

MINUTES

Meeting date: Tuesday 3 November 2015

IN ATTENDANCE

- Ian Gordon (Convener)
- Kevin Dunion
- Lindsey Gallanders
- Matt Smith
- Lorna Johnston (Executive Director)
- Elaine McLean (Business Manager)

APOLOGIES

- Julie Ward (Member)

ITEM	CONTENT	ACTION
STANDING ITEMS		
1.	<p>APOLOGIES An apology for absence was received from Mrs Ward.</p> <p>CONFLICTS OF INTEREST Agenda item 7. Mr Dunion declared that his wife is the vice chair of Perth and Kinross Health & Social Care Integration Joint Board (IJB). However, as agenda item 7 was a general query on interpretation and did not specifically concern Perth and Kinross IJB, he did not consider there was a conflict of interest and was, therefore, able to participate in the discussion. There were no other declarations.</p>	
2.	<p>DRAFT MINUTE OF PREVIOUS MEETING Members reviewed and approved the Minute from the meeting held on 22 September 2015.</p>	
3.	<p>MATTERS ARISING</p> <p>Code of Conduct for Health & Social Care Integrated Joint Boards Members noted that the Scottish Government were consulting on proposed amendments to the Public Bodies (Joint Working) (Integration Joint Board) (Scotland) Order 2014 and the Public Bodies (Joint Working) (Integration Joint Monitoring Committees) (Scotland) Order 2014 (see agenda item 8). The Integrated Joint Board Codes of Conduct could not be progressed until a decision had been made on the amendments. Members asked the Executive Director to keep them updated.</p> <p>Members' Succession Planning The Convener advised he would liaise with Officeholders Services in February 2016 about the recruitment process and timeframe to replace the 2 Members of the Commission who are due to demit office during the early months of 2017.</p> <p>Audit Scotland / ALEO Guidance Members noted that Audit Scotland were organising a round table group, which would include the Standards Commission, to discuss how the Guidance could be updated. Members asked that they be kept updated.</p> <p>All other outstanding matters arising were dealt with under the main Agenda.</p>	Executive Director
STRATEGIC MATTERS		
4.	Strategic Plan 2016/2020	

	Subject to some minor amendments and additions, Members agreed the draft Strategic Plan for 2016/20. Members asked the Executive Director to make the changes identified and to issue it to key stakeholders for consultation. Members agreed the Executive Director should collate any comments received for review at the next meeting.	Executive Director
BUSINESS MATTERS		
5.	<p>COMMUNICATIONS:</p> <p>Redesign of Website Members noted the design phase of the website project had been completed and the Executive Team were now populating the site.</p> <p>West Dunbartonshire Council Workshop Mr Smith provided a verbal report on the training event held on 7 October 2015. Members noted a query had been raised at the event regarding the interpretation of the Councillor's Code of Conduct. The query was to be considered at agenda item 7 below.</p> <p>Comhairle nan Eilean Siar Workshop Members noted that the Convener and Mrs Gallanders were due to provide a training event to Comhairle nan Eilean Siar councillors on 5 November 2015.</p> <p>Standards Officer Workshop Members noted that a number of good suggestions and relevant issues had been raised at the Workshop that morning. The Executive Director advised that she would collate the comments and suggestions and create an action plan to progress matters raised, as appropriate.</p> <p>The Improvement Service: Social Media Guidance for Elected Members The Executive Director advised that the Standards Commission had provided comments on the Improvement Services' draft Social Media Guidance which had been incorporated into the final version. Members noted that the Improvement Service's Guidance complemented similar provisions in the revised Standards Commission Guidance (draft) to the Councillors' Code of Conduct which was currently being developed.</p> <p>Request for Roadshow Event Members noted that Aberdeen City Council had requested a joint training event to support councillors from Aberdeen City Council, Aberdeenshire Council and Moray Council. In particular, they had requested that the training focus on member /officer relations and declarations of interest. Members agreed to provide the training in March 2016. Members asked the Executive Director to liaise with Aberdeen City Council about the arrangements for the event.</p>	<p>Executive Director</p> <p>Executive Director</p>
6.	<p>Dispensation Request – Aberdeen City Council / NESTRANS Members noted a further dispensation request had been submitted by Aberdeen City Council in respect of councillor members of Nestrans. Aberdeen City Council had provided a specific example of a situation where the lack of a dispensation would cause difficulties. The example concerned a Pre-Application Notification of Application in respect of a retail development, which would impact on the transportation strategy and, therefore, comes within the remit of Nestrans. Aberdeen City Council were concerned that, without a dispensation, councillor members of Nestrans would not be able to discuss and vote at the Planning Committee, despite the fact that making comments on major planning applications that affect transportation, comes within the main statutory remit of Nestrans.</p> <p>Members appreciated the concerns raised by Aberdeen City Council that Nestrans were required to have elected members with relevant experience in planning and transportation issues on their Board, as the statutory purpose of Regional Transport Partnerships (RTPs)</p>	Executive Director

	<p>was to encourage and facilitate transportation planning for the whole region. Nestrans would not be prepared to consider a major planning application if it meant their elected members could not then consider and vote on the planning Application when it came before the Council, therefore vitiating the purpose of the RTP.</p> <p>However, Members noted that the existing provisions in the Councillors' Code of Conduct prevent councillors who have an interest from taking part in discussions or decisions on any matter which is of a quasi-judicial or regulatory nature. The interest, if it exists, would arise from membership of a body such as Nestrans, and not from having taken part in any discussion or decision. Members considered that the reason for the approach taken in the Code of Conduct is clear, and any suggestion that councillors could simply absent themselves from consideration of the relevant item at Nestrans' meetings would defeat the purpose of the relevant provisions. Members were of the view that if councillors wished to influence regulatory or quasi-judicial matters, they would need to participate in the discussion at Nestrans, and ensure that their views, based on their planning knowledge and expertise, were then conveyed to the Council. However, at that point, they would require to declare their interest as members of Nestrans and withdraw from Council meeting.</p> <p>Having considered the request carefully, Members remained of the view that a dispensation could not be granted as such a dispensation would be contrary to the current provisions within the Councillors' Code of Conduct. Members asked the Executive Director to write to Aberdeen City Council to this effect. Members agreed that the Executive Director establish whether Aberdeen City Council had contacted the Scottish Government to raise their concerns and whether they had asked the Scottish Government whether the potential conflict had been addressed when RTPs were established. The Executive Director should also suggest that Aberdeen City Council contact other RTPs to determine what their approach was in addressing these types of situation.</p>	Executive Director
7.	<p>Health & Social Care Integrated Joint Boards Dispensation and interpretation of paragraphs 5.18 and 7.5 of the Councillors' Code of Conduct</p> <p>Members considered a query from West Dunbartonshire Council regarding the interpretation of paragraphs 5.18 and 7.5 of the Councillors' Code of Conduct in the context of the Health & Social Care Integrated Joint Boards (IJBs). Members agreed that the IJB dispensation was not intended, and was not sufficiently wide, to cover quasi-judicial or regulatory matters. Whilst silent on the objective test, the paragraph under 5.18(2)(d)(ii) of the Code of Conduct does not allow for its application in respect of quasi-judicial or regulatory matters. If it was intended that the objective test should be applied in respect of these, Members considered that the Code would state so either there or at paragraph 7.5, which is why the current guidance at paragraph 36 was drafted in those terms. Members considered that the provisions are fundamental to maintaining public trust in the integrity of the relevant processes and, at present, the provisions mean there is no room for the application of the objective test in cases where the matter being considered is quasi-judicial or regulatory.</p> <p>Members agreed that the approach of the Standards Commission has been, and will continue to be, that councillors must not take part in any discussion of, or decision on, such matters where the IJB or other body has an interest, including as a result of making objections or representations. Members noted that the Commissioner for Ethical Standards in Public Life in Scotland had confirmed his support for this approach. Members further agreed that paragraph 36 of the existing guidance was correct and should be included in the revised guidance.</p> <p>Members appreciated that provisions in the Code of Conduct can lead to difficulties in some smaller local authorities, who had fewer councillors to sit on the various different committees and arms' length external organisations. Members agreed that the Executive Director suggests to West Dunbartonshire Council that they raise concerns with the</p>	

	Scottish Government. Members further agreed that the Standards Commission would be willing to take part in any discussions between West Dunbartonshire Council and the Scottish Government, if the council thought that might be of assistance.	Executive Director
8.	<p>Scottish Government Consultation - Code of Conduct for Integrated Joint Boards</p> <p>Members supported the Scottish Government's proposed amendments to the Public Bodies (Joint Working) (Integration Joint Board) (Scotland) Order 2014 and the Public Bodies (Joint Working) (Integration Joint Monitoring Committees) (Scotland) Order 2014.</p> <p>Members noted that delegates at the Standards Officers' Workshop had unanimously been of the view that there should be one Model Code of Conduct for Members of Integrated Joint Board. Members agreed with this view as they considered an IJB specific Model Code, adopted by all IJBs in Scotland, would ensure clarity and consistency with regard to the conduct expected of Members.</p> <p>Members asked the Executive Director to write to the Scottish Government to this effect.</p>	Executive Director
9.	<p>Code of Conduct for Members of the Standards Commission (Revised) and Standing Orders (Revised)</p> <p>Members agreed the revised versions of both documents and that these are published on the Standards Commission's website.</p>	Business Manager
10.	<p>Standards Commission: Business Plan Quarter 2 – Mid Year review</p> <p>Members reviewed the update made to the Business Plan following the mid-year review and identified some amendments and additions to be made. Members requested that the colour coding system used to identify progress be reinstated.</p>	Executive Team
11.	<p>FINANCIAL MATTERS</p> <p>Budget and Expenditure Report 2015/16: Quarter 2 – Mid Year review</p> <p>Members noted the Operating Costs Statement detailing expenditure incurred during September 2015, the overall cumulative cash expenditure during 1 April – 30 September 2015 and the overall budget allocation to the year end. Members further noted the projection that the Standards Commission remains on target to spend the allocated budget at the mid-point in the financial year cycle and a further report would be provided for Members consideration in February 2016.</p>	
CASES UPDATE		
12.	<p>NOTES OF DECISION/CASES NOT PURSUED & SECTION 14 NOTIFICATION LETTERS</p> <p>Members reviewed thirteen decisions published by CESPLS on his website following completion of his investigations.</p>	
13.	<p>BREACH REPORT</p> <p>LA/AC/1720 & 1743: Councillor Willie Young of Aberdeen City Council. Members agreed to hold a Hearing.</p>	
14.	<p>POST HEARING ACTIVITIES</p> <p>LA/Fi/1501 etc. Councillor Brian Thomson of Fife Council</p> <p>Members noted the response provided by the Chief Executive following the Council's consideration, on 17 September 2015, of the decision of the Hearing Panel.</p>	
AOB		
14.	<p>2015/16 MEETING SCHEDULE AND ACTIVITY WORKPLAN</p> <p>Members noted the updated meeting schedule and activities identified within the workplan. Members agreed to the Convener's request to move the January meeting with the SPSO to February 2016. The Business Manager would contact Mr Martin and agree a</p>	Business Manager

new date.

2016/17 DIARY DATES

Members agreed to reschedule the July meetings of the Audit and Risk Committee and the Commission to alternative dates.

DATE OF NEXT MEETING

The Standards Commission will meet on Monday 14 December 2015.