

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held online, on Wednesday 30 August 2023.

Panel Members: Ms Suzanne Vestri, Chair of the Hearing Panel
Mr Paul Walker
Ms Helen Donaldson

The Hearing arose in respect of a Report referred by Mr Ian Bruce, the Ethical Standards Commissioner (the ESC), further to complaint reference LA/SL/3558b, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Monique McAdams (the Respondent).

The ESC was represented by Mrs Angela Glen, Senior Investigating Officer. The Respondent was represented by Mr Steve Farrell, Solicitor.

Referral

Following an investigation into complaints received on 23 June 2021 about the conduct of the Respondent, the ESC referred a report to the Standards Commission on 3 March 2023, in accordance with the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act).

The complaints alleged that, on 4 May 2021, the Respondent shared on Facebook confidential information about leisure and culture facilities that had been identified for potential closure. The substance of the referral was that, in doing so, the Respondent had failed to comply with the confidentiality provisions of the 2018 version of the Code (being the version of the Code in place at the time) and, in particular, that she had contravened paragraphs 3.16 and 3.17, which were 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.

Hearing held in Private

Following a request made by the Respondent's representative on behalf of the Respondent, the Hearing Panel agreed to hold the Hearing in private. This meant that the Hearing was not livestreamed on the Standards Commission's website. The Panel determined, with reference to the [Standards Commission's Hearing Rules](#), that a decision to hold the Hearing in private would not cause prejudice or unfairness to either party and that the circumstances behind the request outweighed the public interest in holding the Hearing in public.

Evidence Presented at the Hearing

Submissions made by the ESC's Representative

The ESC's representative advised that two Complainers had complained to the ESC about the Respondent's conduct. The ESC's representative further advised that in their original complaints, it had been alleged that the Respondent had disclosed confidential information by way of a Facebook post dated 5 May 2021. The ESC's representative noted that, following investigation, it was determined that the information contained in the post of 5 May 2021 was already in the public domain, and, as such, could not be considered to be confidential. The ESC's representative advised, however, that during the investigation, a further Facebook post by the Respondent dated 4 May 2021 was uncovered and it is that post that the ESC's investigation centred upon.

The ESC's representative advised that she would be covering three key issues in her submissions, being:

1. whether the Respondent was acting as a councillor at the time of the events in question;
2. if she was so acting, which parts of the Code applied to the alleged conduct and whether the ESC considered a breach of the Code had occurred; and
3. if it was considered that a breach of the Code had occurred, whether the ESC considered that a restriction on the Respondent's right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR) could be justified.

In relation to the question of capacity, the ESC's representative noted that the Respondent disputed that she was acting as a councillor when posting the Facebook post on 4 May 2021. The ESC's representative advised, however, that:

- the information contained in the post had been received by the Respondent in her capacity as a councillor;
- the post included references to another councillor, council business, and the council's administration;
- the Facebook account in question, while it had been renamed from 'Councillor Monique McAdams Central Scotland List Candidate' to 'Monique McAdams for East Kilbride', was the same account (being the Respondent's sole professional Facebook account) and as such was 'followed' by the same people;
- internet searches for the Respondent using the search parameter 'councillor' would have led searchers to the account, regardless of how the account was named at the time

and, as such, contended that the Respondent could reasonably be perceived to have been acting as a councillor at the time of the post.

In relation to the post itself, the ESC's representative contended that it contained confidential information, and, as such, that the Respondent had contravened the confidentiality requirements of the Code. The ESC's representative advised that:

- on 29 October 2020, the Respondent's Group Leader sent an email to the Council's Labour group attaching copies of briefing papers prepared for the Council's Cross-Party Working Group on South Lanarkshire Leisure and Culture (CPWG) by the Executive Director of Community and Enterprise Resources, dated 27 October 2020. In the email, the Group Leader advised that the briefing papers were to "remain confidential at this time". The briefing papers concerned the potential closure of some outdoor bowling and golf facilities in the council area. The Respondent received that email.
- on 30 April 2021, the Group Leader then issued a news release to various local news outlets entitled: 'Labour Slam Lack of Transparency Over Facility Closures', which was later that day emailed to the Council's Labour Group (which included the Respondent). When another councillor asked, in response, if she could share the news release on social media, the Group Leader responded stating that she could and that she should adapt it for her "own purposes too". The Group Leader copied all other group members, including the Respondent, into his response.
- later, on 30 April 2021, the Secretary of the Constituency Labour Party sent an email to all South Lanarkshire Labour members, including the Respondent, who was specifically named in the email.

The email attached a copy of the Group Leader's news release, and stated that it was "critically important that these plans from the SNP minority administration are out in full public view".

- on 1 May 2021, in reply to the secretary's email, the Respondent's election agent sent an email in which he indicated that he hoped the Respondent could use the news about the potential cuts in her campaign for election to the Scottish Parliament. Having been forwarded the election agent's email, the Group Leader sent a further email on 1 May in which he noted that the issues remained confidential. In response, the election agent questioned the confidentiality of the information and reiterated that he hoped the Respondent would be able to use the information to her advantage. The Respondent was copied into this email chain.
- on 4 May 2021, the Respondent published a Facebook post in which she shared information about the potential closure of certain leisure facilities in South Lanarkshire, one of which was specifically named.
- on 5 May 2021, STV News published an article on its website entitled 'Leaked report shows dozens of council venues at risk of closure'. The article states that 29 'red' and 21 'amber' venues had been identified in "a leaked draft report" for closure or community transfer. The article listed all the red and amber facilities.
- the Scottish Parliamentary election was held on 6 May 2021.

The ESC's representative contended that, given the above points, the Respondent is and was fully aware that the work of the CPWG was confidential at the time she made her Facebook post in which one of the facilities earmarked for closure was specifically named. As such, the ESC's representative recommended that the Respondent had, on the face of it, breached paragraph 3.16 of the Code.

The ESC's representative noted that the evidence indicated that the Respondent's party's stance was that constituents would be unhappy about the proposed closures. The ESC's representative further noted that the information in question had been disclosed in the days before the Scottish Parliamentary election, and that the Respondent had been encouraged to use it in her campaign. The ESC's representative contended that it was evident that the information had been disclosed by the Respondent deliberately in order to gain political capital and to discredit the council's SNP administration. As such, the ESC's representative recommend that the Respondent had, on the face of it, also breached paragraph 3.17 of the Code.

Having recommended that the Respondent had, on the face of it, breached paragraphs 3.16 and 3.17 of the Code, the ESC's representative noted she was obliged to consider the Respondent's right to freedom of expression under Article 10 ECHR. The ESC's representative noted that the right to freedom of expression was not absolute and that restrictions can be imposed to prevent the disclosure of information received in confidence, provided that any restriction is for relevant and sufficient reasons and is proportionate to the legitimate aim being pursued.

The ESC's representative noted that the public interest could, in some circumstances, be considered strong enough to override a legally imposed duty of confidentiality. The ESC noted, nevertheless, that the Code requires councillors to maintain confidentiality in order to:

- maintain standards and ensure good conduct;
- enable councillor officers to undertake their duties without undue disturbance;
- protect the bond between councillors and officers;
- allow the Council to operate effectively; and
- ensure the council is not brought into disrepute and that public confidence in the council, the role of a councillor and democracy itself is not undermined

and considered that all of the above aims had been impacted by the Respondent's disclosure of the information in question.

In this case, the ESC's representative noted that as the information in question concerned a matter of public interest, the Respondent would enjoy enhanced protection in respect of her Article 10 rights. The ESC's representative noted, nevertheless, that the Respondent would have had the opportunity to express her views about the proposed closures after it had entered the public domain. The ESC's representative stated that there was no question that the information would be released into the public domain when the plans were finalised, which, she contended, the Respondent would have known. The ESC's representative contended that, instead of waiting for the information to be made public before commenting, the Respondent chose to use the confidential information as political capital before the election. The ESC's representative argued, therefore, that a restriction on the Respondent's Article 10 rights, that a finding of breach and imposition of a sanction would entail, was justified.

In response to questions from the Panel, the ESC's representative advised that she considered that information entered the public domain when it was no longer enclosed within a 'group' such as, in this case, the council's Labour Group or the local Labour Party membership. The ESC's representative contended that prior to the Respondent's Facebook post of 4 May 2021, the information in question was not available publicly and was still information that was internal and confidential to the council as an organisation. The ESC's representative acknowledged the Respondent's position that the information was an 'open secret', but contended that as there was not yet consensus at a Council level regarding the final closure plans, the information remained confidential.

Evidence from the Respondent

The Respondent's representative led evidence from the Respondent.

The Respondent refuted that she had released any confidential information. When questioned as to her definition of the public domain, the Respondent advised that when a matter was being talked about "on the street and in hairdressers", for example, that matter was in the public domain. The Respondent advised that she had heard that the information in question was being spoken about 'on the street' and that this had precipitated her Group Leader to call a meeting to discuss the matter. The Respondent advised that, at that meeting, the Group Leader told attendees that he had taken advice, and that the disclosure of the information was permissible as it was already in the public domain.

When asked how many people she thought understood and knew about the information in question, the Respondent advised that in addition to Labour Group members, the information had been shared with around 300 Labour party members in East Kilbride alone. The Respondent suggested that the information would also have been shared with Labour party members further afield in South Lanarkshire, which, in her estimation, could have been 2,500 to 3,000 people. The Respondent noted that this information had been shared on the South Lanarkshire Labour Facebook page.

The Respondent advised that she had not, at any time, spoken to the media about information in question. The Respondent noted that it had been her Group Leader who had spoken with the media, and also that he had done so before her Facebook post.

Under cross-examination by the ESC's representative, the Respondent disputed that the specific named closure she had mentioned in her Facebook post had not been shared in the emails of 30 April 2021, maintaining that the facility in question had been listed in that email exchange.

The Respondent accepted that she had made the Facebook post in question at 19:55 on 4 May 2021, and noted that at the time it had been posted, her Facebook account had been entitled 'Monique McAdams for East Kilbride'. The Respondent advised that she had chosen to make the post at that time because she believed the information was already in the public domain. The Respondent refuted that she was acting as a councillor at the time of the post, reiterating that the post had been made in her capacity as a candidate for the Scottish Parliamentary elections set for 6 May 2021.

Under cross-examination by the ESC's representative, the Respondent advised that she has only one 'public' Facebook account, which she uses for both councillor business, and for election candidature purposes.

The Respondent advised that she was disappointed at the insinuation that she had been told to make the post. The Respondent acknowledged the conversation that had taken place between her election agent and the Group Leader regarding the release of the information, but stated that she had made her own decision to make the post.

In response to questions from the Panel, the Respondent advised that she first obtained the information in question in October 2020, and that upon initial receipt, she understood the information to be of a confidential nature. The Respondent reiterated that at the time she shared the information, she believed it to have been in the public domain.

The Respondent advised that, on reflection, if she had known what the outcome of her sharing of the information would have been, she would not have made the Facebook post.

Submissions made by the Respondent's representative

The Respondent's representative first asked the Panel to consider whether the information in question was already in the public domain. The Respondent's representative contended that the political fraternity was no different to the public domain, and indeed that there was no definition, as such, of the term 'public domain'. The Respondent's representative suggested that the term broadly meant that members of the public were aware of information. Given the Respondent's testimony about the matter being discussed by the public at large, the Respondent's representative contended that it was more probable than not that the information was already in the public domain before the Respondent made her Facebook post. The Respondent's representative contended that the ESC should not have determined that the release of the news story on 5 May 2021 was the date on which the information entered the public domain. Instead, the Respondent's representative suggested, the news story should have been viewed as one fragment of a larger picture determining whether the information was in the public domain. The Respondent's representative also noted that in the testimonials gathered on behalf of the Respondent, other people had stated that the information in question was already in the public domain at the time of the Facebook post.

The Respondent's representative highlighted his concerns about the ESC's investigation, noting that it had neither been unfettered, nor as comprehensive as it should have been. The Respondent's representative noted that the initial terms of reference for the investigation had been changed, and further noted that the Respondent had contended that she had shared documentary evidence with the ESC that had not been included within the final investigation report.

Summing up by the ESC's representative

In summing up her submissions, the ESC's representative advised that the crux of the matter related to the capacity in which the Respondent was acting at the time of the post in question, and whether the information was confidential.

In terms of capacity, the ESC's representative acknowledged that at the time the post had been made the Respondent's Facebook account name referred to her candidature and not her councillor status. The ESC's representative contended, however, that this did not change the fact that it was the same Facebook account the Respondent used for her councillor business. The ESC's representative noted again that the post in question referred to the council, council issues and a fellow councillor. The ESC's representative contended that all these points, taken together, meant that it was reasonable to perceive that the post was made by the Respondent in her capacity as a councillor.

In relation to the confidentiality of the information released, the ESC's representative contended that the first time the public had heard of the proposed closure of the specific venue named in the Respondent's post was in the post itself. The ESC's representative noted that the Respondent's party Group Leader's news release of 30 April 2021 did not refer to the name of that particular venue. The ESC's representative further noted that although the Group Leader encouraged others to share his news release, his email of encouragement also did not contain any mention of the venue in question.

The ESC's representative referred again to the email of 30 April 2023 sent by the secretary of the Constituency Labour Party, in which he stated that it was "critically important that these plans from the SNP minority administration are out in full public view". The ESC's representative contended that it would not have been necessary for the secretary to state this if the information was already in the public domain. The ESC's representative reiterated her contention that information shared among Labour Group members, a select group, cannot be classed as being in the public domain.

Summing up by the Respondent's representative

In summing up his submissions, the Respondent's representative reiterated that the Respondent had not leaked confidential information, and had at no time spoken with the media regarding the information in question. The Respondent's representative noted that the Respondent's Group Leader had chosen to share information with the media, and that any leaked confidential information had been leaked by him and not the Respondent.

The Respondent's representative refuted that the Respondent had used the information for political advantage, noting that she had been aware of it for seven months prior to her Facebook post and theoretically had ample opportunity to use it for political capital during that time. The Respondent's representative noted that the Respondent had not done so, and that the Respondent had made her post at the time she did because the information was, by that stage, in the public domain.

The Respondent's representative reminded the Panel of his earlier argument that there was no definition of the public domain, and reiterated his contention that members of the public already knew about the proposed closures prior to the Respondent's post.

The Respondent's representative reminded the Panel of the Respondent's earlier contention that the information had been shared with 300 party members in the East Kilbride area alone, and many more in other parts of the wider council area. The Respondent's representative contended, therefore, that the information had been shared so widely that it could properly be considered to have been in the public domain at the time the Respondent made her Facebook post. To exemplify his contention, the Respondent's representative noted that at the point at which the ESC's representative argued the information had entered the public domain, being the publication of the STV news story of 5 May 2021, not every member of the public would have read that story. That did not in itself mean, however, that the information was not in the public domain.

DECISION

The Hearing Panel considered the submissions made both in writing and orally at the Hearing. It concluded that:

1. The Councillors' Code of Conduct applied to the Respondent, Councillor McAdams.
2. The Respondent had breached paragraphs 3.16 and 3.17 of the Code

Reasons for Decision

Applicability of the Code: The Panel was of view that it would be reasonable for a member of the public, with knowledge of the relevant facts, being:

- the information posted concerned council facilities;
- the Respondent obtained the information through her position as a councillor;
- the information was sent to the Respondent's council email address by a fellow councillor; and
- while the name of her Facebook profile (through which post in question was 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

to conclude the Respondent was acting in the capacity of a South Lanarkshire councillor when posting the information. As such, the Panel was satisfied that the Code applied to the Respondent.

Stage 1: Whether the Respondent's conduct amounted, on the face of it, to a breach of the Code

In reaching its decision as to whether there had been a breach of the Code, the Panel took the following three-stage approach, as outlined in the Standards Commission's Advice Note on the Application of Article 10 of the ECHR.

- First, it would consider whether the facts found led it to conclude, on the balance of probabilities, that the Respondent had failed to comply with the Code.
- Second, if so, it would then consider whether such a finding in itself was, on the face of it, a breach of the Respondent's right to freedom of expression under Article 10.
- Third, if so, the Hearing Panel would proceed to consider whether the restriction involved by the finding was justified by Article 10(2), which allows restrictions that are necessary in a democratic society.

The Panel noted the timeline of events, and in particular that:

- On 29 October 2020 the Respondent received an email from the Council's Labour Group Leader containing documents broadly recommending the closure of certain leisure facilities in South Lanarkshire. The email stated that the documents were confidential.
- On 30 April 2021, the Group Leader emailed a news release to the Respondent (and others) advising that their party was concerned about a lack of transparency over the potential closure of the facilities. The recipients were encouraged to share the news release.
- On 1 May 2021 the Respondent's election agent sent an email in which he indicated that he hoped the Respondent could use the news about the potential cuts in her campaign for election to the Scottish Parliament. Having been forwarded the election agent's email, the Group Leader sent a further email on 1 May in which he noted that the issues remained confidential. In response, the election agent questioned the confidentiality of the information and reiterated that he hoped the Respondent would be able to use the information to her advantage. The Respondent was copied into this email chain.
- the Respondent, on 4 May 2021, published a Facebook post in which she shared information about the potential closure of certain leisure facilities in South Lanarkshire, referring to one facility by name.

The Panel found that in her Facebook post, the Respondent specifically named one of the facilities potentially facing closure. The Respondent also criticised both the closure plans and her election opponent.

The Panel considered that the Respondent 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 she had been explicitly warned it was confidential in the email of 29 October 2020. The Panel noted that the email chain of 1 May 2021 contained a further reminder that the information remained confidential. The Panel acknowledged the Respondent's representative's argument that the information in question was already in the public domain and as such could no longer be considered to be confidential. Nonetheless, the Panel considered that the sharing of the information in question among members of the Labour Group and wider Labour Party membership neither constituted the information being in the public domain nor removed the requirement for the confidentiality of the council's documents to be maintained until they were ready to be

released by the Council. The Panel determined therefore, that the Respondent had disclosed confidential information, in breach of paragraph 3.16 of the Code.

The Panel 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 the Respondent disclosed the information in the days before the Scottish Parliament election, in which she was standing as a candidate. Having reviewed all the available evidence, including the emails sent by the Respondent's election agent and in particular the content of the post itself, the Panel was satisfied that the Respondent had disclosed the information for personal or party-political advantage. The Panel found, therefore, that the Respondent had also, on the face of it, breached paragraph 3.17 of the Code.

Stage 2: Whether any findings that the Code had been contravened would be a breach of the Respondent's right to freedom of expression under Article 10 of the ECHR

The Panel noted that enhanced protection of freedom of expression under Article 10 ECHR can apply to all levels of politics, including at a local government level¹. The Panel further noted that the Courts have held that political expression is a broad concept and that there is little distinction between political discussion and discussion of matters of public concern.

The Panel accepted that the information that had been disclosed concerned a matter of public concern, being the potential closure of local leisure facilities. The Panel concluded, therefore, that the Respondent benefitted from the enhanced protection of freedom of expression afforded to politicians under Article 10 of the European Convention on Human Rights.

Stage 3: Whether any restriction on the Respondent's right to freedom of expression involved by a finding of a contravention of the Code would be justified by Article 10(2) of the ECHR

The Panel noted, nevertheless, that the right to freedom of expression is not absolute. Article 10(2) allows restrictions, such as the imposition of a sanction for a breach of a regulatory code of conduct, to be imposed to prevent the disclosure of information received in confidence. This is provided that any restriction is for relevant and sufficient reasons and is proportionate to the legitimate aim being pursued.

The Panel noted that it was required to undertake a balancing exercise, weighing the right to freedom of expression enjoyed by the Respondent (and particularly the enhanced right to which they were entitled in this case), against any restriction imposed by the application of the Code and the imposition of any sanction.

The Panel noted, in this case, that there was no question that it was intended that any information regarding the closure of leisure facilities would, at the appropriate time, be made public. The Panel agreed, however, that there had been a need to preserve confidentiality until any final decision was made, so that officers were able to perform their duties and to avoid any undue and unnecessary concern amongst members of the public. The Panel further agreed that the requirement to keep the information confidential was necessary to protect the mutual bond of trust and confidence between councillors and officers that enables local government to function effectively.

As such, the Hearing Panel determined that the imposition of a restriction in the circumstances was relevant, sufficient, and proportionate. The Hearing Panel concluded, therefore, that it was satisfied that a finding of breach, and subsequent application of a sanction, would not contravene Article 10.

Evidence in Mitigation

¹ *Jerusalem v Austria (2003) 37 EHRR 25*

The Respondent's representative referred to the numerous character statements submitted attesting, he contended, to the Respondent's exemplary conduct as a councillor. The Respondent's representative noted that these statements had been obtained from across the party-political spectrum, and highlighted in particular the references to the Respondent's honest and integrity.

SANCTION

The decision of the Hearing Panel was to censure the Respondent, Councillor McAdams.

The sanction was made under the terms of section 19(1)(a) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Reasons for Sanction

In determining the appropriate sanction, the Standards Commission considered:

- firstly, whether the interference (i.e. the proposed sanction) was the minimum necessary, or whether less restrictive means could be employed; and then
- secondly, whether the benefit of that least necessary measure outweighs its adverse impact on the Respondent's right to freedom of expression. For example, whether any benefit in applying a sanction in respect of protecting the rights and reputations of others, and to ensure good administration which enables local government to function effectively, would outweigh any impact on the Respondent.

In making its decision on sanction, the Panel had regard to the Standards Commission's Policy on the Application of Sanctions. A copy of the policy can be found on the Standards Commission's website, here: <https://www.standardscommissionscotland.org.uk/cases/hearing-rules>. The Panel began by assessing the nature and seriousness of the breaches of the Code.

The Panel noted that the requirement for councillors to refrain from disclosing confidential information is a key requirement of the Code. The Panel noted 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 a time 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.

Having considered the nature and seriousness of the breach, the Panel considered the aggravating and mitigating factors as set out in the Policy on the Application of Sanctions, beginning with those in mitigation. The Panel noted that mitigating factors are those which may lessen the severity or culpability of the breach.

The Panel noted, in mitigation, that the Respondent had co-operated fully with the investigative and Hearing processes, and further noted her contribution to public life and to her community and a number of character references from across the political spectrum. The Panel noted 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 by the Respondent. Additionally, the Panel noted the Respondent's reflections on the matter and her stated insight on the importance of the Code. The Panel further noted that the Respondent had been encouraged to disclose the information by her Group Leader.

The Panel then proceeded to consider the aggravating factors; being ones that may increase the severity or culpability of the breach.

The Panel was concerned that, despite it being apparent that the information in question was confidential, the Respondent chose to share it on her Facebook page. The Panel noted that it had found that the Respondent had disclosed the information and that it was satisfied, on balance, that she had done so at least in part for personal or party-political advantage. The Panel was concerned by this finding, noting that the Respondent would have been able to comment publicly on the closure proposals once the Council's plans had been finalised.

The Panel noted the potential impact of the Respondent's 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 the Respondent appeared not to have considered this before making the decision 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.

In the circumstances, the Panel concluded that a censure, being the minimum sanction available to it, was the appropriate sanction.

RIGHT OF APPEAL

The Respondent has a right of appeal in respect of this decision, as outlined in Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Date: 13 September 2023



**Ms Suzanne Vestri
Chair of the Hearing Panel**