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STANDARDS COMMITTEE THURSDAY, 17 JANUARY 2019

A MEETING of the STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER,
COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS, MELROSE, TD6 0SA on
THURSDAY, 17 JANUARY 2019 at 10.00 am

J. J. WILKINSON,
Clerk to the Council,

10 January 2019

BUSINESS		
1.	Apologies for Absence.	
2.	Order of Business.	
3.	Declarations of Interest.	
4.	Minute (Pages 3 - 8) Minutes of 7 December 2017 and of cancelled meeting on 12 December 2018 for noting. (Copies attached).	2 mins
5.	Annual Report on Councillors' Compliance with the Ethical Standards Framework for 2017-18 (Pages 9 - 14) Consider report by Service Director Regulatory Services. (Copy attached).	30 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 S. Aitchison (Chairman), A. Anderson, K. Drum, J. Greenwell, C. Hamilton, E. Jardine, E. Robson and S. Scott

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SCOTTISH BORDERS COUNCIL
STANDARDS COMMITTEE

MINUTE of MEETING of the STANDARDS COMMITTEE held in Committee Room 1, Council Headquarters, Newtown St. Boswells on 7 December 2017 at 10.00 a.m.

Present:- Councillors S Aitchison (Chairman), A. Anderson, K. Drum, J. Greenwell, E. Jardine, E. Robson, S. Scott.
Apologies:- Councillors J. Greenwell, S. Marshall.
In Attendance:- Monitoring Officer and Service Director Regulatory Services, Democratic Services Officer (F. Henderson).

- 1.0 **ANNUAL REPORT ON COUNCILLORS' COMPLIANCE WITH THE ETHICAL STANDARDS FRAMEWORK FOR 2016-2017**
- 1.2 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 2016 – 2017 and also considered matters relating to Training, Register of Interest and the Hospitality Register.
- 1.3 During 2016 - 17 the Commissioner for Ethical Standards in Public Life received a total of 174 complaints relating to 106 cases, which represented a reduction in both the number of complaints and number of cases over the previous years. The majority of complaints received (165) were against Councillors in Local Authorities. The subject matters which attracted complaints were detailed in the report and the main changes from 2015/16 included a significant reduction in complaints relating to misconduct on individual applications and reductions in the number of complaints relating to breach of key principles and misconduct relating to lobbying. There were modest increases in both the failure to register an interest and failure to declare an interest and in the breach of confidentiality category. The majority of complaints (110) were made by members of the public followed by complaints submitted by Councillors (54).
- 1.4 During 2016-17, 5 complaints were lodged against 5 Scottish Borders Councillors. Of the 5 complaints, 1 was internal, i.e. submitted by a Councillor or Officer, and 4 were external, i.e. submitted by a member of the public or external organisation. The complaints received in 2016-17 covered the following areas:- (a) Disrespect of Councillors/Officials/Public (4 complaints) and Conflict of Interest/Declarations of Interest. None of the complaints received resulted in reports by the Standards Commissioner to the Standards Commission. One complaint was not pursued by the complainant after contacting the Council. Two of the complaints were resolved internally following internal investigations. In one instance it was concluded that no breach had occurred. The remaining complaint was referred by the complainant to the Commissioner. The Commissioner concluded that there had been no breach of the Code of Conduct and took no further action in respect of that complaint.
- 1.5 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.

- 1.6 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.
- 1.7 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*". Training on the Ethical Standards Framework was provided to members as part of the Induction training held in May 2017 and Members were provided as a matter of course with links to briefing papers produced by the Commissioner for Ethical Standards including recent case reviews. Members were also alerted to the publication of revised Guidance on the Councillors' Code of Conduct in August 2017 and to the availability of that guidance on the Standard Commission's website. Members of the Planning and Building Standards Committee received additional training on the Code of Conduct prior to the first meetings of the new Planning and Building Standards and Local Review Bodies in May 2017. A programme of further training events had been provided in two tranches since the Local Government elections in May 2017 and a further programme of training events were being scheduled for 2018. An electronic library of Member Guidance providing access to relevant information was also available to Members. The Monitoring Officer drew the member's attention to their obligation to update the declaration an interest register on a regular basis and to submit a monthly hospitality return whether offered or accepted.
- 1.8 Discussion followed and the Monitoring Officer answered questions raised by the Members in relation to declaring an Interest and submitting hospitality returns. Members raised the matter of vexatious complaints against Councillors and it was acknowledged that, whilst there was a procedure for Officers, there was not a similar procedure for Councillors. The Monitoring Officer agreed that such a procedure be developed. The Committee requested training for Elected Members on what was considered sexual harassment, which led to a discussion regarding the lack of gender balance on the Committee. The Chairman agreed to speak to Party Leaders with regard to amending their representation.

**DECISION
AGREED:-**

- (a) **to accept the report;**
- (b) **that the Monitoring Officer be instructed to bring forward a report on Ethical Standards Framework compliance for 2017-18 at the appropriate time;**
- (c) **that the Monitoring Officer, remind Elected Members of their obligation to update the declaration of interest register on a regular basis;**

- (d) **that the Monitoring Officer, remind Elected Members of their responsibility to submit a monthly hospitality return whether hospitality had been offered or accepted; and**
- (e) **that the Monitoring Officer develop a procedure for Councillors for dealing with vexatious complainers.**

2.0 URGENT BUSINESS

2.1 Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need for Member to make an early decision.

3.0 ROLE OF COMMITTEE

3.1 The Chairman was of the opinion that the Committee should enhance their involvement in relation to complaints against Councillors rather than referring directly to the Commissioner. The Monitoring Officer stressed that every effort was made to resolve issues prior to referring to the Commissioner.

**DECISION
AGREED:-**

- (a) **there be two meetings scheduled in the year;**
- (b) **that the Committee meet on an Ad hoc basis when required, to consider complaints against Councillors.**

The meeting concluded at 10.45 a.m.

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SCOTTISH BORDERS COUNCIL STANDARDS COMMITTEE

MINUTE of Meeting of the STANDARDS
COMMITTEE held in the Council Chamber,
Council Headquarters, Newtown St Boswells
on Wednesday, 12 December 2018 at 10.00
am

Present:- Councillors S. Aitchison (Chairman) and J. Greenwell.

Apologies:- Councillors A. Anderson, K. Drum, C. Hamilton, E. Jardine and S. Scott.

Absent:- Councillor E. Robson.

In Attendance:- Monitoring Officer, Democratic Services Officer (F. Walling).

1. **ORDER OF BUSINESS.**

As there was not a quorum of Elected Members present after the requisite 10 minutes, the meeting could not proceed. The Chairman advised that the Committee be reconvened, on a date to be arranged in January 2019, to consider the business on the agenda.

The meeting concluded at 10.10 am

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ANNUAL REPORT ON COUNCILLORS' COMPLIANCE WITH THE ETHICAL STANDARDS FRAMEWORK FOR 2017-18

Report by Service Director Regulatory Services

STANDARDS COMMITTEE

17 January 2019

1 PURPOSE AND SUMMARY

- 1.1 This report advises elected Members on compliance with the Ethical Standards Framework for 2017-18.**
- 1.2 The report provides Members with details of Scottish Borders Council's compliance with the Ethical Standards Framework for 2017-18. The report also considers matters relating to Training, Register of Interests and the Hospitality Register and highlights some forthcoming work which officers intend to undertake to relating to the Council's Protocol on Councillor's Personal Conduct/Behaviour and the Code of Conduct for Community Councils.

2 RECOMMENDATIONS

- 2.1 **I recommend that the Committee Notes:**
- (a) the details provided within the report on the Council's compliance with the Ethical Standards Framework for 2017/18, training, registers of interest and hospitality;**
 - (b) that a report will be brought before the Committee by the Monitoring Officer in early 2019 following a review of the SBC Protocol on Councillors' Personal Conduct/Behaviour to better reflect the current Standards Commission Code, the use of social media, and new Data Protection requirements; and**
 - (c) that a report will be brought before the Committee at the appropriate time on the Ethical Standards Framework compliance for 2018/19.**

3 BACKGROUND

3.1 Previous work by the Internal Audit service looking at the operation of the Councillors' "Code of Conduct" found that the Council had "*sound procedures in place to manage the Code of Conduct, the Council's Complaints Procedure for the Standards Committee*". To ensure that these procedures and standards were maintained it was determined that it would be good practice to report annually on compliance with the Code of Conduct. A subsequent Internal Audit also recommended that it would be appropriate to report on general compliance with the overall Ethical Standards Framework. This report therefore considers Code of Conduct Compliance, Training, the Register of Interests and Hospitality Register.

4 NATIONAL STATISTICS

4.1 The Commissioner for Ethical Standards in Public Life in Scotland's annual report was laid before Parliament on 31 October 2018. In 2017/18 the Commissioner received a total of 146 complaints relating to 80 cases. This represented a reduction in both the number of complaints and number of cases over the previous year. The majority of complaints received (134) were against Councillors in Local Authorities.

Complaint against	17/18	16/17	15/16
Councillor	134	165	202
Member of Devolved Body	3	5	39
Other	9	4	4
Complaints Total	146	174	245
Cases Total	80	106	132

4.2 The subject matters which attracted complaints are set out below. The main changes from 2016/17 include significant numerical increases in the number of complaints relating to breach of key principles and misconduct on individual applications but a significant reduction in the number of complaints alleging disrespect. There were also marked reductions in complaints relating to failure to declare an interest, breaches of confidentiality and misconduct relating to lobbying. The majority of complaints (123 against 110 in 2016/17) were made by members of the public followed by complaints submitted by Councillors (19). The latter figure was significantly lower than the 2016/17 figure of 54.

		17/18	16/17
A	Disrespect of Councillors/official/employees	31	63
B	Failure to declare an interest	5	22
C	Breach of Key Principles	39	20
D	Breach of confidentiality	3	16
E	Misconduct on individual applications	39	15
F	Other complaints	11	13
G	Misconduct relating to lobbying	3	11
H	Failure to register an interest	4	6

I	Misuse of Council facilities	2	4
J	Outwith jurisdiction	9	4

4.3 Following consideration and where appropriate investigation of the complaints received, the Commissioner referred 12 complaints (7%) and 8 cases (9%) to the Standards Commission with a finding that there had been a breach of the Code.

5 SCOTTISH BORDERS COUNCIL POSITION

5.1 In 2017-18 there were 4 complaints lodged against 4 Scottish Borders Councillors. All 4 complaints were 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:-

2016 -17 5 Complaints

2015-16 4 Complaints

2014-15 8 Complaints

2013-14 13 Complaints

2012-13 13 Complaints

5.3 The complaints received in 2017-18 covered the following areas:-

(a) Disrespect of public (2 complaints)

(b) Conflict of Interest/Declarations of Interest (2 Complaints)

5.4 None of the complaints received resulted in referrals to the Standards Commissioner or reports to the Standards Commission within the reporting period covered by this report. One complainant has however subsequently referred his complaint to the Commissioner and the outcome of that complaint will be reported in next year's report. The remaining 3 complaints were not pursued further by the complainants after contacting the Council. All of the remaining complaints were resolved internally following internal investigations. In two instances it was concluded that no breach had occurred. In the remaining case the Councillor accepted that he had made inappropriate comments about a constituent for which an apology was made.

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 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. Members were reminded of these requirements following the Local Government elections in May 2017 and again on 8 February and 27 August 2018.

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 Training on the Ethical Standards Framework was provided to Members as part of the Induction training held in May 2017. A further briefing has been provided to Councillor Penman who was subsequently elected following a by-election.
- 8.4 Members are provided as a matter of course with links to briefing papers produced by the Commissioner for Ethical Standards including recent case reviews. Members are also advised of the publication of any revised Guidance on the Councillors' Code of Conduct and to the availability of that guidance on the Standard Commission's website. Recent revisions have included an Amendment of the Code in July 2018 and the provision of guidance on Bullying and Harassment.

www.standardscommissionscotland.org.uk/guidance/guidance-notes
- 8.5 An ongoing programme of further monthly briefings and training events is now in place covering a wide range of subject matters including, where appropriate, guidance on Conduct related issues. An electronic library of Member Guidance providing access to relevant information is also available to Members. This is about to be refreshed.

9 FUTURE WORK PROGRAMME

- 9.1 The Council's own Protocol on Councillor's Personal Conduct/Behaviour was produced in 2002. This supplements the Standards Commission's Code of Conduct and includes guidance on the internal procedures to be followed where complaints are received. It also provides positive and negative examples of personal conduct/behaviour.

- 9.2 This Code requires to be reviewed to ensure that it reflects the current Standards Commission Code and to take account of issues such as the use of social media and new Data Protection requirements. Officers have commenced work on a review and will report back to the Standards Committee in early 2019.
- 9.3 Members have previously expressed concern about the conduct of a small number of Community Councillors. Community Councils and Community Councillors are not subject to the Standards Commission's Code of Conduct but do have a Scheme for Establishing Community Councils which includes a voluntary Code of Conduct. It is proposed to review the Scheme for Establishing Community Councils in 2019 and a report setting out possible amendments will be brought forward to Council in early 2019.

10 IMPLICATIONS

10.1 Financial

There are no costs attached to any of the recommendations contained in this report.

10.2 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. If the Council fails to provide appropriate guidance and advice and take cognisance of any lessons learned from complaints received there is a risk of Members breaching the code. This could result in reputational damage for the Council and possible censure or suspension for individual Councillors.

10.3 Equalities

There are no equality issues arising from this report.

10.4 Acting Sustainably

There are no sustainability issues arising from this report.

10.5 Carbon Management

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

10.6 Rural Proofing

There are no rural proofing issues arising from this report.

10.7 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.

11 CONSULTATION

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

Approved by

**Brian Frater,
Service Director Regulatory Services**

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.

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