

MINUTES

Meeting date: Monday 25 September 2017

IN ATTENDANCE

- Kevin Dunion (Convener)
- Lindsey Gallanders
- Michael McCormick
- Tricia Stewart
- Julie Ward
- Elaine McLean (Business Manager)

ITEM	CONTENT	ACTION
STANDING ITEMS		
1.	<p>APOLOGIES</p> <p>An apology was received from Lorna Johnston, Executive Director.</p> <p>CONFLICTS OF INTEREST</p> <p>Agenda item 13e: Mrs Gallanders confirmed that she had received a copy of the Case Report. Mrs Gallanders had previously been employed by the City of Edinburgh Council, therefore there was a risk that she may have worked with some of the people involved in this case and therefore did not feel it appropriate to take part in the discussion or decision.</p>	
2.	<p>DRAFT MINUTE OF PREVIOUS MEETING</p> <p>Members reviewed and, subject to a minor amendment, approved the minute of the meeting on 31 July 2017.</p>	
3.	<p>MATTERS ARISING</p> <p>Members noted that all matters arising were either complete or were due to be discussed under the main agenda.</p>	
BUSINESS MATTERS		
4.	<p>COMMUNICATIONS:</p> <p>a) Regional Roadshows</p> <p>Members noted that invitations had been issued to the regional roadshows which were due to be held in Inverness on 5 October 2017, Ayr on 9 November 2017, Edinburgh on 20 November 2017 and Glasgow on 15 December 2017. Those attending had been asked to give an indication about whether there were specific topics they wished covered to enable the presentations to be tailored accordingly.</p> <p>Members noted a draft presentation for the Inverness roadshow had been issued to Mr Dunion and Mrs Stewart for their approval. Feedback on the draft had been provided and subject to amendments being inserted and the provision of a separate hand-out detailing Hearing cases relevant to the learning points the presentation material was complete.</p>	
	<p>b) Training Videos</p> <p>Members noted the Executive Team was still waiting on draft visuals and scripts for the training videos from the Scottish Parliament's Broadcast Office. The Executive Team would issue a reminder and report back on progress at the next meeting.</p>	Executive Team

	<p>c) Advice Notes for Councillors and Members on how to Declare Interests Members noted that both versions of the Advice Note had been published and issued on 8 and 10 August 2017 respectively.</p>	
	<p>d) Members' Development Day Members noted that an agenda for the Development Day on 12 October 2017 had been circulated, along with a list of questions and topics to consider. Members acknowledged there was no need to submit written answers to the questionnaire before the Development Day, however, Members' responses could be used as prompts when discussing issue during the event.</p>	
<p>5.</p>	<p>Refresher Training on the Standards Commission's Data Protection and Disposal Policies The Business Manager provided an overview of the provisions associated with the General Data Protection Regulations (GDPR), which will come into force on 25 May 2018. The presentation provided Members with an overview of the requirements and duties which will be required to ensure the Standards Commission can demonstrate compliance with the accountability provisions associated with the GDPR. Members agreed the Executive Team should:</p> <ul style="list-style-type: none"> • liaise with Scottish Parliament about the provision of personal email accounts for Members; • develop an Aide Memoire detailing Members' personal responsibilities; • include GDPR preparation in the Business Risk Register; and • consider the requirement to appoint a Data Protection Officer to the Standards Commission. 	<p>Executive Team</p>
<p>6.</p>	<p>Advice Note on Application of Article 10 of the ECHR Members noted that the draft Advice Note explaining how the Standards Commission approaches its decision-making role at Hearings in respect of complaints where issues concerning the freedom of expression and the application of Article 10 of the European Convention of Human Rights (ECHR) arise, had been published on the Standards Commission's website and copies sent to the CESPLS, Improvement Service, Solace and SOLAR to seek comments on both its content and format. Members were pleased to note the constructive and positive feedback received.</p> <p>Members agreed that, in the interests of clarity and to avoid confusion, it would be helpful to have separate Advice Notes for councillors and members of devolved public bodies.</p> <p>Members noted that Solace Scotland had questioned the provision that stated Hearing Panels would follow the process outlined in the Advice Note in any cases where it appeared that Article 10 considerations may apply, regardless of whether the parties to the case make any submissions, refer to case law or lead evidence to that effect. Solace indicated they consider this could be problematic as an absent party would not be able to comment or respond to any submissions or debate about Article 10 raised on the day and the Hearing Panel would be relying on itself to cover all the relevant ground rather than dealing with what parties have chosen to say. Solace also noted that it could mean that a Hearing Panel may be applying Article 10 considerations without any evidence or submissions to inform that analysis. Members agreed that the Standards Commission would need to make it clear in its notification letters that the Hearing Panel intended to follow the process. Members considered, however, that Hearing Panels would be obliged by law to apply the ECHR, whether or not the parties made reference to it. Members further considered that Hearing Panels would be able to make an assessment on the basis of any relevant facts which they consider to have been established at the Hearing and / or their knowledge of the law. They would be able to determine that certain conduct could, by its very nature, have a certain effect such as damaging confidence in local democracy or undermining good administration.</p>	<p>Executive Team</p>

	<p>Members reviewed the changes recommended by the Executive Team in light of the comments received and, subject to some revisions being made, agreed the content of the Advice Notes.</p> <p>Members further agreed the content of an Executive Summary of the key points addressed in the Advice Notes and asked that this be incorporated into the document. The Advice Notes should then be finalised, issued and published.</p>	<p>Executive Team</p> <p>Executive Team</p>
7.	<p>Whistleblowing Policy</p> <p>Members noted that at its meeting on 24 July 2017, the Audit & Risk Committee recognised that by virtue of the Standards Commission's size, the same individuals were, on occasion, required to sign and counter sign payments. This meant that there would always be an inherent risk of fraud, although the Committee accepted this was mitigated by the fact that the Scottish Parliament's Finance Team was responsible for processing payments. The Committee had agreed that in order to further mitigate the risk, the Standards Commission should ensure all staff and Members were aware of, and had access to, a Whistleblowing Policy and formal reporting mechanisms.</p> <p>Members noted the Executive Team had drafted a revised Policy. The Convener indicated he would liaise with the Executive Director to discuss contingency funding should legal representation be necessary and, subject to final amendment, Members agreed the content of the policy. Members asked that the final policy should be circulated to all staff and Members.</p>	<p>Executive Team</p>
8.	<p>Revised Guidance on the Councillors' Code of Conduct</p> <p>Members noted the revised Guidance on the Councillors' Code of Conduct had been circulated and published on 1 September 2017. A standalone version, which did not include the embedded version of the Councillors' Code of Conduct, had also been amended and published on the website.</p> <p>Members noted that a Braille version of the Guidance incorporating the Code had been created. The Monitoring Officers of all 32 Councils had been asked to advise their elected members of the availability of this version and to confirm copies would be provided on request.</p>	
9.	<p>Scottish Government's Consultation on Proposed Amendments to the Councillors' Code of Conduct</p> <p>Members noted that the Scottish Government had published the responses it had received to the consultation it launched on 12 December 2016 in respect of possible amendments to the Councillors' Code of Conduct. Members noted that the Scottish Government had indicated it intended to seek the Standards Commission's view on the proposed wording of any changes, which were submitted during the consultation exercise, before they were finalised. However, to date, nothing had been received. Members asked that the Executive Team provide an update on any progress at the next meeting.</p>	<p>Executive Team</p>
10.	<p>Monitoring Officers' Workshop on 6 November 2017</p> <p>Members reviewed and, subject to some revisions, approved the draft programme for the Monitoring Officers' Workshop, due to be held on 6 November 2017. Members agreed the amended programme should be issued to Monitoring Officers together with the formal invitation to the event. This was also to be issued to CESPLS, Audit Scotland, the Improvement Service and the Scottish Government.</p>	<p>Executive Team</p>

11.	<p>September Professional Briefing</p> <p>Subject to a few amendments, Members agreed the content of the professional briefing. Members asked the Executive Team to publish the professional briefing on the website and to issue it to Monitoring and Governance Officers and Elected Members. Members note the Professional Briefing would be issued following the finalisation of the Article 10 Advice Note.</p>	Executive Team
CASES UPDATE		
12.	<p>NOTES OF DECISION/CASES NOT PURSUED & SECTION 14 NOTIFICATION LETTERS</p> <p>Members reviewed two cases published by the CESPLS on his website following completion of his investigation.</p>	
13.	<p>BREACH REPORTS AND HEARINGS UPDATE</p> <p>a) LA/WL/1824: Former Councillor Angela Moohan of West Lothian Council. Members noted the letter from West Lothian Council confirming that the Hearing Panel's findings had been considered by the Council at a meeting on 15 August 2017.</p> <p>b) LA/ED/1863: Former Councillor Eric Gotts of East Dunbartonshire Council. Members noted that a Hearing had taken place on 22 August 2017. Former Councillor Gotts had been found to have contravened the Councillors' Code of Conduct and had been censured.</p> <p>c) LA/R/1966 &1973: Councillor Paul Mack of Renfrewshire Council. Members had agreed it was proportionate and in the public interest to hold a Hearing. Members noted the Hearing had been scheduled for 23 October 2017. An invitation to a pre-Hearing meeting had been issued to the parties.</p> <p>d) LA/AB/1967, 1969, 1972, 1979 and 1986: Councillors Richard Trail and Roderick McCuish of Argyll and Bute Council. Members reviewed the report from the CESPLS along with the Standards Commission's Section 16 Policy. Members agreed that, on the face of it, there was evidence of a breach of the Councillors' Code of Conduct in respect of the registration of a non-financial interest by both Councillors. The Standards Commission noted, however, that this apparent breach was not the subject of any of the complaints referred to the CESPLS and instead had been identified during the course of his investigation. The Standards Commission noted that it was apparent from the terms of the complaint that there was good awareness of the councillors' interests amongst members of the public and, as such, there was no evidence or suggestion that there has been any practical consequence or impact of the apparent breach. The Standards Commission concluded that in the particular circumstances of this case it would not be in the public interest or proportionate to hold a Hearing.</p> <p>e) LA/E/2028: Councillor Frank Ross of the City of Edinburgh Council. (Mrs Gallanders left the meeting room and took no part in the discussion and decision-making in respect of the case). Members reviewed the report from the CESPLS and noted that the complaint concerned a failure to comply with the provisions in the Councillors' Code of Conduct by not ensuring his interest in a shareholding of a company was properly recorded. Members determined that it was in the public interest and proportionate to hold a Hearing.</p>	
AOB		
14.	<p>DIARY DATES/MEETINGS</p> <p>Members noted the planned activities relating to the 2017/18 calendar. Members reviewed and agreed the draft schedule of meetings during 2018/19.</p> <p>DATE OF NEXT MEETING</p> <p>The next meeting of the Standards Commission was scheduled for Monday, 6 November 2017.</p>	