



UNDERSTANDING SUSPENSION

The Scout Association only suspends a Leaders Appointment after careful thought and consideration. We recognise the stress associated with such an action on the individual, the Section and Scouting in general.

EXPLANATORY NOTE:

The fact that a member is suspended, stood down or excluded, does NOT in any way infer that the Association has made any determination in relation to the allegations. The purpose of the suspension, standing down, or exclusion, is administrative and serves to protect both that Leader and any alleged complainant/witness during the investigatory process. It is in keeping with the action normally required by the authorities.

WHY SUSPEND?

Suspension is used in a number of different situations, sometimes simply to do with the health of the leader, others until internal disputes are dealt with and of course where there are any allegations of potential legal action.

Over the last ten years or so there have been a significant number of changes in the laws protecting children and young people. They place on organisations, such as ours, strict protocols. Expedient removal of youth members from potential or alleged risk or threat is one such a requirement. This position has been upheld by the court system and we have to be able to show a paper trail of having acted appropriately.

WHAT SHOULD A PERSON TELL OTHERS?

This is entirely up to the person concerned. Most use the old strategy that there is a health issue or family or work pressure that means they will have to miss Scouts for a time, or by saying **“I’m just not available right now...”** In other words “lay low” until it’s resolved.

WHEN SOMEONE IS TOLD THE REASON?

If it is a Scouting matter we can reveal this straight away. The delay comes when the police or authorities are involved.

The authorities cannot reveal details until the person appears before the court and the court decides on what details are to be made public. It is only then we know more than it’s a serious matter being looked at.

The way we find out the name of the alleged perpetrator, is usually when the police seek information about the person’s Scouting history.

The Association believes everyone should be accorded ‘natural justice’ in that they should be given the opportunity to answer any claims put forward. While this involves supplying enough information to identify an incident complained about, privacy considerations may require that we do not release the identity of the actual complainant.

WHY CAN’T A PERSON INVOLVED KNOW WHO HAS MADE THE COMPLAINT?

It’s against the law.

Section 29 of the *Children and Young Persons (Care and Protection) Act 1998* section (f):

(f) the identity of the person who made the report, or information from which the identity of that person could be deduced, must not be disclosed by any person, except with:

- (i) the consent of the person who made the report, or
- (ii) the leave of a court or other body before which proceedings relating to the report are conducted.

Leaders **MUST NOT**, under any circumstances, inform or discuss this at Group Council or Group Committee level, to do so is a breach of the law. Especially if a child is involved but it is also a very serious breach of the Privacy Act. The only information the DC or LIC should share is that **“The leader is just not available right now...”**

DOES THIS MEAN SOMEONE CAN BE DISCIPLINED BY AN ANONYMOUS CLAIM?

NO. If we cannot provide facts so that the person has a chance to answer the claims we cannot proceed without the details being confirmed in some way.

HOWEVER we have a responsibility to investigate the possible truth of such rumours and ensure there are no facts that could require action, that in turn would require us to take such reasonable steps as to afford our members, youth and adults, a safe environment,

PEOPLE TELL THE PERSONS INVOLVED THAT THEY SHOULDN'T TRY TO EXPLAIN TO OTHERS, IS THIS RIGHT?

YES. This is to protect those persons in case the matter goes to court. It is consistent with the advice usually given by lawyers. The information sheet that goes out to those who do know about the suspension says this:

B. The Person against whom allegations have been made.

- i. *In most cases where someone is prosecuted by authorities the accused will have received, or will later receive, legal advice to make no statement or comment to anyone. Most don't appreciate that this means ANYONE at all, including friends and Scouting associates, or that anyone they do speak to could be required by the prosecution, to give evidence and be cross-examined in a criminal hearing as to what the accused said to him or her.*
- ii. *It is very common that the accused will not appreciate that this legal advice is given to protect them. While they may want to explain themselves to Scouting associates, they may not appreciate that this could be seen by a Court as an attempt to affect what a witness may say. They often claim Scouts have abandoned them - but it is in their interest for us not to investigate or hear their story until advised by the State Office that it is appropriate to do so.*
- iii. *They should be encouraged to seek the support of family and friends and a lawyer if they haven't already done so. Any referral should be to their medical practitioner, religious advisor or Community Health Centre or some other accredited agency for support.*
- iv. *In most cases when the person concerned is immediately suspended, the suspension letter gives advice as to the help available within the community. If they are having difficulty finding that help, there is advice to contact the State Commissioner for Members Support who will assist in providing referrals to appropriate professionals.*

SO WHEN DOES THE PERSON GET TO PUT THEIR SIDE OF THE STORY?

In legal cases, as guided by their legal advisor. We are required to have an official clearance to proceed with our inquiries, so as not to interfere with the authorities' processes

. This is usually the place where long delays occur, whilst awaiting the authorities to finalise their side and provide the required official approval/clearance to Scouts.

If the authorities are not involved, they can be asked to put their side within weeks.

WHAT DOES THE PERSON DO IF THE POLICE COME TO THE DOOR?

We cannot give legal advice but would say it is our experience that a good number of lawyers usually tell their clients to say:

"I am under advice not to say anything until my lawyer is present"

WHY DO WE NEED TO PUT A FINAL REPORT IN.?

As happens, when you or Scouts are called upon, by the authorities, we need to be able produce documentation that we have acted in a reasonable manner in an effort to provide a safe environment. A written report on file is vital. Proof is required to demonstrate you or other leaders and/or Commissioners have not been **negligent** in their duties.

Both accused and alleged victim should be aware that ANYONE could be called to give evidence, in Court, as to what was said. They must be encouraged to follow any legal advice they have received especially in regard to "not making statements or giving out explanations".

Leaders **MUST NOT**, under any circumstances, inform or discuss this at Group Council or Group Committee level, to do so is a breach of the law. Especially if a child is involved but it is also a very serious breach of the Privacy Act.

Leader Support Guide 6 is a fuller description of the above and goes to all leaders who have a need to know