



Scottish Police Federation

5 Woodside Place Glasgow G3 7QF

JCC Circular 35 of 2014

Ref: CS/LS

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Dear Colleague

The Police Service of Scotland Referendum Guidance - Information

The SPF recognises that the Police Service of Scotland (PSoS) is trying to manage a very difficult and politically sensitive event as far as the potential activities of police officers are concerned. That being said, we consider the guidance to go too far and beyond the reasonable restrictions placed on police officers in respect of political activity.

It is worth re-stating the restriction here. Paragraph 1 of Schedule 1 to the Police Service of Scotland Regulations 2013 provides'

"A constable must at all times abstain from any activity which is likely to interfere with the impartial discharge of that constable's duties or which is likely to give rise to the impression amongst members of the public that it may so interfere; and, in particular, a constable must not take any active part in politics."

The SPF recognises the test here is fairly subjective but do not accept that expressing an opinion one way or another (whilst off duty) could reasonably be seen to "interfere with the impartial discharge" or give rise to "the impression" that it may do so. Quite simply it is difficult to see how upholding of the law is influenced or can be influenced by supporting either Yes or No.

The SPF agrees it would be unacceptable for any such expression to be made whilst on duty and fully supports the PSoS on this. We have highlighted to the service that "any active part in politics" is a difficult concept to maintain consistency on as for example the decision on 1000 additional police officers; on the single police service, minimum unit pricing on alcohol and more recently corroboration are all de-facto political yet attracted much comment, including support and opposition from police officers of all ranks.

In Scotland, it has always been understood that this phrase might more accurately be expressed as taking an active part in party politics. In our collective memory only two serving officers have been stopped in their attempts to stand as candidates in political elections and one serving officer was stopped delivering political party leaflets. SPF has no difficulty with these actions as they are clearly 'active'. Wearing a badge off duty is not something we see as 'active'. The SPF also considers that denying you the opportunity to inform your decision making by making **ANY** comment on political policy or proposal in any public forum (and by extension asking any relevant question) to be a restriction too far and beyond the authority of the Deputy Chief Constable to apply.

There is a dearth of case law and guidance in the UK. We all know that membership of the BNP is proscribed in England and Wales so by default membership of other political parties is permissible. In Scotland it has clearly not been deemed necessary to make any particular restriction of that sort.

It may be helpful to look at the USA where the Hatch Act for Federal Employees¹ who may not participate in partisan politician activity states:

¹ Hatch Act 1939

These federal employees may:

*register and vote as they choose
assist in voter registration drives
express opinions about candidates and issues
participate in campaigns where none of the candidates represent a political party
contribute money to political organizations or attend political fund raising functions
attend political rallies and meetings
join political clubs or parties
sign nominating petitions
campaign for or against referendum questions, constitutional amendments, municipal ordinances*

These federal employees may not:

*be candidates for public office in partisan elections
campaign for or against a candidate or slate of candidates in partisan elections
make campaign speeches
collect contributions or sell tickets to political fund raising functions
distribute campaign material in partisan elections
organize or manage political rallies or meetings
hold office in political clubs or parties
circulate nominating petitions
work to register voters for one party only
wear political buttons at work (emphasis added)*

The SPF considers this to be a useful measure against which the restrictions on police officers in Scotland could be viewed.

***Health Warning** – The SPF cannot guarantee that any one action could or could not be viewed as breaching the provisions of the 2013 Regulations and would reinforce the need for officers to exercise sound judgement (including any online comment and activity) at all times on the subject of the referendum.

Yours sincerely



Calum Steele
General Secretary