

Report

Report to: **South Lanarkshire Council**
Date of Meeting: **1 November 2023**
Report by: **Chief Executive**

Subject: **Standards Commission's Hearing Outcome**

1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ Advise the Council of the decision of the Standards Commission of Scotland following the Hearing into a complaint against Councillor Monique McAdams held on 30 August 2023.

2. Recommendation(s)

2.1. The Council is asked to approve the following recommendation(s):-

- (1) that the decision of the Hearing Panel of the Standards Commission for Scotland that Councillor Monique McAdams had breached paragraphs 3.16 and 3.17 of the 2018 edition of the Councillors' Code of Conduct be noted; and
- (2) that the decision of the Hearing Panel to censure Councillor McAdams be noted.

3. Background

- 3.1. Complaints were received by the Commissioner for Ethical Standards in Public Life in Scotland (ESC) that on 4th May 2021, Councillor McAdams shared on Facebook confidential information about leisure and culture facilities that had been identified for potential closure.
- 3.2. Following an investigation, the ESC referred the complaint to the Standards Commission for Scotland on the basis that Councillor McAdams had failed to comply with the provisions of the 2018 edition of the Councillors' Code of Conduct, being the version in place at the time of the events, and that in particular she had contravened paragraphs 3.16 and 3.17 of the Code which are as follows:

Confidentiality Requirements

- 3.16 *Council proceedings and printed material are generally open to the public. This should be the basis on which you normally work but there may be times when you will be required to treat discussions, documents or other information relating to or held by the Council in a confidential manner, in which case you must observe such requirements for confidentiality.*
- 3.17 *You will often receive information of a private nature which is not yet public, or which perhaps would not be intended to be public. You must always respect and comply with the requirement to keep such information private, including*

information deemed to be confidential by statute. Legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out Council duties. Such information is, however, for your use as a councillor and must not be disclosed or in any way used for personal or party-political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.

4. Hearing Panel Decision

- 4.1. The Hearing called by the Standards Commission was held in private on 30 August 2023.
- 4.2. The Hearing Panel considered the submissions given orally and in writing at the Hearing on behalf of the Ethical Standards Commissioner and Councillor McAdams and also the evidence led from Councillor McAdams and found that Councillor McAdams had received the information in her capacity as a Councillor; that the information posted on her Facebook profile concerned council facilities; that while the name of her Facebook profile through which the post had been made had been changed due to her campaign to be elected as an MSP, it was the same account she used as a councillor both before and after the campaign; that she was acting in her capacity as a South Lanarkshire Councillor when posting the information and that the Councillors' Code of Conduct applied to her at the time. The Panel concluded that Councillor McAdams had breached paragraphs 3.16 and 3.17 of the Code.
- 4.3. The Panel found that Councillor McAdams should have been aware that the information regarding the future of the leisure facilities was not to be disclosed when she published her Facebook post given that she had been explicitly warned that it was confidential in an email of 29 October 2020 and that an email chain of 1 May 2021 contained a further reminder that the information remained confidential. The Panel determined that Councillor McAdams had disclosed confidential information in breach of paragraph 3.16 of the Code.
- 4.4. The Hearing Panel also noted that paragraph 3.17 of the Code stated that confidential information should not be used for personal or party-political advantage, or to discredit the Council. The Panel noted that Councillor McAdams had disclosed the information in the days before the Scottish Parliamentary election in which she was standing as a candidate and was satisfied that she had done so for personal or party-political advantage in breach of paragraph 3.17 of the Code.
- 4.5. In reaching its decision on sanction, the Panel considered and weighed up all relevant aggravating and mitigating factors. The Panel noted that the requirement for councillors to refrain from disclosing confidential information is a key requirement of the Code and that a failure to do so can damage the reputation and integrity of a Council and can also impede discussions and decision-making. The Panel agreed that in this case, it was legitimate for the Council to have decided that the information be kept confidential until such times as the proposals discussed had been finalised. The Panel noted that this would have afforded officers sufficient time to prepare and manage external communications, which, in turn, would ensure that the Council's position and response were communicated clearly and fully.
- 4.6. The Panel further noted that Councillor McAdams had fully cooperated with the investigation and hearing process and further noted her contribution to public life and to her community. It noted the character references that had been submitted on her behalf from across the political spectrum and that there was no evidence of repeated

behaviour over a long period of time, of dishonesty and/or concealment, or of any previous contraventions of the Code. Additionally, the Panel noted Councillor McAdams' reflections on the matter and her stated insight on the importance of the Code.

4.7. The Panel was concerned that despite it being apparent that the information was confidential, Councillor McAdams chose to share it on her Facebook page. The Panel was satisfied that, on balance, she had done so at least in part for personal or party-political advantage. The Panel was concerned by this finding, noting that Councillor McAdams would have been able to comment publicly on the proposals once the Council's plans had been finalised. The Panel noted the potential impact of her actions on others, particularly council officers who would have been responsible for dealing with any resulting enquiries from the press and public. The Panel was concerned that Councillor McAdams appeared not to have considered this before deciding to disclose the information. The Panel further noted that the disclosure was likely to have resulted in speculation about facilities being closed, before any final decision had been taken, which may have caused undue and unnecessary concern.

4.8. In the circumstances, the Panel concluded that a censure was the appropriate sanction.

4.9. The full decision is available on the Standards Commission for Scotland website.

5. Employee Implications

5.1. There are no employee implications arising from this report.

6. Financial Implications

6.1. There are no financial implications arising from this report.

7. Climate Change, Sustainability and Environmental Implications

7.1. There are no implications for climate change, sustainability or the environment in terms of the information contained in this report.

8. Other Implications

8.1. Section 18 of the Ethical Standards in Public Life etc. (Scotland) Act requires a Council receiving a copy of a Hearing Decision to consider the findings within three months of receipt of the decision report.

9. Equality Impact Assessment and Consultation Arrangements

9.1. This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.

9.2. There is no requirement to carry out a consultation process in relation to this report.

Cleland Sneddon
Chief Executive

4 October 2023

Link(s) to Council Values/Priorities/Outcomes

- ◆ Accountable, Effective, Efficient and Transparent
- ◆ Focused on people and their needs

Previous References

None

List of Background Papers

None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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