



27 June 2023

MEDIA RELEASE

SOUTH LANARKSHIRE COUNCILLOR SUSPENDED FOR DISCLOSING CONFIDENTIAL INFORMATION

Following a Hearing held in Hamilton on 27 June 2023, South Lanarkshire Councillor Joe Fagan was found by the Standards Commission to have breached the Councillors' Code of Conduct by disclosing confidential information to the press. Cllr Fagan was suspended for a period of two months.

Suzanne Vestri, Standards Commission Member and Chair of the Hearing Panel, said: "the obligation on councillors to refrain from disclosing confidential information is a key requirement of the Councillors' Code of Conduct. A failure to respect confidentiality 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 and officers had sufficient time to prepare and manage external communications. This would ensure the Council's position and response were communicated clearly and fully."

Having reviewed all the available evidence, the Panel was satisfied that it was clear that the information was confidential at the time Cllr Fagan disclosed it to the press. The Panel was satisfied that there was evidence that Cllr Fagan disagreed strongly with the proposal to close the facilities in question. It noted that the disclosure had been made a week before the Scottish Parliament election on 6 May 2021 and considered that the Respondent was motivated to disclose the information, at least in part, for political gain.

The Panel noted, in mitigation, that Cllr Fagan had co-operated fully with the investigative and Hearing processes, and further noted his contribution to public life and to his community. Furthermore, 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 Cllr Fagan.

The Panel found, nevertheless, that Cllr Fagan had deliberately disclosed the information and that he had done so, at least in part, for political gain. 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 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 suspension of two months was an appropriate sanction. The Panel noted that it did consider the imposition of a longer suspension given the importance of the confidentiality provisions of the Code but, in light of the extensive mitigation provided, the Panel determined that a period of two months was justified.

Ms Vestri noted, “The Panel was disappointed to note that Cllr Fagan had disclosed the information, despite the version of the Code in place at the time clearly stating that information provided to councillors for use in that role 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. The Code states that the requirement to maintain confidentiality also applies in instances where a councillor holds the personal view that such information should be publicly available.”

A full written decision will be published on the Standards Commission’s website within 14 working days.

NOTES FOR EDITORS

1. Complaints about councillors are made to the Ethical Standards Commissioner (ESC). The Standards Commission and ESC are separate and independent, each with distinct functions. The ESC is responsible for investigating complaints. Following investigation, the ESC will refer its report to the Standards Commission for Scotland for adjudication. Email: info@ethicalstandards.org.uk, <https://www.ethicalstandards.org.uk/> Tel: 0300 011 0550
2. The [Standards Commission for Scotland](#) is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies including in education, environment, health, culture, transport, and justice. The role of the Standards Commission is to encourage high ethical standards in public life; promote and enforce the Codes of Conduct; issue guidance to councils and devolved public bodies and adjudicate on alleged breaches of the Codes of Conduct, applying sanctions where a breach is found.
3. The [Codes of Conduct](#) outline the standards of conduct expected of councillors and members of devolved public bodies. In local authorities, there is one Code of Conduct, approved by Scottish Parliament, which applies to all 1227 councillors elected to Scotland’s 32 Local Authorities.