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STANDARDS COMMITTEE THURSDAY, 3 NOVEMBER 2016

A MEETING of the STANDARDS COMMITTEE will be held in COMMITTEE ROOM 1, COUNCIL HEADQUARTERS, SCOTTISH BORDERS COUNCIL, NEWTOWN ST BOSWELLS on THURSDAY, 3 NOVEMBER 2016 at 10.00 am

J. J. WILKINSON,
Clerk to the Council,

27 October 2016

BUSINESS		
1.	Apologies for Absence.	
2.	Order of Business.	
3.	Declarations of Interest.	
4.	Minute (Pages 1 - 4) Minute of the meeting of 12 November 2015 to be approved and signed by the Chairman. (Copy attached.)	2 mins
5.	Annual report on Councillors' Compliance with the Ethical Standards Framework for 2015/16 (Pages 5 - 10) Consider report by Monitoring Officer advising on compliance with the Ethical Standards Framework for 2015-16. (Copy attached.)	10 mins
6.	Any Other Items Previously Circulated.	
7.	Any Other Items which the Chairman Decides are Urgent.	

NOTES

1. Timings given above are only indicative and not intended to inhibit Members' discussions.
2. Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

Membership of Committee:- Councillors A. J. Nicol (Chairman), S. Aitchison, W. Archibald, C. Bhatia, J. Greenwell, B Herd, G. Logan and F. Renton

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SCOTTISH BORDERS COUNCIL
STANDARDS COMMITTEE

MINUTE of MEETING of the STANDARDS COMMITTEE held in the Council Headquarters, Newtown St. Boswells on 12 November 2015 at 1.30pm.

Present:- Councillors A Nicol (Chairman), S Aitchison, C Bhatia, J Greenwell, B Herd, G Logan, F Renton.

Apology:- Councillors W. Archibald.

In Attendance:- Councillors M Ballantyne, J Campbell, K Cockburn, A Cranston, V Davidson, G Edgar, J Fullarton, G Garvie, I Gillespie, S Marshall, W McAteer, D Moffat, S Mountford, D Parker, D Paterson, S Scott, R Smith, J Torrance, G Turnbull, B White.

Also Present:- Monitoring Officer and Service Director Regulatory Services, Democratic Services Officer (P Bolson).

1. **MINUTE**

There had been circulated copies of the Minute of the meeting of the Standards Committee of 12 December 2014.

DECISION

AGREED the Minute for signature by the Chairman.

2. **ANNUAL REPORT ON COUNCILLORS' COMPLIANCE WITH THE ETHICAL STANDARDS FRAMEWORK FOR 2014-2015**

With reference to the decision at paragraph 5(c) of the Minute of 12 December 2014, there had been circulated copies of a report by the Monitoring Officer which provided details on Scottish Borders Council's compliance with the Ethical Standards Framework for 2014 - 2015 and also considered matters relating to Training, Register of Interest and the Hospitality Register. Members were advised of the background to the report and noted that, following the Internal Audit report in 2005, it had been agreed that it would be good practice to report annually on the Councillors' Code of Conduct. A planned audit carried out by the Council's Internal Audit section in March 2010 resulted in agreement to report on general compliance with the overall Ethical Standards Framework. These annual reports considered the Councillors' Code of Conduct compliance, training, the Members' Register of Interests and their Hospitality Register.

3. During 2014 – 15, the Commissioner for Ethical Standards in Public Life (the Commissioner) received a total of 692 complaints of which 680 were against Councillors within Scottish Local Authorities. This represented a significant increase from previous years however 524 of these related to a single case and when these were removed, there was actually a reduction in the total from preceding years. The report provided information on the types of case brought forward to the Commissioner and these included alleged misuse of Council resources for the publication of politically contentious material, misconduct on individual planning applications, failure to declare an interest and failure to show respect to Councillors, officials or employees. The Commissioner determined that 11 cases constituted a breach of the Code of Conduct and these were therefore referred to Standards Commission for Scotland (the Commission).

4. During 2014 – 15, 8 complaints were lodged against 7 Scottish Borders Councillors, 4 of which were internal (submitted by a Councillor or Officer) and 4 external (submitted by a member of the public or external organisation.) These related to inappropriate expenses claims, misuse of Council facilities/equipment, Conflict of Interests/Declarations of Interests

and conduct/respect. Seven of the complaints were resolved internally. One new complaint was referred to the Commissioner but no further action was taken as the Commissioner took into consideration the internal investigation that had already been conducted and the apology and actions that had resulted from this. With regard to the case referred from the previous year, the Commissioner found that the Councillor had breached the Code of Conduct by failing to declare an interest and referred the case to the Commission. Following a Hearing, the Councillor was suspended from participating in all Council, Committee and Sub-Committee meetings for a period of 3 months.

5. The report went on to explain that the Elected Members' Registers of Interests were published on the Council's website and were also available to view in paper format from Democratic Services. The Registers were reviewed every six months and were amended according to the information provided by the Members. They were maintained in accordance with the Ethical Standards and Public Life etc. (Scotland) Act 2000 (Register of Interest) Regulations 2003, as amended. Members were also required to comply with Section 4 of the Code of Conduct whereby the Registers were updated when a Registerable Interest changed.
6. Elected Members were required, on a monthly basis, to complete a Hospitality Register within which they would declare hospitality/gifts offered (valued at over £50), whether accepted or not. Members were also required to send a completed monthly pro-forma return (including nil returns) to Democratic Services, who maintained the Members' Hospitality Register. All forms were scanned electronically and published on the Council's website. In addition, a summary sheet of all responses for the current financial year was kept with the paper copy of the Register for ease of reference. A quarterly report was submitted to the Service Director Regulatory Services in his role as Monitoring Officer.
7. Section 5 of the Ethical Standards in Public Life etc (Scotland) Act 2000 ("The 2000 Act") required Councils to promote the observance by its Councillors of high standards of conduct; and to assist them to observe the Councillor's Code. The current Guidance on the Code of Conduct stated that "Councils should make arrangements to hold or attend training and induction sessions on Ethical Standards, and they should strongly encourage attendance by all of their Councillors and senior officers at such sessions". Scottish Borders Council had held a number of training sessions on the Ethical Standards Framework over the last few years and had also participated in joint training sessions with Midlothian and Dumfries and Galloway Councils. Training was also provided on the Ethical Standards Framework to Members as part of their Induction Programme in May 2012 and individual Induction had been delivered to any Member joining the Council as a result of a subsequent by-election. The Council had arranged for the Public Standards Commissioner for Scotland and the Standards Commission's Secretary to attend the Scottish Borders Council Standards Committee on 29 August 2012 to give a presentation on the Ethical Standards Framework to Members. This presentation was open to all Elected Members and formed part of the continuing Ethical Standards training. Members of the Planning and Building Standards Committee received additional training on the Code of Conduct on 10 December 2012. Members were given the opportunity to attend a seminar hosted by the Commissioner in early 2013 and a further refresher training event had been arranged for all Elected Members to follow on from this formal business meeting of the Standards Committee. Members were advised that a new electronic library of Guidance for Members had been developed and Members would be informed when this would be available for them to access via modern.gov, the Committee Management system used within the Council.
8. Discussion followed and the Monitoring Officer answered questions raised by the Members. With reference to the Code of Conduct for Community Councillors, the Monitoring Officer confirmed that there were no enforceable sanctions within this Code. It was agreed that Mr Frater would write to the Scottish Government to obtain clarification regarding what the current situation was in terms of Community Councils and the conduct of Community Councillors. The Monitoring Officer also advised that a complaint against an Elected Member or officer must be clearly defined as such by the complainer in order for it to be

recorded and investigated as a formal complaint. In response to a question about why "compliments" were not recorded, Members were advised that the purpose of the report was compliance with the Ethical Standards Framework and were referred to paragraph 1.1 of the report.

DECISION

AGREED:-

- (a) to accept the report;**
- (b) that the Monitoring Officer would write to the Scottish Government to obtain clarification regarding what the current situation was in terms of Community Councils and the conduct of Community Councillors; and**
- (c) that the Monitoring Officer be instructed to bring forward a report on Ethical Standards Framework compliance for 2015-16 at the appropriate time.**

The meeting concluded at 1.50pm

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ANNUAL REPORT ON COUNCILLORS' COMPLIANCE WITH THE ETHICAL STANDARDS FRAMEWORK FOR 2015-16

Report by Monitoring Officer

STANDARDS COMMITTEE

3 November 2016

1 PURPOSE AND SUMMARY

1.1 This report advises elected Members on compliance with the Ethical Standards Framework for 2015-16.

1.2 The report provides Members with details of Scottish Borders Council's compliance with the Ethical Standards Framework for 2015-16. The report also considers matters relating to Training, Register of Interests and the Hospitality Register.

2 RECOMMENDATIONS

2.1 I recommend that the Committee approves this report and instructs the Monitoring Officer to bring forward a report on Ethical Standards Framework compliance for 2016-17 at the appropriate time.

3 BACKGROUND

- 3.1 In September 2005, Internal Audit conducted a planned audit into the operation of the Councillors' "Code of Conduct". The audit found that the Council had "*sound procedures in place to manage the Code of Conduct, the Council's Complaints Procedure for the Standards Committee*". Following receipt of the 2005 Internal Audit report, it was determined that it would be good practice to report annually on compliance with the Code of Conduct.
- 3.2 Internal Audit also carried out a planned audit in March 2010 and it was agreed that it would be appropriate to report on general compliance with the overall Ethical Standards Framework. This report considers Code of Conduct compliance, Training, the Register of Interests and Hospitality Register.

4 NATIONAL STATISTICS

- 4.1 By way of background, in 2015-16 the Commissioner for Ethical Standards in Public Life in Scotland ("The Commissioner") received a total of 245 complaints relating to 132 cases across Scotland. This compared with a total of 692 complaints relating to 111 cases in 2014/15. The majority of complaints received (202) were against Councillors in Local Authorities. Figures for the preceding five years were as follows:-
- | | |
|----------|---|
| 2014 -15 | 680 (Of which 524 related to a single case) |
| 2013-14 | 298 |
| 2012-13 | 192 |
| 2011-12 | 185 |
| 2010-11 | 178 |
- 4.2 The subject matters which attracted the largest number of complaints are set out below. These categories differ from previous years therefore direct comparisons with previous years is not possible.
- a) Disrespect of Councillors/official/employees - 75 complaints.
 - b) Breach of Key Principles - 47.
 - c) Misconduct on individual applications - 46.
 - d) Other complaints - 22
 - e) Failure to declare and interest - 19
 - f) Misconduct relating to lobbying - 19.
- 4.3 During 2015-16 the Commissioner referred 8 complaints, where he determined that there had been a breach of the Code of Conduct, to the Standards Commission for Scotland ("The Commission").

5 SCOTTISH BORDERS COUNCIL POSITION

5.1 In 2015-16 there were 4 complaints lodged against 4 Scottish Borders Councillors. Of the 4 complaints, 1 was internal, i.e. submitted by a Councillor or Officer, and 3 were external, i.e. submitted by a member of the public or external organisation.

5.2 In the preceding five financial years, the number of complaints lodged against Scottish Borders Councillors was as follows:-

2014-15	8 Complaints
2013-14	13 Complaints
2012-13	13 Complaints
2011-12	7 Complaints
2010-11	8 Complaints

5.3 The complaints received in 2015-16 covered the following areas:-

- a) Inappropriate involvement in operational matters/conflict of interest
- b) Conflict of Interest/Declarations of Interest
- c) Conduct/Respect (2 cases)

5.4 None of the complaints received resulted in reports by the Standards Commissioner to the Standards Commission. Two of the complaints were resolved internally following internal investigations. In one instance it was concluded that no breach had occurred. In the second case no further action was deemed necessary following acknowledgment of inappropriate actions and receipt of an apology. The two remaining complaints were referred by the complainant to the Commissioner. The Commissioner concluded that there had been no breach of the Code of Conduct in either of those cases and took no further action in respect of those complaints.

6 REGISTER OF INTERESTS

6.1 The Elected Members' Registers of Interests are published on the Council's website and are also available to view in paper format from Democratic Services. The Registers are reviewed every six months and are amended according to the information provided by the Members. They are maintained in accordance with the Ethical Standards and Public Life etc. (Scotland) Act 2000 (Register of Interest) Regulations 2003, as amended. Members are also required to comply with Section 4 of the Code of Conduct whereby the Registers are updated when a Registerable Interest changes.

7 HOSPITALITY REGISTER

7.1 Elected Members are required to complete a Hospitality Register on a monthly basis. All elected Members must declare hospitality/gifts offered (valued at over £50), whether accepted or not.

- 7.2 Members are required to send a completed monthly pro-forma return (including nil returns) to Democratic Services, who maintain the Members' Hospitality Register. All forms are scanned electronically and published on the Council's website. In addition, a summary sheet of all responses for the current financial year is kept with the paper copy of the Register for ease of reference.
- 7.3 A quarterly report is submitted to the Service Director Regulatory Services in his role as Monitoring Officer.

8 TRAINING

- 8.1 Section 5 of the Ethical Standards in Public Life etc (Scotland) Act 2000 ("The 2000 Act") requires Councils to:-
- (a) Promote the observance by its Councillors of high standards of conduct; and
 - (b) Assist them to observe the Councillor's code.
- 8.2 The current Guidance on the Code of Conduct states that:
- "Councils should make arrangements to hold or attend training and induction sessions on Ethical Standards, and they should strongly encourage attendance by all of their Councillors and senior officers at such sessions".*
- 8.3 Since the last local government elections in 2012, training on the Ethical Standards Framework was provided to Members as part of the Induction training held in May 2012 and individual induction has been provided for any Member joining the Council as a result of a subsequent by-election.
- 8.4 The Public Standards Commissioner for Scotland and the Standards Commission's Secretary attended the Standards Committee on 29 August 2012 to give a presentation on the Ethical Standards Framework to Members. This presentation was open to all elected Members and formed part of the continuing Ethical Standards training.
- 8.5 Members of the Planning and Building Standards Committee received additional training on the Code of Conduct on 10 December 2012.
- 8.6 Members also attended a seminar, hosted by the Commissioner, in early 2013. A further refresher training event was provided on 26 March 2015 and a further event was provided for all Members following the presentation of the 2014/15 Annual Report in November 2015. A new electronic library of Member Guidance was also launched following that training event.

9 IMPLICATIONS

- 9.1 **Financial**
- There are no costs attached to any of the recommendations contained in this report.

9.2 Risk and Mitigations

The Council is under a duty in terms of Section 5 of the 2000 Act to promote the observance by its Councillors of high standards of conduct and assist them to observe the Councillors' Code. The Council will be at risk if it fails to provide appropriate guidance and advice and take cognisance of any lessons learned from complaints received.

9.3 Equalities

There are no equality issues arising from this report.

9.4 Acting Sustainably

There are no sustainability issues arising from this report.

9.5 Carbon Management

There is not considered to be any impact on carbon emissions.

9.6 Rural Proofing

There are no rural proofing issues arising from this report.

9.7 Changes to Scheme of Administration or Scheme of Delegation

No changes to either the Scheme of Administration or the Scheme of Delegation are required as a result of these proposals.

10 CONSULTATION

- 10.1 The Chief Financial Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and their comments taken into account in the preparation of this report.

Approved by

Brian Frater
Monitoring Officer

Signature

Author(s)

Name	Designation and Contact Number
Brian Frater	Monitoring Officer 01835 825067

Background Papers: None

Previous Minute Reference: None

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. SBC can also give information on other language translations as well as providing additional copies.

Contact us:

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