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**COMPOSITE REPORT TO: AUDIT & PERFORMANCE REVIEW COMMITTEE ON  
WEDNESDAY, 16 DECEMBER, 2009**

**SUBJECT: MONITORING OFFICER'S ANNUAL REPORT TO 31  
MARCH 2009 AND COMPLIANCE WITH  
STATUTORY AND RELATED OBLIGATIONS**

**BY: MONITORING OFFICER**

**1. REASON FOR REPORT**

- 1.1 To report a range of tasks undertaken by the Monitoring Officer and the Principal Solicitors from 1 April 2008 to 31 March 2009.
- 1.2 To provide assurances on the progress of compliance, with the Council's obligations in terms of procurement; workforce planning; support for learning and equalities.
- 1.3 This report is submitted to Committee in terms of Section H of the Council's Administrative Scheme relating to the promotion and maintenance of high standards of conduct and the extent of compliance with the Council's statutory obligations in terms of procurement, workforce planning, support for learning and equalities.

**2. RECOMMENDATIONS**

**The meeting:**

- 2.1 **Considers the Fourth Annual Report on Standards of Conduct and related issues.**
- 2.2 **Considers Appendix 1 and notes this will be the last occasion assurances as to the extent of compliance with the statutory and related obligations will be reported in this format as they are now incorporated within the programme for the scrutiny by this Committee of the Single Outcome Agreement and the "Moray Performs" work programme.**

**3. BACKGROUND**

- 3.1 Standard of Conduct etc.

It is the responsibility of the Council that its affairs are managed in accordance with proper standards of conduct. It therefore needs to put in place proper arrangements for:-

1. Implementing and monitoring compliance with appropriate guidance and standards of conduct;
2. Expressing and promoting appropriate values and standards across the Council;
3. Developing, promoting and monitoring compliance with Codes of Conduct that advise Members, Officers and Managers of their personal responsibilities and expected standards of behaviour; and
4. Developing, promoting and monitoring compliance with Standing Orders and Financial Regulations.

### 3.2 Assurances on statutory and related obligations

In 2008 a review by this Committee of Central Services Performance Indicators highlighted that Members desired assurances on compliance with a range of the Council's legal, statutory and related obligations in addition to more "operational" legal matters.

- 3.3 The indicators in respect of compliance in the areas of procurement, equalities, support for learning and workforce planning were subsequently agreed by this Committee.
- 3.4 These assurances were duly incorporated into the Monitoring Officer's Annual Report submitted to and agreed by this Committee at its meeting in October 2008.
- 3.5 An update on these obligations is attached (**APPENDIX 1**) to this Report.
- 3.6 These obligations have since the last Monitoring Officer's report to this Committee in 2008 been merged into this Committee's programme of scrutiny. It is therefore recommended that this be the last occasion assurances such as these will be reported in this format.

## 4. ANNUAL REPORT

### 4.1 Governance

As part of the development of the Council's Single Outcome Agreement with the Scottish Government and the Council's modernisation programme known as "Moray Performs", it has been necessary to develop a programme of work to develop governance across the Council and its Community Planning Partners. A programme was drawn up during the last quarter of the year to 31 March, 2009. Details of the programme which runs for two years from 1 April, 2009 to 31 March, 2011 were reported to this Committee in June 2009. Progress of the programme will be a major feature of the next annual Report.

#### 4.2 Complaints/Investigations by Chief Investigating Officer, The Standards Commission

The Monitoring Officer and the Principal Solicitors in his absence deal with ad hoc requests from Members/Officers as and when required on the application of the Code of Conduct. These Officers also assist the Chief Investigating Officer of the Standards Commission in his investigations into complaints against particular Councillors should they arise.

Period	Number of complaints / investigations
April 2008 – March 2009	2
April 2007 – March 2008	4
April 2006 – March 2007	1
April 2005 – March 2006	3
May 2003 – March 2005	12

#### 4.3 Advice and Assistance: 1 April 2007 – 31 March 2008

4.4 As agreed by Council the Monitoring Officer has since June 2004 issued six-monthly reminders to all Members of Council of the need to keep information of their interests in the Register of Interests up to date.

4.5 Council payslips have included previously a summary of the Code of Conduct for Employees. This exercise is repeated on an ad hoc basis.

4.6 Individual Members of the Council seek advice and assistance on ad hoc basis on matters of interest or concern to them regarding, for example, Standing Orders.

4.7 The Monitoring Officer raises with the Chief Executive's Corporate Management Team and vice versa any matters of interest or concern regarding how the affairs of the Council are being conducted. In the context of the scrutiny of all Reports to Council etc there is regular dialogue between and amongst the Committee Clerks, the Monitoring Officer and the Principal Solicitors and the Council's Directorate, Heads of Service and report authors.

#### 4.8 Scrutiny of Reports etc for Meetings of Council, Sub Committees etc

All Reports to meetings of the Council and its Committees etc are, in accordance with previous practice, scrutinised by the Committee Clerks, the Monitoring Officer and Principal Solicitors as the basis for authorisation of the Reports. The Principal Solicitors also attend to Committee meetings of the major Service Committees.

#### 4.9 Legislation, Guidance, Circulars, etc

Through the work of Legal Services the introduction of legislation and associated guidance and circulars are overseen by the Monitoring Officer and the two Principal Solicitors.

4.10 During this reporting period major items of legislation and initiatives included topics, for example such as:-

- Adoption
- Additional Support for Learning
- Liquor Licensing and Gambling
- Civic Government Licensing
- Planning

## 5. SUMMARY OF IMPLICATIONS

### (a) **Corporate Development Plan/Community Plan/Service Improvement Plan**

The Council is committed to high standards of conduct, probity and propriety.

### (b) **Policy and Legal**

The Ethical Standards in Public Life etc. (Scotland) Act 2000, an Act of the Scottish Parliament, establishes a framework for securing the observance of high standards of conduct by Councillors and other persons holding public appointments.

The statutory framework for Best Value provided by the Local Government (Scotland) Act 2003 puts in place formal links between statutory guidance by the Scottish Ministers to local authorities on what arrangements should support Best Value.

The statutory guidance by the Scottish Ministers issued in pursuance of Section 2(1)(a) of the Local Government (Scotland) Act 2003 requires an authority be able to demonstrate, in terms of Best Value, a commitment to high standards of probity and propriety, to honour the trust given by the electorate.

The extent of each of the statutory related obligations namely, procurement; workforce planning; support for learning and equalities are detailed in **(APPENDIX 1)** to this report.

### (c) **Resources (Financial, Risks, Staffing and Property)**

There are no resource implications in respect of this Report given its nature.

### (d) **Consultations**

This Report has been prepared for the benefit of Members of this Committee.

6. CONCLUSION

Standards of Conduct

- 6.1 It is a matter of continuing to promote and maintain consistently high standards, primarily by the development of governance, progress of which will be covered in detail in the next Annual Report.

Statutory and Related Obligations

- 6.3 The provision of these assurances will in future not be published in this format for the reasons stated in this Report.

Author of Report: Roddy Burns, Monitoring Officer

Background Papers:

Ref: RDB/CS

Signature:  \_\_\_\_\_

Date: 11th Dec. 2009

Designation: Chief Legal Officer/Monitoring Officer

Name: Roderick D Burns