

# MINUTES

*Meeting date: Monday 5 November 2018*

**IN ATTENDANCE**

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

ITEM	CONTENT	ACTION
<b>STANDING ITEMS</b>		
1.	<p><b>APOLOGIES</b> Apologies were received from Lorna Johnston, Executive Director.</p> <p><b>DECLARATIONS OF INTEREST</b> No declarations of interest were made.</p>	
2.	<p><b>DRAFT MINUTE OF PREVIOUS MEETING</b> Members reviewed and approved the minutes of the meeting on 24 September 2018.</p>	
3.	<p><b>MATTERS ARISING</b> Members noted that all matters arising were either complete or were due to be discussed under the main agenda.</p>	
<b>STRATEGIC MATTERS</b>		
4.	<p><b>OUTREACH AND PROMOTION WORK</b> Members agreed that it would be helpful to try to obtain some national press coverage on the outcome of the survey of members of devolved public bodies and the work being undertaken by the Standards Commission to reinforce the message that bullying and harassment by those in public life was unacceptable and would not be tolerated and that behaving with respect and integrity was key to ensuring confidence in public bodies was maintained. Members noted the Convener and Executive Director would approach a public relations company to discuss possible ways of achieving such coverage, particularly in light of the ongoing high-profile coverage of the independent Inquiry Report from Dame Laura Cox Q.C. on bullying and harassment of House of Commons staff.</p>	<b>Executive Director</b>
<b>BUSINESS MATTERS</b>		
5.	<p><b>COMMUNICATIONS:</b></p> <p><b>a) Meeting with the Committee on Standards in Public Life</b> Members noted the verbal report provided by the Convener in respect of the meeting of the Committee on Standards in Public Life that he and the Executive Director had attended on 18 October 2018. The Convener explained that positive feedback had been received from the Committee about his presentation on the ethical standards framework in Scotland and on what the Standards Commission considered worked well and not so well, and also about any common issues and trends that arose in Scotland. The Convener noted that the Committee had indicated this would be of particular assistance to it in its discussions on whether changes should be made to arrangements currently in place in</p>	

	<p>England but it may be that there was no appetite to introduce a similar statutory framework there. Members noted that there had not been an opportunity for the Convener and Executive Director to ask about, and explore, the recommendations being considered by the Committee, but that it had been agreed by everyone present that it would be helpful to keep in contact and develop a closer working relationship so that both bodies could learn from each other's work.</p> <p>Members further noted that the Committee had the power to conduct broad inquiries into standards of conduct and to monitor and report to the Prime Minister on issues relating to the standards of conduct of all public office holders in England. Members agreed that the Standards Commission would be well placed to undertake similar research and to report to the Scottish Parliament on ethical issues relating to standards in public life in Scotland given the intelligence it gathered from complaints, training events and enquiries and also as a result of the ongoing relationships it had with stakeholders such as Monitoring Officers and Audit Scotland. Members asked the Executive Director to review the legislation to determine whether there was anything in statute that would prevent the Standards Commission from undertaking such work and to report back at the next meeting.</p> <p><b>b) Regional Training Events on the Councillors' Code of Conduct</b> Members noted that a good response had been received to the invitations issued in respect of the roadshows to be held in Perth on 14 November 2018 and Motherwell on 18 February 2019. Members agreed it would be helpful to include training on how councillors could and should distinguish between their strategic role and any operational work. This should include information about the impact their behaviour could have on officers and, in particular, those in less senior roles.</p> <p><b>c) Governance Hub for Members of Devolved Public Bodies</b> Members noted that the Scottish Government had recorded a video on 2 November 2018 of the Convener discussing the ethical standards framework, which was to be published on the website it was producing for board members of devolved public bodies.</p> <p>Members noted that the Scottish Government had advised that they intended to have a dedicated page on the website about the ethical standards framework. This would include information about the Model Code of Conduct, how to make a complaint and the roles and remit of both the CESPLS and the Standards Commission. Members noted that further potential recommendations for matters to be included on the page were to be discussed under item seven below, and asked that the Executive Team keep them updated on any response received to proposals put to the Scottish Government and also on any progress made in respect of the website.</p>	<p><b>Executive Director</b></p> <p><b>Executive Team</b></p>
<p><b>6.</b></p>	<p><b>HEARING RULES, RELEVANCY OF EVIDENCE NOTE, GUIDANCE FOR UNREPRESENTED RESPONDENTS</b> Members noted that they had asked the Executive Director, at their meeting on 24 September 2018, to review the Hearing Rules to ensure a provision stating that Hearing Panels could decline to hear evidence concerning matters that had already been agreed in any Joint Statement of Facts produced by the parties was included.</p> <p>Members agreed the changes to the Hearing Rules proposed by the Executive Director aimed at highlighting this point. Members further reviewed and agreed minor amendments suggested to both the Note on Relevancy of Evidence and the Guidance for Unrepresented Respondents. Members asked that revised versions of all three documents be finalised and published.</p> <p>Members agreed it would be useful if the Executive Director could draft a document, to be considered at the next meeting, outlining the information a Hearing Panel would require,</p>	<p><b>Executive Team</b></p>

	<p>and the types of factors if would consider in order to determine whether or not to accede to a request made under paragraphs 3.22 and 3.23 of the Hearing Rules to hold a Hearing or part of a Hearing in private. The document should also outline the possible options available to the Hearing Panel and procedures to be followed after a such a request was granted.</p>	<p><b>Executive Director</b></p>
<p>7.</p>	<p><b>SURVEY OF MEMBERS OF DEVOLVED PUBLIC BODIES</b></p> <p>Members were pleased to note there had been a very good response from members of devolved public bodies to the survey issued on 22 August 2018. Members discussed the paper the Executive Director had circulated by email on 12 October 2018 summarising and analysing the responses received and proposing a number of actions in light of these.</p> <p>Members agreed the following actions:</p> <ul style="list-style-type: none"> <li>• The survey results were to be shared with the Scottish Government to help inform their induction and ongoing training programme and online materials for Chairs and members of devolved public bodies. The Standards Commission would recommend that a session on the ethical standards framework and Model Code of Conduct be included as part of the mandatory induction session, to ensure there was a consistency in awareness amongst all members not only of requirements of the Code but also about how to make a complaint. The Standards Commission would also suggest that the part of its Guidance on declarations of interest section be replicated in full in any training material provided to new members.</li> <li>• In respect of declarations of interests, the Standards Commission would suggest to the Scottish Government that it should include information on what a Chair should do if a member raised the possibility of another member having a conflict and also what they should do if a member declares an interest (in terms of directing them to leave the room) in the induction and training sessions they run specifically for Board Chairs.</li> <li>• In order to remove any doubt and to highlight the issue, the Standards Commission would recommend that an addition be made to the Model Code of Conduct (similar to the one made to the Councillors' Code of Conduct in July 2018) to the effect that the rules of good conduct must be observed in all situations where individuals are acting as a Member, or could be perceived as acting as a Member including when using social media.</li> <li>• The Standards Commission would also highlight the concerns raised about disrespectful behaviour in discussions with the Scottish Government regarding whether a bullying and harassment provision should be included in the Model Code of Conduct (analogous to the one added to the Councillors' Code in July 2018). If such a provision was included, the Standards Commission would offer to produce an Advice Note for Members on Bullying and Harassment, similar to the one it had produced for Councillors. Such an Advice Note could include information on the importance of hearing differing views and how to avoid being perceived as being dismissive.</li> </ul> <p>Members reviewed the contents of a draft paper summarising the responses received. Members identified amendments to the content of the paper, which included providing an Executive Summary and replacing the tables outlining the percentages of types of comments receive with narrative. Members agreed the Executive Team should circulate the revised version of the paper for their consideration and approval before it was published on the website. Members further agreed the Executive Summary and Report, when finalised, should be issued to the Chief Executives of all Devolved Public Bodies for onward circulation to the Chair and Members. The Report should state that a further paper would be published outlining the Standards Commission's conclusions and any actions it intended to take in light of the responses.</p> <p>Members asked that further analysis of the responses be undertaken to determine whether there was a correlation between the responses to certain questions (for example, if Respondees who had indicated they had not received adequate training on the Code were also the ones who were not aware of how to make a complaint). Members agreed</p>	<p><b>Executive Director</b></p>

	<p>that the Executive Director should then prepare a draft report outlining the Standards Commission's conclusions and any actions it intended to take in light of the responses to be considered at the next meeting.</p> <p>Members further agreed the content of a letter to be sent to the Scottish Government enclosing the summary and outlining the Standards Commission's recommendations in light of the responses received.</p>	<p><b>Executive Director</b></p> <p><b>Executive Director</b></p>
8.	<p><b>APPEAL ON DECISION LA/Fi/2050</b></p> <p>Members noted that the Sheriff Principal was still to issue her decision on the appeal heard on 13 August 2018. Members asked the Executive Team to let them know when it was received so that they could consider whether any public response should be issued and also whether there was a need to review the way the Standards Commission made determinations on similar cases. In addition, any budgetary implications would need to be assessed in light of the Sheriff Principal's decision on expenses.</p>	<b>Executive Team</b>
9.	<p><b>FORMAT OF PROFESSIONAL BRIEFINGS</b></p> <p>Members reviewed and agreed the proposed new format for the Standards Commission's quarterly briefings. Members agreed, in particular, that the inclusion of photographs made the document more eye-catching and engaging. Members suggested that feedback should be sought when the new format was applied to the next briefing.</p>	<b>Executive Team</b>
10.	<p><b>INTERIM SUSPENSION POLICY</b></p> <p>Members noted that while Section 21 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 provided the Standards Commission with the power to impose an interim suspension on a councillor or member of a devolved public body on receipt of an interim report from the Commissioner for Ethical Standards in Public Life in Scotland (CESPLS) about an ongoing investigation, it had never been asked to do so.</p> <p>Members agreed it would nevertheless be helpful for the sake of transparency for the Standards Commission to publish a policy outlining how it would make any decision under Section 21 should any such a report inviting it to do so be received from the CESPLS. Members agreed that the publication of such a policy would also highlight the fact that the imposition of an interim suspension was an option available to the Standards Commission.</p> <p>Members reviewed the draft interim suspension policy produced by the Executive Team and, subject to some amendments being made, agreed that it should be introduced and published.</p>	<b>Executive Team</b>
<b>CASES UPDATE</b>		
11.	<p><b>NOTES OF DECISION/CASES NOT PURSUED (CNP) &amp; SECTION 14 NOTIFICATION LETTERS</b></p> <p>Members noted the terms of two non-breach reports issued by the CESPLS.</p>	
12.	<p><b>BREACH REPORTS HEARING AND POST HEARING UPDATES</b></p> <p><b>a) LA/An/2094:</b> Councillor Richard Moore of Angus Council. Members noted a Hearing was scheduled to take place on 19 November 2018 (with 20 November 2018 set aside if needed). Members agreed the Executive Director liaise with the CESPLS about any specific arrangements for his witnesses.</p> <p><b>b) LA/AB/2025:</b> Councillor Gary Mulvaney of Argyll and Bute Council. Members noted a Hearing was scheduled to take place on 18 January 2019 and that the Respondent would be invited to a pre-Hearing meeting.</p>	
<b>AOB</b>		
13.	<p><b>AGENDA ITEMS FOR NEXT MEETING</b></p> <p>Members noted a suggestion had been made at the Monitoring Officers' workshop that Audit Scotland had taken a stricter approach / view in their Best Value Reports to that of</p>	

	<p>the CESPLS and Standards Commission in respect of the declarations of interest provisions in the Councillors' Code of Conduct when elected members were appointed or nominated to arms' length external organisations. Members asked the Executive Director to establish whether this was the case and to report back at the next meeting.</p> <p>Members agreed to advise the Executive Director of any items to be included on the agenda for the next meeting in due course.</p>	<p><b>Executive Director</b></p> <p><b>Members</b></p>
<p><b>14.</b></p>	<p><b>FOR INFORMATION</b></p> <p><b>2018-19 DIARY DATES &amp; 2018 WORKPLAN</b> Members noted the planned activities relating to the 2018/19 calendar.</p> <p><b>2019-20 DRAFT DIARY DATES – MEETING SCHEDULE</b> Members reviewed the schedule and noted the agreed meeting dates identified within it.</p> <p><b>DATE OF NEXT MEETING</b> Members noted that the next meeting of the Standards Commission was scheduled to take place on Monday, 17 December 2018.</p>	