

cc: copy

**STANDARDS COMMISSION  
SCOTLAND**

Room T2.21, The Scottish Parliament  
Edinburgh  
EH99 1SP

T (0131) 348 6666

F (0131) 557 9243

E [enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk)

W [www.standardscommissionscotland.org.uk](http://www.standardscommissionscotland.org.uk)

Mr Kenneth Lawrie  
Chief Executive  
Midlothian House  
Buccleuch Street  
Dalkeith  
EH22 1DN

O/Cases/BRep/LA/Mi/1278

26 June 2013

Dear Mr Lawrie

**Standards Commission for Scotland Hearing: 18 June 2013**

**Case Reference: LA/Mi/1278**

**Councillor Lisa Beattie of Midlothian Council and Mr Colin Beattie MSP (former Councillor of Midlothian Council)**

**Issue of Written Decision including findings as to Sanction**

I refer to the Hearing detailed above and now enclose a copy of the written decision of the Hearing Panel.

This letter has been copied to Ms Hillary Kelly, Assistant Chief Executive (Monitoring Officer), to confirm the sanction in relation to Councillor Lisa Beattie and former Councillor Colin Beattie.

A separate decision letter has also been issued to the respondent.

In terms of section 18 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 ("the Act") and Rule 10.9 of the Standards Commission's Hearing Rules, the Standards Commission is required to afford any Council or Devolved Public Body receiving a copy of a written decision a period of 3 months (or longer as the Standards Commission may determine) to consider the content of that decision. Section 18(3) of the Act provides that this consideration cannot be undertaken solely by a Committee, Sub-Committee or Officers of the relevant Council or Public Body.

I would, therefore, be grateful if arrangements could be made for consideration of the written decision in terms of section 18(3) of the Act and Rule 10.9 of the Hearings Rules. Notification of any actions or decisions taken by the Council as a result of the written decision should be forwarded for my attention within 3 months of the date of this letter, i.e. by Tuesday 24 September 2013. I will then advise the Standards Commission of the terms of any information received.

Thank you for your assistance with this matter.

Yours sincerely



**ELAINE MCLEAN**  
Business Manager

cc: Ms Hillary Kelly, Assistant Chief Executive (Monitoring Officer)



**I N T E G R I T Y   I N   P U B L I C   L I F E**

**Decision of the Hearing Panel of the Standards Commission for  
Scotland ("the Commission") following the Hearing held at  
Newbattle Abbey College, Dalkeith on 18 June 2013.**

**Panel Members:** Mr Ian Gordon OBE, QPM, Chair  
Mr Matt Smith OBE  
Mrs Julie Ward

This Hearing arose in respect of a Report by Mr D. Stuart Allan, Public Standards Commissioner for Scotland ("the PSC"), further to complaint No. LA/Mi/1278 ("the Complaint"), concerning an alleged contravention of the Councillors' Code of Conduct ("the Code") by Councillor Lisa Beattie and former Councillor Colin Beattie of Midlothian Council ("the Respondents").

Mr David Sillars, Senior Investigating Officer, attended the Hearing as the representative of the PSC and presented his case. Mr Gerry Moynihan QC represented the Respondents who both attended the Hearing. No witnesses were called by either the PSC or the Respondents.

### **The Complaint**

The Complainant was Councillor Derek Milligan of Midlothian Council. The Complaint alleged that both respondents, while elected members of Midlothian Council, had contravened the Code and, in particular, the provisions relating to Registration of Interests and Declaration of Interests.

The PSC investigated the complaint and concluded that by omitting to record in their Register of Interests, their ownership or interest in properties: in relation to Councillor Lisa Beattie, between her period of office - May 2007 and August 2012 and in relation to former Councillor Colin Beattie, between his period in office - May 2007 to May 2012, the Respondents had breached Paragraphs 4.1, 4.3, 4.18 and 4.19 within Section 4 of the Councillors' Code of Conduct and Regulation 4 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003.

The PSC further concluded that the Respondents had not breached the Code's provisions in respect of Section 5: Declaration of Interests.

The relevant provisions are:

### **Councillors' Code of Conduct**

#### **Section 4: Registration of Interests**

4.1 *The following paragraphs set out the categories of interests, financial and otherwise, which you have to register. These are "Registrable Interests", and you must ensure that they are registered, when you are elected and whenever your circumstances change. The register should cover the period commencing from 12 months prior to and including your current term of office.*

#### **Category One: Remuneration**

4.3 *You have a registrable interest where you receive remuneration by virtue of being:-*





- (i) employed;  
(ii) self-employed;  
(iii) the holder of an office;  
(iv) a director of an undertaking;  
(v) a partner in a firm; or  
(vi) undertaking a trade, profession or vocation, or any other work.

**Category Five: Houses, Land and Buildings**

- 4.18 You have a registrable interest where you own or have any other right or interest in houses, land and buildings, such as being an owner or a tenant, including council tenant.
- 4.19 You are required to give the address of the property, or otherwise give a description sufficient to identify it.

**Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 S.S.I. 2003/135**

**First Notice**

- 4.—(1) Each responsible person shall give to the applicable proper officer or standards officer a first notice of interests.
- (2) The responsible person shall give that first notice by the latest of—
- (a) 1st June 2003; .
  - (b) one month after the date of any declaration of acceptance or date of appointment, as the case may be, of that person; or
  - (c) one month after the date on which a members' code has effect in accordance with section 3(10) of the Ethical Standards in Public Life etc. (Scotland) Act 2000. .
- (3) The first notice shall state—
- (a) the name of the responsible person; .
  - (b) for each category listed in the first column of the Schedule to these Regulations in respect of which the responsible person has a registerable interest, information of the kind described in the councillors' code or members' code as set out in the second column of that Schedule; and .
  - (c) for each other category so listed, that the responsible person does not have such an interest

The PSC's report ("the Report") was submitted to the Commission in accordance with Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

**Joint Statement of Facts**

The PSC and the Respondents provided a Joint Statement signed on 18 June 2013, in respect of facts that were agreed and facts that were in dispute.

Parts 1 to 2 of the Commissioner's report is agreed.

**Part 3 of the Commissioner's Report**

- (a) 3.1 of the Commissioner's report is agreed.
- (b) 3.2 is agreed in so far as the Respondents agreed they were interviewed by the Investigating Officer. The Respondents have no reason to doubt that the other specified individuals mentioned in this





paragraph and Appendix C were interviewed but they have no knowledge of the date or content of those interviews.

Part 4 of the of the Commissioner's report is agreed subject to the detail in paragraphs 4.8 – 4.9 and 4.17 – 4.22 of the meetings held between the Respondents and the Council's Monitoring Officer and the content of that officer's file note which are matters of dispute.

Part 5 of the Commissioner's report is agreed subject to the following:

In 5.5 in the interpretation of paragraph 4.3 of the Code is in dispute;

In 5.8 the penultimate sub paragraph (relating to the advice received) is in dispute;

In 5.8, the last sub-paragraph (relating to rental income), it is agreed that this income was not registered but parties are in dispute as to whether there was obligation to register it;

In 5.9 the penultimate sub-paragraph (relating to the advice received) is in dispute;

In 5.9, the last sub-paragraph (relating to rental income), it is agreed that this income was not registered but parties are in dispute as to whether there was an obligation to register it;

In 5.10 the breach of paragraph 4.3 (Remuneration) is in dispute;

5.11 and 5.12 are in dispute;

5.18 insofar as it relates to the registration of rental income is in dispute.

Appendix A to B2 are agreed.

Appendix C: See paragraph 3(b) above.

Without prejudice to paragraph 4 above, Appendix D to the Commissioner's report is agreed to be a copy of the file note written by the Monitoring Officer.

Appendix E and F of the Commissioner's report are agreed.

Annex A and B to the Commissioner's report are agreed.

### **Evidence presented at the Hearing**

Subsequent to a discussion between both parties immediately prior to this Hearing, Mr Moynihan read out a written statement, (at Appendix 2), on behalf of both Respondents. The statement, subject to specific exceptions in the Joint Statement of Facts, had been agreed with Mr Sillars. The Respondents both accepted that they were in breach of paragraphs 4.18 and 4.19 of Section 4 of the Code, relating to their obligation to register their ownership of properties. In relation to Councillor Beattie as listed in paragraphs 4.6.1 and





4.6.3 and in relation to Mr Beattie as listed in paragraphs 4.6.2 and 4.6.3 of the PSC's Report.

The Respondents had sought advice on the obligation to register their property interests from the Council's Monitoring Officer but were left uncertain as to the need for registration. They believed that they had discretion whether or not to register properties in Scotland outside the Council area. In the case of the Councillor Beattie failure to register continued until 30 August 2012 whilst Mr Beattie did not register at any time during his period as a Councillor.

In failing to register, they stated they had made an honest mistake and each of the Respondents accepted that seeking advice did not exonerate them of responsibility to comply with the Code and had they exercised due diligence at the time and sought further advice they would have been advised that the Code, read with the Standards Commission's Guidance to the Councillors' Code of Conduct, required registration of properties in Scotland.

It was agreed between both parties that the PSC would not insist in the complaint against each Respondent insofar as it relates to paragraph 4.3 of the Code on the basis that had registration occurred that would in all probability have alerted the public to the fact that the Respondents were in receipt of rental income.

Each of the Respondents apologised for their breach of the Code and withdrew their statement of case, which is now superseded by the written statement.

Mr Sillars accepted that the agreed statement by the Respondents was an admission to the finding in the PSC's Report that they had both breached the Code in their failing to register properties in accordance with Section 4: paragraphs 4.18 and 4.19.

The Hearing Panel noted the admission made by both Respondents to their breach of the Code. Whilst the Hearing Panel agreed the reported breach of paragraph 4.3 of the Code would not be considered, it reminded both parties that paragraph 4.1 would remain in the breach allegation as it defined the requirement on elected councillors to register their interests.

### **The Decision**

The Hearing Panel considered all of the evidence, the submissions given in writing and orally at the HEARING and found as follows:

1. The Councillor's Code of Conduct applied to both Respondents
2. The Respondents have breached Paragraphs 4.1, 4.18 and 4.19 of the Code of Conduct for Councillors and Regulation 4 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003.

### **Sanction**



INTEGRITY IN PUBLIC LIFE

The Panel decided to censure both Respondents. This sanction was made under the terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000 section 19(1)(b)(ii).

The reasons were:

1. The registering of interests by councillors is a fundamental requirement of the Code and the Panel wish to reinforce that requirement
2. In failing to register properly and timeously, their ownership of property, they did not demonstrate the openness and transparency required by the Code.
3. The Respondents accept that it was their responsibility to comply with the Code and that they should have been more diligent in doing so and apologise for that omission.
4. The Panel took account of the Joint Statement, which indicated this omission had been an honest mistake.
5. The Panel is pleased to note the recognition by both Respondents of "the importance of the Code to public service in Scotland and, in particular, the need for transparency on the part of public office holders including elected Members".
6. The contribution to public service by both Respondents was brought to the notice of the Panel.

### Appeal

The attention of the Respondents is drawn to Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 which details the Right of Appeal in respect of this Decision.

Date: 25 June 2013



Ian A Gordon OBE, QPM  
Chair of the Hearing Panel

