

Decision of the Standards Commission – LA/Mi/1278
Report by Hillary Kelly, Monitoring Officer

1 Purpose of Report

- 1.1** This report advises the Council of the decision of the Standards Commission for Scotland regarding the complaint against Councillor Lisa Beattie and Colin Beattie MSP (former Councillor of Midlothian Council) following the hearing at the Newbattle Abbey College on 18 June 2013 and seeks to obtain the Council's agreement as to the consequent action required.
- 1.2** The decision letter dated 26 June 2013 (incorporating the decision, sanction, and joint statement of facts) from the Commission is attached as Appendix 1. The Public Standards Commissioner's report is attached at Appendix 2.

In terms of section 18(2) of the Ethical Standards in Public Life etc (Scotland) Act 2000 ('the Act'), the decision must be considered by the full Council within three months. The Business Manager of the Commission has asked to receive notification of any actions or decisions taken by the Council following such consideration, within three months. She will then advise the Standards Commission in terms of any information received.

2 Background

The Public Standards Commission (PSC) investigate the complaint and concluded that by omitting to record in their Register of Interests, their ownership or interest in properties: in relation to Lisa Beattie, between her period of office – May 2007 and August 2012 and in relation to former Councillor Colin Beattie, between his period of 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's report was submitted to the Standards Commission in accordance with Section 14 of the Ethical Standards in Public Life etc. Scotland Act 2000.

2.1 The Decision

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

- The Councillor's Code of Conduct applied to both Respondents

- 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.

2.2 Sanction

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).

2.3 Reasons for Sanction

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.

2.4 Practical implications of decision for Council

Unlike partial or full suspension or disqualification, there are no real repercussions for Council to consider and no special arrangements therefore, which require to be made to implement this outcome.

3 Report Implications

3.1 Resource

There are no resource implications directly arising from this report.

3.2 Risk

The Council is required by section 5 of the Act to promote the observance by its councillors of high standards of conduct and assist them to observe the Councillors' Code.

In general terms, the main risk implications normally arising for local authorities from decisions of the Standards Commission are that failure to implement the sanctions and statutory guidance in full

would leave them open to potential challenges and to criticism by the public and the media.

In a recent meeting with the Chief Executive and Monitoring Officer, the Executive Director of the Standards Commission has once again extended the offer of training, should Members feel that would be of benefit. This could be arranged jointly with other authorities, if desired.

3.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child
- ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☐ Business transformation and Best Value
- ☒ None of the above

3.4 Impact on Performance and Outcomes

There are no implications in respect of performance or outcomes.

3.5 Adopting a Preventative Approach

This report does not contribute to a preventative approach.

3.6 Involving Communities and Other Stakeholders

There is no involvement of communities and other stakeholders in this report.

3.7 Ensuring Equalities

There are no equalities implications arising directly from this report.

3.8 Supporting Sustainable Development

There are no sustainability implications arising directly from this report.

3.9 IT Issues

There are no IT implications arising directly from this report.

4 Summary

Following a Hearing on 18 June 2013, the Standards Commission found that Councillors Lisa Beattie and Colin Beattie MSP (former Councillor of Midlothian Council) had 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.

In accordance with Section 18 of the Ethical Standards in Public Life etc (Scotland) Act 2000, the decision of the Standards Commission Hearing Panel must be considered by the full Council within three months. The Business Manager for the Commission has asked to be advised of any actions or decisions taken by the Council following such consideration.

5 Recommendations

Council is recommended:

- a) To consider the Commission's decision letter and to note the censure applied to Councillor Lisa Beattie and Colin Beattie MSP (former Councillor of Midlothian Council);
- b) To advise the Commission of the Council's own decision and of any actions it intends to take;
- c) To agree that no special arrangements require to be made at this stage;
- d) To give consideration to any general training needs arising from the matters highlighted by this investigation and to consider what training should be provided;
- e) To make any other comment or response they might wish to feed back to the Commission after considering its findings.

Date: 04 July 2013

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Background Papers:

Appendix 1 –Standards Commission decision letter LA/Mi/1278 dated 26 June 2013 (incorporating the decision, sanction, and joint statement of facts).

Appendix 2 - The Public Standards Commissioner's report - LA/Mi/1278

Declaration Box

Instructions: *This box must be completed by the author of the report. The box will be copied and saved by the Council Secretariat who will delete it from the report prior to photocopying the agenda.*

Title of Report: Decision of the Standards Commission – LA/Mi/1278

Meeting Presented to: Council

Author of Report: Hillary Kelly

I confirm that I have undertaken the following actions before submitting this report to the Council Secretariat (Check boxes to confirm):-

- ☒ *All resource implications have been addressed. Any financial and HR implications have been approved by the Head of Finance and Human Resources.*
- ☒ *All risk implications have been addressed.*
- ☒ *All other report implications have been addressed.*
- ☒ *My Director has endorsed the report for submission to the Council Secretariat.*

For Cabinet reports, please advise the Council Secretariat if the report has an education interest. This will allow the report to be located on the Cabinet agenda among the items in which the Religious Representatives are entitled to participate.

Likewise, please advise the Council Secretariat if any report for Midlothian Council has an education interest. The Religious Representatives are currently entitled to attend meetings of the Council in a non-voting observer capacity, but with the right to speak (but not vote) on any education matter under consideration, subject always to observing the authority of the Chair.