
Report on Ethical Standards Framework and Compliance

Report by Monitoring Officer

Standards Committee

18 January 2024

1 PURPOSE AND SUMMARY

- 1.1 This report advises Members of the Ethical Standards Framework and advises on Compliance with that framework in 2022 to 2023.**
- 1.2 The report provides Members with details of the Ethical Standards Framework and also of Scottish Borders Council's compliance with that Framework for 2021-22.

2 RECOMMENDATIONS

- 2.1 **I recommend that the Committee:-**
 - (a) Considers the contents of the Commissioner for Ethical Standards in Public Life in Scotland's Annual Report 2021 / 22 as highlighted in section 4 and contained in full in the Appendix.**
 - (b) Notes the details regarding Complaints about SBC Councillors contained in section 5 of this report.**

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 in the Scottish Borders and nationally.

4 NATIONAL STATISTICS

- 4.1 The Commissioner for Ethical Standards in Public Life in Scotland's Annual Report was laid before Parliament on 30 October 2023. That Report is appended to this Report as an Annex. Exhibits 1 and 2 of the Commissioner's report indicate that, in 2022 to 2023, the Commissioner received 156 new complaints about Councillors and Board Members of Public Bodies. No separate breakdown is given to identify which related to Councillors and which related to Board Members. Where the Commissioner receives several complaints about the same or closely related issues, they are investigated as one case. Those 156 complaints were therefore treated as 109 separate cases.
- 4.2 Exhibit 3 details the types of complaint received, the largest number being complaints about disrespect towards employees or members of the public.
- 4.3 Exhibit 4 gives a breakdown of who the Complainers to the ESC were and it is notable that members of the public were by far the largest number in that breakdown. This was also the case last year.

5 SCOTTISH BORDERS STATISTICS

- 5.1 During the financial year 2022 to 2023, 4 formal complaints were made directly to the Monitoring Officer about conduct of elected Members. One complaint was made by an SBC Councillor and three were made by members of the public. Three of the complaints related to allegations of disrespect. One related to alleged failure to declare an interest. In 3 complaints, following investigation by the Monitoring Officer, no further action was taken. In once complaint there was an attempted mediation between the parties. Since this did not resolve the complaint, the matter was then referred by the Monitoring Officer to the Ethical Standards Commissioner (the ESC). It is still being considered by the Commissioner.
- 5.2 Under current processes the Monitoring Officer is not automatically advised when the Ethical Standards Commissioner receives a complaint about an elected Member. She is advised only when an investigation commences and at this time there are still significant delays in those investigations commencing.

- 5.3 In the year financial year 2022 to 2023, and in addition to the matter she referred to the ESC, the Monitoring Officer was made aware of two other complaints made directly to the ESC. One was made by an elected Member and one by a member of the public. One related to alleged breaches of Part 7 of the Code (Quasi Judicial Decisions) and the other related to alleged failure to declare an interest. The complaint relating to Part 7 of the Code was investigated by the ESC and no breach was found to have occurred. The other matter is ongoing.
- 5.4 Any complaints which were received after 1 April 2023 will be reported on next year as will any conclusion to the matters currently outstanding at the ESC.

6 IMPLICATIONS

5.1 Financial

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

5.2 Risk and Mitigations

If the Committee fail to consider the information regarding compliance with the Code of Conduct, there is a risk that an opportunity to learn and develop understanding of the Code will be lost.

5.3 Integrated Impact Assessment

Since this report only contains information for noting an IIA is not required.

5.4 Sustainable Development Goals

Since this report only contains information for noting, it has no impact on Sustainable Development Goals

5.5 Climate Change

The report has no impact on Climate Change.

5.6 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

5.7 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to the Scheme of Administration or Scheme of Delegation as a result of this report.

6 CONSULTATION

6.1 The Director Finance and Procurement, the Chief Officer Audit and Risk, the Director (People Performance & Change) and Corporate Communications have been consulted and any comments received will be advised at Committee.

Approved by

Name

Nuala McKinlay

Title

Author(s)

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Background Papers: [insert list of background papers used in compiling report]

Previous Minute Reference: [insert last Minute reference (if any)]

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