

The Highland Council

9 May 2013

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| Agenda Item | |
| Report No | |

Decision of Standards Commission for Scotland in Hearing against Councillor Kenneth MacLeod

Report by Assistant Chief Executive (Monitoring Officer)

Summary

The purpose of this report is to fulfil the statutory duty placed on the Council under Section 18(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000, following the Hearing in respect of Councillor Kenneth MacLeod.

1. Background

1.1 The purpose of this report is to fulfil the statutory duty placed on the Council under Section 18(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000, to consider the findings of the Standards Commission for Scotland within 3 months of the receipt of its decision and to respond to the direction given by the Secretary of the Commission, by advising the Secretary of any decision made by the Council in relation to the findings of the Standards Commission.

2. Complaint against Cllr MacLeod

2.1 A complaint was made to the Standards Commission for Scotland regarding the conduct of Councillor MacLeod (the Respondent) alleging that he had contravened the Councillors' Code of Conduct and in particular the provisions on making representations on planning applications, as contained in Section 7 of the Code.

2.2 The complaint was investigated by the Public Standards Commissioner for Scotland and concluded that Councillor MacLeod had contravened the following aspects of the Code:

- (1) Paragraph 5.3 of the Code in respect of compliance with the 'objective test'
- (2) Paragraph 5.6 of the Code in respect of declaration of financial interests
- (3) Paragraph 7.15 of the Code in respect of making representations on behalf of constituents or other parties in respect of planning matters

2.3 The Standards Commission subsequently convened a Hearing on 18 March 2013, held at the Town House, Inverness. The Hearing Panel concluded that:

- (1) The Councillors' Code of Conduct applied to the Respondent
- (2) The Respondent had breached paragraph 5.3 of the Code, the 'objective test', in so far as he had failed to declare an interest in the matter of the planning issue, while at the time of the application being considered he was found to be acting on behalf of the objectors to the application, the Morefield Riverside Action Group
- (3) The Respondent had breached paragraph 5.6 of the Code in so far as he was in receipt of monies paid to him by objectors to the application, in respect of expenses, while acting in a professional capacity on their behalf and made no declaration of interest in respect of this matter
- (4) The Respondent had breached paragraph 7.15 of the Code in so far as he had attended and made representations to the North Planning Applications Committee of the Highland Council, he had failed to declare any interest and he did not absent himself prior to the decision being made.

2.4 The Panel decided to censure the Respondent. This sanction is made under the terms of Section 19(1) (a) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

2.5 A full copy of the decision of the Standards Commission of Scotland can be found at www.standardscommission.org.uk.

3. Consideration of Decision

3.1 The Council has a duty, under Section (18) of the Ethical Standards in Public Life etc. (Scotland) Act 2000, to consider the content of the decision and that this consideration cannot be undertaken by a Committee, Sub-Committee or officers of the Council. However the Act provides no guidance on the nature of the consideration to be undertaken by the Council.

3.2 Induction Training for all Members of Highland Council has been provided in respect of their responsibilities under the Councillors' Code of Conduct and specifically their responsibilities in dealing with regulatory matters including planning. The Highland Council has previously agreed that all Members are required to attend training in respect of planning, prior to taking part in decisions, and Members are reminded to take the opportunity to undertake refresher training.

3.3 In this regard a training session has already been scheduled on 24 May 2013 and all Members of the Council have been emailed with the relevant details.

4. Implications

- 4.1 There are no Resource, Equalities or Climate Change implications arising directly from this report.
- 4.2 There are no legal implications arising as the sanction decided is one of censure and therefore the Council is not required to take any further legal action.

5. Recommendation

The Council is asked to consider and note the decision of the Standards Commission of Scotland, to reaffirm its decision that all Members are required to attend planning training and to note that a relevant training session has been arranged for 24th May 2013.

Designation: Assistant Chief Executive

Date: 22 April 2013