

SCOTTISH BORDERS COUNCIL STANDARDS

MINUTES of Meeting of the STANDARDS
held in Council Headquarters, Newtown St
Boswells, Melrose, TD6 0SA on Thursday,
17 January 2019 at 10.00 am

Present:- Councillors S. Aitchison (Chairman), A. Anderson, K. Drum, J. Greenwell,
E. Robson and S. Scott

Apologies:- Councillors C. Hamilton and E. Jardine
In Attendance:- Monitoring Officer and Service Director Regulatory Services, Democratic
Services Officer (F. Walling), Trainee Democratic Services Officer.

1. **MINUTE**

- 1.1 There had been circulated copies of the Minute of the meeting held on 7 December 2017 and adjourned meeting on 12 December 2018.

DECISION

APPROVED the Minutes.

- 1.2 The Monitoring Officer and Service Director Regulatory Services, Mr Brian Frater gave an update on the decisions agreed at the meeting held on 7 December 2017. Members were updating regularly their declaration of interest register and were submitting their monthly hospitality returns. Members had requested a procedure to be developed for Councillors for dealing with vexatious complainers. The Monitoring Officer explained that a Vexatious Complainants Group was already set up for Officers chaired by the Service Director Customer and Communities. He recommended that Councillors should adopt the same procedure and report to this group if they had any constituent complainers who they considered were becoming vexatious. It was agreed that this was a simple solution whilst recognising that this was only likely to involve a very small number of complainers. The Monitoring Officer advised that the procedure would be communicated to all Members at the briefing session dedicated to Standards on 30 January 2019. An e-mail would be sent out to all Members from the Chairman highlighting the importance of attending this briefing session.

DECISION

AGREED that:-

- (i) **Councillors adopt the same procedure as that used by officers and report any constituent complainers who they consider were becoming vexatious to the Vexatious Complainants Group; and**
- (ii) **the procedure be communicated to all Councillors at the Members' briefing on 30 January 2019.**

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

- 2.1 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 2017 – 2018 and also considered matters relating to Training, Register of Interest and the Hospitality Register. The report provided some additional information and

recommendations on further work to be carried out relating to the Council's Protocol on Councillor's Personal Conduct/Behaviour and the Code of Conduct for Community Councils.

- 2.2 The Commissioner for Ethical Standards in Public Life in Scotland's annual report was laid before Parliament on 31 October 2018. During 2017-18 the Commissioner received a total of 146 complaints relating to 80 cases, which represented a reduction in both the number of complaints and number of cases over the previous years. The majority of complaints received (134) were against Councillors in Local Authorities. The subject matters which attracted complaints were detailed in the report and the main changes from 2016/17 included a significant increase in complaints relating to breach of key principles and misconduct on individual applications and a reduction in the number of complaints alleging disrespect. There were reductions in complaints relating to failure to declare an interest, breaches of confidentiality and misconduct relating to lobbying. The majority of complaints (123) were made by members of the public followed by complaints submitted by Councillors (19).
- 2.3 During 2017-18, 4 complaints were lodged against 4 Scottish Borders Councillors. All were submitted by a member of the public or external organisation. The complaints received in 2017-18 covered the following areas:- (a) Disrespect of public (2 complaints) and Conflict of Interest/Declarations of Interest (2 complaints). None of the complaints received resulted in referrals to the Standards Commissioner or reports to the Standards Commission within the period covered by this report. One complainant has subsequently referred his complaint to the Commissioner and the outcome would be reported in next year's report. The remaining 3 complaints were not pursued further by the complainants after contact had been made to the Council. In two instances, it was concluded that no breach had occurred. In the remaining case the Councillor accepted he had made inappropriate comments for which an apology was made. The Monitoring Officer reported that there were no concerns as the trend and scale were at a low level which was positive.
- 2.4 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. Members were also required to comply with Section 4 of the Code of Conduct whereby the Registers were updated when a Registerable Interest changed.
- 2.5 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. The Monitoring Officer reported that Members were updating regularly their declaration of interest register and were submitting their monthly hospitality returns.
- 2.6 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 advised of the publication of 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. An ongoing programme of further monthly briefings and training events was now in place covering a wide range of subject matters including, where appropriate, guidance on Conduct related issues. The next briefing session would be held on 30 January 2019

which would be devoted to Standards matters and would give Members the opportunity to discuss any issues. An electronic library of Member Guidance provided access to relevant information available to Members.

- 2.7 The Monitoring Officer went on to refer to the future work programme. The Council's own Protocol on Councillor's Personal Conduct/Behaviour was produced in 2002. This supplemented the Standards Commission's Code of Conduct and included guidance on internal procedures to be followed where complaints were received. It also provided positive and negative examples of personal conduct/behaviour. This Code was now out of date and required to be reviewed to ensure it reflected the current Standards Commission Code and to take account of issues such as the use of social media and new Data Protection requirements. Officers had commenced work on a review and would report back to the Standards Committee in early 2019. Members had previously expressed concern about the conduct of a small number of Community Councillors. Community Councils and Community Councillors were not subject to the Standards Commission's Code of Conduct but did have a Scheme for Establishing Community Councils which included a voluntary Code of Conduct. It was proposed to review the Scheme for Establishing Community Councils in 2019 and a report setting out possible amendments would be brought forward to this Committee before being presented to Council. There would be an opportunity to discuss these two pieces of work in more detail at the Members Briefing on 30 January 2019.
- 2.8 Discussion followed and the Monitoring Officer answered questions raised by Members. He emphasised the importance of attending Members' briefings and confirmed that attendance records were kept for each session. With regard to the review of the Community Council Scheme and the opportunity to determine whether the Community Council Code of Conduct was adequate to deal with alleged misconduct the view was expressed that the Code of Conduct should be balanced to encourage people to become members of Community Councils and not prevent them from putting themselves forward. The Monitoring Officer advised that although Scottish Borders Council had a role in the administration of Community Councils and would offer guidance and assistance it should intervene only when appropriate. In response to a question he added that Community Councils may need assistance and training in the interpretation of the Community Empowerment Act.

DECISION

NOTED:-

- (a) the details on the Council's compliance with the Ethical Standards Framework for 2017-18, training, registers of interest and hospitality;**
- (b) that the Monitoring Officer would provide a report 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 the new Data Protection requirements;**
- (c) that the Monitoring Officer would provide a report at the appropriate time on the Ethical Standards Framework Compliance for 2018/19; and**
- (d) that a review of the Scheme for Establishing Community Councils would be carried out in 2019 and that a report setting out possible amendments to the Scheme would be brought the Standards Committee before being presented to Council.**

The meeting concluded at 10.30 am