

MINUTES

Meeting date: Tuesday 29 May 2018

IN ATTENDANCE

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

ITEM	CONTENT	ACTION
STANDING ITEMS		
1.	<p>WELCOME – the Convener welcomed Mr Walker to his first Commission meeting and congratulated him on his appointment.</p> <p>APOLOGIES There were no apologies.</p> <p>DECLARATIONS OF INTEREST No declaration of interest was made.</p>	
2.	<p>DRAFT MINUTE OF PREVIOUS MEETING Members reviewed and approved the minute of the meeting on 30 April 2018.</p>	
3.	<p>MATTERS ARISING Members noted that all matters arising were either complete or were due to be discussed under the main agenda.</p>	
STRATEGIC MATTERS		
4.	<p>COMMITTEE ON STANDARDS IN PUBLIC LIFE CONSULTATION Members noted that the Standards Commission’s response in respect of the Committee on Standards in Public Life’s consultation on ethical standards in local government in England had been issued on 1 May 2018 and also published on the website. Members agreed that they hoped the submission would be of assistance to the Committee for comparative purposes and agreed that it would be interesting to learn about, and discuss, any proposals the Committee made as a result of the consultation in due course.</p> <p>Members agreed that providing a response had been a useful exercise as it had led them to review what they considered worked well and also not so well in respect of the existing provisions in place in Scotland. Members agreed that this was a good starting point for a strategic review of the ethical standards framework and that further work and / or independent research should be undertaken or commissioned (either by the Standards Commission itself or jointly with other organisations) to discover the awareness levels amongst the general public and devolved public bodies of the standards expected of those in public life.</p> <p>Members further noted that there had been significant publicity about the apparent poor conduct of a number of councillors and members of devolved public bodies, which had not resulted in complaints. Members agreed that it would be useful to understand why complaints in respect of these occurrences had not been made and whether there were specific reasons as to why individuals affected by the apparent poor conduct did not feel</p>	

	<p>that they were able to raise their concerns and / or be comfortable about doing so. Members agreed that any such research or work could also be used to identify trends in behaviour that led to complaints or breaches of the Codes of Conduct and whether there were any underlying and / or prevalent reasons for these, such as a lack of understanding of certain provisions or standards. Members agreed that the intelligence could then be used and shared with other organisations to help promote high standards of conduct and to identify topics for further guidance and advice.</p> <p>Consideration should also be given as to whether powers (which would require amendments to the governing legislation) would be beneficial, such as, in certain circumstances, if it would be appropriate for the Standards Commission to have the power to make an <i>ex parte</i> complaint or to hold an enquiry on specific matters related to ethical standards in public life. It was recognised, however, that some options would require amendments to the governing legislation.</p>	
BUSINESS MATTERS		
5.	<p>COMMUNICATIONS:</p> <p>a) Members' Email Addresses</p> <p>Members noted that the Business Manager had arranged for the Parliament's Business and Information Technology Team to provide access to individual Standards Commission's emails accounts on 25 June 2018. Members noted that they were to bring in the tablet or telephone they intended to use to log on to their email account that day.</p>	Business Manager
	<p>b) Health & Social Care Integration Joint Boards Members' Workshop 24 September 2018</p> <p>Members noted that save the date invitations had been issued to Health & Social Care Integration Joint Boards Members and Standards Officers and that, to date, there had been an encouraging amount of interest in the event. Members noted that the Executive Director was due to meet policy officers from the Scottish Government's Integration Division on 26 June 2018 to discuss the types of issues that had been identified as areas where further training or discussions would be of benefit, such as how to balance responsibilities to different organisations, identifying and declaring conflicts of interest and maintaining confidentiality. Members noted that a draft programme for the Workshop would be prepared after the meeting and circulated for approval before being issued.</p> <p>Members noted that there had been a request from Orkney Health & Social Care Integration Joint Board for a training event to be held there. Members agreed that the Standards Commission had insufficient resources to hold a separate training event in Orkney this year but that consideration could be given to holding one there in the future. Members noted that, in the meantime, Members of the Orkney Health & Social Care Integration Joint Board could take part in the Workshop on 24 September 2018 by video conference. Members agreed that the Standards Commission should take all possible steps to help facilitate this.</p>	<p>Executive Director</p> <p>Executive Team</p>
	<p>c) Video Filming 4 June 2018</p> <p>Members noted that the agreed scripts for the videos the Standards Commission intended to release on its work and the key principles underpinning the Codes of Conduct had been sent to the company undertaking the filming. Members noted that the filming would take place on 4 June 2018.</p>	
	<p>d) College Development Network</p> <p>Members noted that the College Development Network were keen to include the Standards Commission in their induction and training programme for College Board Members in 2019 and would be in touch to discuss how to do so in due course. Members noted that, in the meantime, the College Development Network had been sent links to the Standards Commission's training materials and standard presentation for Members of Devolved Public Bodies for inclusion in their Governance and Training Hub.</p>	

6.	<p>HUMAN RESOURCES COMMITTEE MINUTE AND TERMS OF REFERENCE</p> <p>Mrs Gallanders, Chair of the Human Resources Committee, provided a verbal update on the Committee meeting held on 30 April 2018. Members noted the minutes of the meeting and agreed that changes the Committee had recommended be made to its Terms of Reference.</p>	Executive Team
7.	<p>DISPENSATION REQUEST IN RESPECT OF THE EDINBURGH AND SOUTH EAST SCOTLAND CITY REGION DEAL</p> <p>Members considered the application for a dispensation received from the Democracy, Governance and Resilience Senior Manager of Edinburgh City Council on behalf of The City of Edinburgh, East Lothian, Fife, Midlothian, Scottish Borders and West Lothian Councils in respect of a joint venture; namely the Edinburgh and South East Scotland City / Region Deal. Members noted that a Joint Committee had been established to discharge a number of key planning and funding functions in respect of the Edinburgh and South East Scotland City / Region Deal partnership. The Joint Committee was a public / private partnership and would comprise of 10 members, seven of which are elected members (one each from the constituent councils named above except Fife Council which has two members with one vote between them).</p> <p>Members agreed that a specific dispensation should be granted under the Councillors' Code of Conduct to the elected members (and any agreed substitute elected members) appointed by the six Councils to be members of the Joint Committee. This was so they, as voting members of the Joint Committee, did not have to remove themselves from the debate and any voting when discussions on the City Region Deal, its projects and funding, and/or recommendations from the Joint Committee came before them at relevant Council meetings. The dispensation would allow the elected members to participate in discussions and voting on such matters. The elected members would still be required, however, to declare interests, in terms of Section 5 of the Code of Conduct. The dispensation would not apply to matters of a quasi-judicial or regulatory nature.</p> <p>Members asked the Executive Director to issue a dispensation in the terms outlined above.</p>	Executive Director
8.	<p>AUDIT AND RISK COMMITTEE MEMBERSHIP AND REPORT</p> <p>Members noted the verbal report provided by Mr McCormick, the Chair of the Audit & Risk Committee, and the minutes of the Committee meeting on 21 May 2018. Members agreed to appoint Mr Walker to the Committee and thanked Mrs Stewart for attending the last two Committee meetings as an interim Committee Member.</p> <p>Members agreed to amend the Audit & Risk Committee's Terms of Reference in line with its recommendations. Members further noted the contents of the Committee's Annual Performance Review, which would be included in the Annual Accounts due to be reviewed by the Standards Commission at its meeting on 30 July 2018.</p>	Executive Team
9.	<p>AMENDMENTS TO THE COUNCILLORS' CODE OF CONDUCT</p> <p>Members were advised that the Scottish Parliament had agreed to the proposed changes to the Councillors' Code of Conduct on 23 May 2018. Members noted that the Executive Director was due to meet representatives from the Scottish Government's Local Government and Analytical Services Division on 30 May 2018 to discuss the best way to disseminate and promote the amended Code to Councils, elected members and the public. Members asked that they be kept updated on this and that the Advice Note drafted by the Standards Commission on the new bullying & harassment provision in the Code be issued and publicised at the same time.</p>	Executive Director
10.	<p>BRITISH SIGN LANGUAGE PLAN UPDATE</p> <p>Members noted that the Scottish Parliament and Officeholders (including the Standards</p>	

	Commission) had held an open drop-in event for British Sign Language (BSL) users at the Parliament on 18 and 19 May 2018 to explain the role and remit of each organisation and to seek views on their draft BSL Plans. Members were pleased to note that the event had been well attended and that the Executive Team had received a number of good suggestions for items to include in the Standards Commission's Plan. Members noted that the Executive Team would continue to work on the Plan and would ensure a draft of it was translated into BSL for further consultative purposes.	Executive Team
11.	<p>GDPR UPDATE</p> <p>Members noted that the Standards Commission had signed a Service Level Agreement with the Scottish Parliamentary Corporate Body to regulate the provision of data protection officer services under the General Data Protection Regulation (the GDPR) that came into force on 25 May 2018. Members further noted that the Standards Commission had amended and published its Data Protection Privacy Statement to ensure it complied with the terms of the GDPR.</p> <p>Members noted that all staff had completed online GDPR training. Members noted that they all had access to the online training course and agreed to complete it by 25 June 2018.</p>	Members
12.	<p>BUSINESS CONTINUITY PLAN REVIEW</p> <p>Members undertook their annual review of the Business Continuity Plan and identified certain changes that were to be made to ensure it remained relevant and fit for purpose. Members asked the Executive Team to make the amendments identified and to circulate the revised version to all staff and Members.</p>	Executive Team
13.	<p>HEARING PROCESS GUIDE AND RULES</p> <p>Members reviewed and agreed changes proposed by the Executive Team to the Hearing Process Guide & Rules. In particular, Members agreed that a note of the factors the Standards Commission would or may consider when deciding where to hold a Hearing and when deciding whether or not to audio record it should be included in the Rules.</p> <p>Members further agreed to include a new paragraph outlining the option available to the Hearing Panel to decline to hear certain evidence or submissions should the Respondent or CESPLS fail to provide the information requested in respect of their statement of case and witnesses within the timescales outlined in the Rules. Members agreed that the inclusion of such a provision would hopefully encourage the parties (and Respondent in particular) to provide the information requested within the deadlines for doing so, so that the Hearing Panel and other party was not faced with new evidence and arguments on the day of a Hearing, such as the submissions made on Article 6 of the European Convention on Human Rights at a recent Hearing. Members asked the Executive Team to make the amendments identified and to publish the revised version.</p> <p>Members noted feedback obtained from those in attendance at the last Hearing had suggested that there was confusion about whether or not members of the public should stand when the Hearing Panel entered and left the room. Members noted that it was customary for the parties and others in attendance to stand in order to reflect the formality of the proceedings and to signify the start or resumption of the Hearing. Members asked that a note to this effect should be included in the information leaflet distributed to member of the public and press at Hearings.</p> <p>Members further asked the Executive Team to check that the oath and affirmation statements used at Hearings reflected those used in Court proceedings and to amend them if not.</p>	<p>Executive Team</p> <p>Executive Team</p> <p>Executive Team</p>
CASES UPDATE		
14.	<p>NOTES OF DECISION/CASES NOT PURSUED (CNP) & SECTION 14 NOTIFICATION LETTERS</p> <p>Members noted the terms of the two non-breach reports issued by the CESPLS. Members</p>	

	further noted that the CESPLS had advised, under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 that he had issued a draft breach report to an elected member of Aberdeenshire Council.	
15.	<p>BREACH REPORTS HEARING AND POST HEARING UPDATES</p> <p>a) LA/CES/2091: Councillor Finlay Cunningham of Comhairle nan Eilean Siar – Members noted that a Hearing had been scheduled to take place in Edinburgh on 3 July 2018.</p> <p>b) LA/Fi/2050: Councillor David MacDiarmid - Members noted that an appeal had been lodged by Councillor MacDiarmid in respect of the decision made at the Hearing on 25 April 2018. Members noted that Councillor MacDiarmid had appealed against the Hearing Panels’ decision that he had breached the Councillors’ Code of Conduct and also its decision to suspend him, for a period of 2 months, from Fife Council’s Regulation and Licensing Committee. Members noted that the CESPLS had been identified as first Respondent, with the Standards Commission as second. Members noted that the Executive Team were seeking legal advice about this and also on the prospects of success before a procedural Hearing, which was scheduled to take place on 14 June 2018, and asked that they be kept updated on the advice received and the progress of the appeal.</p>	
AOB		
16.	<p>DIARY DATES/MEETINGS</p> <p>2018 WORKPLAN Members noted the planned activities relating to the 2018/19 calendar.</p> <p>DATE OF NEXT MEETING The next meeting of the Standards Commission was scheduled for Monday, 25 June 2018.</p>	