

REPORT TO: East Lothian Council

MEETING DATE: 24 February 2015

BY: Monitoring Officer

SUBJECT: Decision of Standards Commission for Scotland in Hearing of Complaint against Councillor Fraser McAllister

1 PURPOSE

To fulfil the statutory duty on the Council to:

- 1.1 consider the findings of a decision by the Standards Commission for Scotland within 3 months of receipt; and
- 1.2 to respond to the direction given on behalf of the Commission, by advising its Executive Director of any decision made by the Council in relation to the Commission's findings.

2 RECOMMENDATIONS

It is recommended that the Council:

- 2.1 considers the recent decision of the Standards Commission for Scotland following the Hearing held on 14 and 15 January 2015 into a complaint concerning the conduct of Councillor Fraser McAllister;
- 2.2 agrees, as recommended by the Commission, to provide further training for elected members on the procedures to follow in relation to the declaration of interests; and
- 2.3 agrees that its decision be communicated to the Commission through the Commission's Executive Director.

3 BACKGROUND

- 3.1 A complaint was made to the Standards Commission for Scotland about the conduct of Councillor Fraser McAllister, alleging that he had breached the Councillor's Code of Conduct and in particular, Section 5.7. The

Investigating Officer of the Standards Commission, Mr Iain McLeod, investigated the complaint. Following receipt of the report of Mr Bill Thomson, the Commissioner for Ethical Standards in Public Life, the Standards Commission decided to hold a hearing into the allegations, and heard evidence on 14 and 15 January 2015 at the Maitlandfield Hotel, Haddington. The Commission's Executive Director wrote to the Chief Executive with their decision on 22 January.

3.2 The Council has a statutory duty under Section 18 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 to consider the findings of the Standards Commission within 3 months of receipt of their decision and has been directed by the Executive Director of the Commission under Rule 10.9 of the statutory Rules for the Conduct of Hearings of the Standards Commission, to advise of any decision made by the Council.

3.3 **Standards Commission Findings and Post-Hearing Recommendation:**

The findings of the Standards Commission are set out in their Decision Report in which they found on the balance of probabilities that Councillor McAllister had breached section 5.7 of the Councillors' Code of Conduct.

3.4 **Sanction:**

The Standards Commission Panel decided to censure Councillor McAllister. The sanction was made under the terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000 section 19 (1)(a).

3.5 **Further recommendations:**

The Panel also recommended:

- that East Lothian Council review the support provided to councillors in understanding the requirements of the Councillors' Code of Conduct, in particular in relation to paragraph 5.8 (service on other bodies) and 5.9 (private and personal interests);
- that East Lothian Council review the actions of councillors, in particular in relation to the declaration of interests to ensure that their actions are in compliance with the Code;
- that Councillor McAllister should undertake further training in the Code.

3.6 **Consideration:**

In considering the support provided to councillors in understanding the requirements of the Code, officers consider that further training should be provided. Examination of the cases covered by the Commission suggests that the majority of breaches of the Code identified across local authorities concern the declaration or registration of interests.

In considering the actions of councillors in declaring interests, it is difficult to identify any additions that could reasonably be made to the current

practice whereby there is an item on committee agendas to seek declarations of interest. It is councillors' responsibility to make declaration.

4 POLICY IMPLICATIONS

4.1 There are no direct policy implications.

5 EQUALITIES IMPACT ASSESSMENT

5.1 The report is not applicable to the well being of equalities groups and an Equality Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 Ethical Standards in Public Life, etc. (Scotland) Act 2000:
<http://www.legislation.gov.uk/asp/2000/7/contents>

7.2 Councillors' Code of Conduct:
<http://www.scotland.gov.uk/Publications/2010/12/10145144/0>

7.3 Rules for the Conduct of Hearings by the Standards Commission for Scotland
http://www.standardscommissionscotland.org.uk/webfm_send/401

7.4 Decision of the Hearing Panel of the Standards Commission for Scotland following the hearing into allegations of breach of the Councillors' Code of Conduct by Councillor Fraser McAllister:
<http://www.standardscommissionscotland.org.uk/content/decision-hearing-panel-standards-commission-following-hearing-held-maitlandfield-house-hot-0>

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