

## **Local Government Act (Northern Ireland) 2014**

### **In the Matter of Councillor Cathal King**

**Case Reference: 202401096**

**(Newry Mourne & Down District Council)**

**Decision of the Northern Ireland Local Government Commissioner for Standards, Ms Margaret Kelly following an Adjudication Hearing held on 28 March 2025**

**The Deputy Commissioner (Sean Martin) and Councillor Cathal King were present in person.**

**My Legal Assessor was Michael Wilson, Solicitor.**

### **INTRODUCTION**

By virtue of section 55(1)(a) of the Local Government Act (NI) 2014, the Commissioner may investigate a written allegation made by any person that a Councillor (or former Councillor) has failed, or may have failed, to comply with the Northern Ireland Local Government Code of Conduct for Councillors (“the Code”).

#### **1. BACKGROUND**

On 30 July 2024, Councillor Cathal King (“the Councillor”), a member of Newry Mourne and Down District Council (“the Council”) self-referred an alleged failure to comply with the Code.

The Councillor stated that he was arrested and charged by the PSNI on 6 July 2024 with being in charge [of a vehicle] ‘*with excess alcohol.*’

The Councillor pleaded guilty to the offence at a hearing before the Magistrates’ Court on 31 July 2024. The Councillor was convicted of the offence on the same day and was ordered to pay a fine of £200.00 together with an offender levy of £15.00. He also received 10 penalty points with respect to his driving licence.

The authority to investigate alleged breaches of the Code has been delegated by me to the Deputy Commissioner with the support of the Local Government Ethical Standards (“LGES”) Team. The Deputy Commissioner is solely responsible for the receipt, assessment and, where appropriate, investigation of an allegation of a failure to comply with the Code.

I have no role in the receipt, assessment or investigation of an allegation of a breach of the Code, and I am not involved in a decision by the Deputy Commissioner to refer a matter for adjudication.

The Deputy Commissioner submitted an Investigation Report dated 15 January 2025 to me in accordance with section 55 of the Local Government Act (Northern Ireland) 2014. The Deputy



Commissioner's investigation concluded that the circumstances giving rise to the allegation were likely to point to a breach of **paragraph 4.2** of the Code, which states:

***'You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.'***

Having considered the Investigation Report, I accepted the matter for Adjudication on 30 January 2025.

## **2. ADJUDICATION REVIEW - 14 February 2025**

An Adjudication Review ("AR"), which is a private administrative meeting, was held remotely via Teams on 14 February 2025 in order to determine procedural matters for the ongoing management of the Adjudication. The Deputy Commissioner and the Councillor attended.

Prior to the AR, the Councillor completed and returned the Councillor Response Form to the LGES office on 7 February 2025, in which he accepted all Findings of Fact set out in the Investigation Report and that he breached paragraph 4.2 of the Code.

With the agreement of the Councillor and the Deputy Commissioner, the first two stages of the Adjudication (Stage 1 (the Findings of Fact) and Stage 2 (whether on the facts found there had been a Breach of the Code)) were determined on the papers without a hearing.

## **3. STAGE 1 - FINDINGS OF FACT**

Having considered the contents of the Investigation Report, I determined the following facts.

1. The Councillor was co-opted to the Council on 20 December 2022 and has served continuously from then, having been elected pursuant to the local government elections on 18 May 2023.
2. In accordance with section 7 of the Local Government Act (NI) 1972, the Councillor signed Declarations dated 20 December 2022 and 20 May 2023 respectively, affirming that he had read and would observe the Code.
3. In the early hours of 6 July 2024, the Councillor was arrested by the PSNI in Newry city centre and charged with being in charge of a motor vehicle with excess alcohol contrary to Article 16(1)(b) of the Road Traffic (Northern Ireland) Order 1995.
4. The matter was dealt with before Newry Magistrates' Court on 31 July 2024. The Councillor pleaded guilty at the hearing on 31 July 2024 and was convicted of the offence outlined at no.3 above. The Councillor was ordered to pay a fine of £200.00 together with an offender levy of £15.00. His driving licence was also endorsed with 10 penalty points.



5. Councillor King notified my office via email at 8.43pm on 30 July 2024 that he was in Court the following day having been “*charged with one count of being in charge with excess alcohol.*” He further stated “*The reason as to notifying the ombudsman is that I am in the position of an elected representative at Newry and Mourne District Council and it is my responsibility to uphold the standards outlined in the code of conduct that I make contact with the ombudsman office.*”
6. The Councillor’s conviction was reported in the Belfast Telegraph on 9 August 2024.
7. The Councillor stated at interview with the LGES team on 26 September 2024:

*“..it was a very stupid and foolish thing to do..*

*I am very sorry for what has happened and I can assure you that nothing like this will ever happen again.”*

The Councillor was of the view that his conduct breached paragraphs 4.1, 4.2 and the Principle of Public Duty as set out in the Code.

#### **4. STAGE 2 – DETERMINATION ON BREACH**

The evidential test for consideration of the ‘Finding of Facts’ is whether or not it has been established, on the ‘balance of probabilities’, that there has been a failure to comply with the Code. Having established the facts and considered all of the available evidence including the content of the Investigation Report, and the Councillor Response Form, I found the following:

1. The Code applied to the Councillor.
2. The Councillor failed to comply with **paragraph 4.2** of the Code which states that:  
*‘You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a Councillor, or your Council, into disrepute’.*
3. Whilst the Councillor accepted at interview on 18 September and 26 September 2024 that he had failed to comply with paragraph 4.2 of the Code in relation to his conduct on 6 July 2024, and at the AR on 14 February 2025, it is important that I bring my own judgment to bear on the question of breach.
4. In reaching my decision on the Councillor’s failure to comply with the Code, I have taken into account the Commissioner’s Guidance on the Code.
5. The Commissioner’s Guidance on the Code (para. 4.5.4) states that when considering whether a councillor’s actions or behaviour could reasonably be regarded as bringing their position, or their council, into disrepute, the Commissioner will assess:



- a) *whether that conduct is likely to diminish the trust and confidence the public places in your position as councillor, or your council, or is likely to result in damage to the reputation of either; and*
  - b) *whether a member of the public – who knew all the relevant facts – would reasonably consider that conduct as having brought your position as a councillor, or your council into disrepute.*
6. I am satisfied that the conduct of the Councillor, resulting in his conviction for a motoring offence for which he received a fine and 10 penalty points, which was reported in the national media, is likely to have diminished the trust and confidence that the public places in him as a councillor.
  7. The Commissioner’s Guidance further explains that a councillor’s actions, whether as a councillor or in their private life, have the potential to adversely impact on their position as a councillor or their council. In particular, the guidance refers to ‘*conduct that results in a criminal conviction, such as a conviction for fraud or assault*’. This guidance indicates that a finding of disrepute requires the conduct in question to be serious in nature.
  8. Although the Councillor was not charged or convicted of an offence of driving with excess alcohol, he pleaded guilty to and was convicted of being in charge of a motor vehicle while over the legal limit for alcohol consumption. This remains a serious rather than a minor criminal offence resulting in the Councillor receiving 10 penalty points. I am satisfied therefore that the Councillor has brought his position as a councillor into disrepute.
  9. The Councillor stated in both of his interviews with the LGES Team that he believed his role as a councillor **and** the Council was brought into disrepute by his conduct. I have considered the impact of the Councillor’s arrest and conviction on the Council and whether the Councillor’s breach of the Code brought the Council into disrepute. Although the media article reporting the Councillor’s conduct and conviction identified him as a member of the Council, I note that the Councillor has apologised to his party and to this Office while demonstrating remorse for his actions. The Councillor also self-referred to my Office prior to being convicted for the offence and has accepted that his conduct fell short of the standards required by the Code.
  10. I have considered the evidence and I agree with the Deputy Commissioner’s finding that the Councillor’s conduct and subsequent conviction has not brought his Council into disrepute.
  11. I am aware from the Investigation Report that the Deputy Commissioner also considered whether the Councillor breached **paragraph 4.1** of the Code which states:-  
  
*“Councillors hold public office under the law and must act:  
(a) lawfully;  
(b) in accordance with the Code; and  
(c) in accordance with the standing orders of your council.”*



(ii) the Public Duty Principle which provides “*you have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in you.*”

These provisions of the Code only apply in circumstances where a councillor is acting in the role of a Councillor. I am satisfied that during the course of the incident that led to the Councillor’s arrest, he was not acting in the role of a Councillor and therefore there is no requirement for me to consider that particular aspect of the Code.

## **CONCLUSION**

The Councillor failed to comply with paragraph 4.2 of the Code.

## **5. STAGE 3 - SANCTION**

A public Hearing was held on Friday 28 March 2025 at 11.30am at Progressive House, 33 Wellington Place, Belfast, to determine Sanction. The Deputy Commissioner and the Councillor attended. I was assisted by my Legal Assessor, Michael Wilson, Solicitor, whose function at each stage of the Adjudication has been to ensure a fair hearing, particularly in circumstances where the Councillor was unrepresented.

The Councillor was informed of his ongoing right to be represented in the Adjudication process and/or to have someone attend with him. He was content to proceed without representation. My Legal Assessor reminded me of my obligation to continue to have proper regard to the Councillor’s Article 6 ECHR rights to a fair process.

As this was a public Hearing, I summarised my key findings at Stage 1 and Stage 2 of the Adjudication before moving on to consider Sanction.

Prior to the Hearing, both the Deputy Commissioner and the Councillor had provided their written submissions on Sanction, and I invited them to address me orally.

### **Deputy Commissioner’ Submissions**

In summary, the Deputy Commissioner drew attention to the following:

- the Councillor’s cooperation with the Investigation and Adjudication
- he had pleaded guilty to the Road Traffic Act offence at the earliest opportunity
- he had self-referred to the Commissioner
- he had attended twice for interview (the second occasion was necessitated as a result of a technical malfunction of the recording of the first interview)
- he accepted he was in breach of the Code
- he was remorseful and apologetic for his behaviour
- he was not acting as a councillor when the offence occurred
- he had been a councillor for just over two years and there had been no other allegations against him before or after his conviction
- there were no aggravating factors



The Deputy Commissioner identified the range of available sanctions, and proposed that a period of Suspension would be the most appropriate outcome. He noted that in two previous Adjudication Decisions (*Brown* and *Hogg*) periods of suspension for 6 and 5 months respectively had been imposed, but that those cases involved convictions for 'drunk driving' in circumstances where the reputation of the council had also been brought into disrepute.

However, he distinguished this as the conviction was that of being 'drunk in charge' of a vehicle, and it had been determined that the Councillor's actions had not brought the Council into disrepute. In all the circumstances, the Deputy Commissioner suggested that a suspension for 2 months might be appropriate.

### **The Councillor's Submissions**

In summary, the Councillor stated

- he reiterated his deepest apologies for his actions
- he recognised his responsibilities as a public representative
- his core role was to serve his community
- he had learned a hard lesson from his mistake
- he regretted his foolish behaviour
- he would share his experience as a reminder to others
- such a matter would not happen again
- he was committed to upholding the responsibilities entrusted to him and to restoring the trust placed in him

### **My Conclusion on Sanction**

I adjourned to consider Sanction.

My overall approach to sanction is set out at Paragraph 3 of the Sanctions Guidelines<sup>1</sup> which states:

*"The Commissioner's consideration of the sanction decision in any case will be based on her view that the principal purpose of sanction is the preservation of public confidence in local government representative. Her decisions on sanction will also aim to uphold the following objectives: the public interest in good administration; upholding and improving the standard of conduct expected of councillors and the fostering of public confidence in the ethical standards regime introduced by the 2014 Act."*

I considered the written and oral submissions received from both the Deputy Commissioner and the Councillor together with the Sanction Guidelines.

It is important to reiterate the importance of preserving public confidence in local government representatives. The legitimate purpose of the Code is to outline and to secure high standards of conduct by elected councillors. It follows that the purpose of a sanction is also to preserve confidence in local government representation.

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<sup>1</sup> <https://www.nipso.org.uk/nilgcs/publications>



In this case, I also had regard to the following mitigating factors:

- There is no history of any prior Breach of the Code by the Councillor;
- The Councillor has a previous record of good service and compliance with the Code;
- The Councillor self-referred to the LGES office prior to his conviction, which was the appropriate and responsible thing to do (and is something that all councillors should bear in mind in circumstances where they have been charged with a criminal offence);
- The Councillor fully cooperated with all stages of the Investigation and Adjudication process;
- The Councillor accepted that he has breached the Code and he had expressed remorse for his actions at every opportunity;
- The Councillor acknowledged the severity of his actions that led to his conviction and had demonstrated an awareness of the public perception of the offence for which he has taken full responsibility.
- The fact of self-referral by the Councillor, and his meaningful engagement throughout the Investigation and Adjudication process, enabled this matter to be dealt with quickly and efficiently, and with a consequent saving to the public purse.

I also took into account the third party character reference provided which described the Councillor as *“a person of integrity, professionalism, and commitment to community service”*... *“as a person of good character”* who had *“built a reputation for honesty [and] dependability...”* Notwithstanding this positive character reference, it should be noted that it was of limited assistance as it did not expressly acknowledge the context of the Adjudication Hearing.

Any sanction must be justified in the wider public interest, and should be designed to discourage or prevent future failings to comply with the Code or to discourage similar conduct by other Councillors. I also reminded myself that the purpose of Sanction was not to punish the Councillor, and that the Sanction imposed must be the least severe available in all the circumstances to meet the justice of the case.

The available sanctions are referred to in paragraph 42 of the Adjudication Procedures and are set out in further detail at paragraphs 7 -22 of the Sanctions Guidelines:

1. **No action** - this was not an appropriate sanction in this case where the breach of the Code arose from conduct that resulted in a criminal conviction.
2. **Censure** - would only be appropriate where the breach of the Code was relatively minor in nature, and given that the offence for which the Councillor was convicted is a serious offence, censure would not be an appropriate sanction.
3. **Partial Suspension** – I did not believe that suspending the Councillor from a particular aspect of Council work would uphold the public interest given that the conduct complained of did not relate to any particular aspect of Council business.



4. **Suspension** - The Sanctions Guidelines provide that suspension is to be considered where
  - the conduct is not sufficiently serious to warrant disqualification, but the conduct is of a nature that it is necessary to uphold public confidence in the standards regime and/or local democracy;
  - there is a need to reflect the severity of the matter; and
  - there is a need to make it understood that the conduct should not be repeated.
  
5. **Disqualification** - is the most severe option and the factors which may lead to disqualification are listed in the Sanction Guidelines at paragraph 18. I was satisfied that, having considered those Guidelines, the conduct in this case did not merit disqualification.

## Conclusion

Taking everything into account, I was satisfied that the matter met the threshold for a period of suspension to be imposed in order to satisfy the public interest and to uphold public confidence in local government.

In considering the appropriate length of any suspension, the previous Adjudications of *Hogg*<sup>2</sup> and *Brown*<sup>3</sup> are of relevance. The Deputy Commissioner referred to both of these matters in his submissions.

Councillor Hogg was convicted of driving with excess alcohol and received a 12 month driving ban (reduced to 9 months upon completion of a drink driving awareness course). Although he did not self-refer to my Office, he cooperated with the investigation and adjudication, he accepted he had breached the Code, and he provided an apology for his actions. The Decision also noted a number of aggravating factors, and Councillor Hogg was suspended for a period of 5 months.

Councillor Brown, like Councillor King, self-referred to my Office and was convicted of driving with excess alcohol. He received the same sentence as Councillor Hogg. Whilst Councillor Brown largely cooperated with the investigation and adjudication process, there were a number of individual aggravating factors (set out in the Decision) which clearly distinguish that case from the present one. Councillor Brown was suspended for a period of 6 months.

Councillor Brown unsuccessfully appealed the Commissioner's decision on Sanction, and the Court's comments in its determination of that appeal are helpful to my consideration as to an appropriate period of suspension for this matter:-

*"This is a case of drink driving. Thankfully no one was injured on this occasion but this type of behaviour can have devastating consequences and is frowned upon by our society. This is not a minor matter. As such it is my view that the Commissioner was entirely correct to rule out*

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<sup>2</sup> <https://www.nipso.org.uk/nilgcs/hearings/thomas-hogg>

<sup>3</sup> <https://www.nipso.org.uk/nilgcs/hearings/patrick-brown>





*censure. This case should make clear that immediate suspension is appropriate if an offence of this nature is committed...." [Keegan J – as she then was]<sup>4</sup>*

It is also important to note that in the *Hogg* and *Brown* cases the councillors were found to have brought their council into disrepute, which is not my finding here. These cases serve as a good yardstick for cases where the breach(es) of the Code arise from drink driving convictions.

Whilst the Councillor was not convicted of a drink **driving** offence, his offence was a serious one, which is an aggravating factor, and a suspension of 3 months would normally be appropriate in such a case.

However, having taken everything into account, and noting, in particular, the upfront manner in which the Councillor has addressed his breach of the Code, and his cooperation throughout the Investigation and Adjudication process, I consider a suspension period of 2 months would meet the justice of the case.

For certainty, I confirm that this period of suspension will commence on the date of this Decision and will continue up to and including 31 May 2025.

#### **LEAVE TO APPEAL**

Pursuant to section 59 (14) of the Local Government Act (Northern Ireland) 2014, Councillor King may seek the permission of the High Court to appeal against this decision, which must be made within 21 days of the date that he receives written notice of the Commissioner's decision.

**Margaret Kelly**

**Local Government Commissioner for Standards**  
**1 April 2025**

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<sup>4</sup> [2018] NIQB 62 at paragraph [35]