (e) that the sanction imposed was excessive.