

MINUTES

Meeting date: Monday 29 April 2019

IN ATTENDANCE

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

| ITEM | CONTENT | ACTION |
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| STANDING ITEMS | | |
| 1. | <p>APOLOGIES There were no apologies.</p> <p>DECLARATIONS OF INTEREST No declarations of interest were made.</p> | |
| 2. | <p>DRAFT MINUTE OF PREVIOUS MEETING Members reviewed and approved the minutes of the meeting on 25 March 2019.</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>OUTREACH AND PROMOTION WORK Mr Dunion advised that he had received a response from Cabinet Secretary for Health and Sport to his letter of 14 February 2019 requesting a meeting to discuss the outcome of the Standards Commission's survey of members of devolved public bodies and how it could help the Scottish Government promote a Board culture which is respectful, but also where members were assured of their right to challenge and complain where conduct falls short of the standards expected. Members were disappointed to note that not only had the Cabinet Secretary declined the offer of a meeting, but the response issued on her behalf appeared to misunderstand the request in that it had referred to allegations of bullying and harassment of staff and their right to complain, as opposed to the culture within Health Boards and Health and Social Care Integration Joint Boards, and between board members. Members asked the Executive Director to respond on Mr Dunion's behalf noting the Standards Commission's disappointment and advising that the Standards Commission intended, as part of its remit, to undertake more work to encourage the promotion of a respectful culture within Health Boards and Health and Social Care Integration Joint Boards.</p> <p>Mr McCormick reported that he had explored another potential avenue for sharing the outcome of the Standards Commission's survey with the Chief Executives and Chairs of NHS Boards. Mr McCormick indicated that he had been advised that it might be best to write to the current Chair of the Board Chairs Network to see if they would be interested in inviting the Standards Commission to one of their private monthly meetings. Members agreed that the Standards Commission should do so. The letter should explain that the purpose of such a meeting would be to advise Chairs about the</p> | <p>Executive Director</p> |

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| | consultation requirement in the Act. Members agreed that the guidance should then be brought back before them for final approval before being issued and published. | |
| 7. | <p>DRAFT SECTIONS 3 AND 4 OF ANNUAL REPORT 2018/19</p> <p>Members reviewed the proposed contents of Sections 3 and 4 of the Annual Report for 2018/19; being the Performance Summary and Case Statistics, respectively. Members agreed some typographical changes and asked that paragraphs explaining in more detail about how the work undertaken was connected to the Standards Commission's strategic aims should be added to section 3.</p> <p>Members agreed that it was difficult to measure the impact of the Standards Commission's work as, even if it was successful in its activities in promoting the ethical standards framework and in holding Hearings to adjudicate on potential breaches of the Codes of Conduct, there may not necessarily be a decrease in number of complaints received by the ESC or referred under Section 16. This was because an increased awareness of the framework and the standards expected of councillor and members of devolved public bodies, as a result of the Standards Commission's work, could result in more potential beaches being identified. Members agreed that it would be helpful to provide an explanation to this effect in the annual report. Members agreed that it would be useful, nevertheless, to try and obtain information about whether the holding of Hearings had any substantive impact in terms of increased awareness or requests for training from other councillors or members of the Respondent's Council / devolved public body. Members agreed that the Standards Commission should ask the relevant Standards / Monitoring Officer about this when it issued them with a copy of the written decision.</p> <p>Members agreed that the Executive Summary part of the Annual Report should include information about how the Standards Commission intends to further promote a culture of respect in its Strategic Plan for 2020-2024 in light of the 'me too' movement, the recent publicity on bullying and harassment by public figures and the outcome of its survey of members of devolved public bodies. Members further agreed that the Convener should note, in the Executive Summary, that while the Standards Commission was pleased that it had managed to further reduce the time taken for adjudication on cases referred to it, it nevertheless appreciated that this was only part of the overall complaints process and that it looked forward to working with the new ESC to try to further decrease the timescales involved.</p> | <p>Executive Team</p> <p>Executive Team</p> <p>Executive Team</p> |
| 8. | <p>DRAFT SECTION 19(6) POLICY AND PROCEDURE</p> <p>Members reviewed a draft document outlining the factors a Hearing Panel would consider, and the procedures the Standards Commission would follow, if it was contemplating making a direction under section 19(6) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 in respect of the remuneration or allowance a suspended member of a devolved public body should be entitled to receive.</p> <p>Members agreed that the policy should state that a Panel's starting position would be that, in order to maintain public confidence in the devolved public body and ethical standards framework, any remuneration or allowance should not be paid to a member who is the subject of a full suspension during the term of the suspension. Members further agreed that it should be explained that any information sought by the Standards Commission in advance of a Hearing about any remuneration or allowance deriving from membership of the body to which the Respondent is entitled, including why it is paid and what activities or functions the Respondent is expected to undertake in return, should only be provided to the Panel in the event it finds a breach and is considering imposing a suspension.</p> <p>Members agreed that once the amendments had been made the documents should be finalised and published.</p> | <p>Executive Team</p> |
| 9. | EXPENDITURE REPORT | |

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| | <p>Members noted the Report, which detailed the overall expenditure against budget during the period from 1 April 2018 to 31 March 2019. Members noted that there had been a £643 underspend against the approved budget of £262,000. Members thanked the Business Manager for her work in ensuring that the expenditure was closely managed.</p> | |
| 10. | <p>SUGGESTIONS MADE AT STANDARDS OFFICERS' WORKSHOP</p> <p>Members noted the summary prepared by the Executive Team of the suggestions made at the Standards Officers' Workshop held in Glasgow on 25 March 2019. Members agreed that any suggestions regarding the training of members and chairs of devolved public bodies should be shared with the Scottish Government during the forthcoming discussions on revisions to the Model Code. Members further agreed that any new Guidance on the Model Code produced by the Standards Commission, following any agreed amendments to the Code being made should incorporate the Code itself and should also include case studies and illustrations, and any flowcharts / graphics as appropriate.</p> <p>Members agreed, in light of other suggestions made, that the Standards Commission should progress specific guidance for members of Health & Social Care Integration Joint Boards to cover the topics of respect, identifying and declaring interests, confidentiality, collective responsibility and dealing with conflicts of interest. Members asked the Executive Director to aim to produce draft guidance by the end of quarter two. In addition, Members agreed that the Standards Commission should produce an Advice Note for members of devolved public bodies on Distinguishing between Strategic Matters and any Operational Work.</p> <p>Members reviewed and approved a flowchart for members of devolved public bodies on declaring interests that had been prepared by the Executive Team, following the discussions at the workshop. Members agreed that the flowchart should be issued and published.</p> | |
| 11. | <p>APPEAL ON DECISION LA/Fi/2050</p> <p>Members noted that the decision on the appeal heard by the Sheriff Principal on 13 August 2018 had still not been issued. Members noted that the Standards Commission's legal advisers had been asked to make enquiries as to when the decision was likely to be finalised.</p> | |
| CASES UPDATE | | |
| 12. | <p>NOTES OF DECISION OF NO BREACH & SECTION 14 LETTERS</p> <p>Members noted the terms of one non-breach report issued by the ESC concerning an elected member from Fife Council. Members queried the length and format of the report and asked the Executive Director to provide feedback to the ESC.</p> | |
| 13. | <p>BREACH REPORTS HEARING AND POST HEARING UPDATES</p> <p>a) LA/Mi/2166 & 2169: Councillors Colin Cassidy, Margot Russell and John Hackett of Midlothian Council. Members noted that pre-Hearing meetings had been held on 16 April 2019 and the Hearing was due to be held on 9 May 2019.</p> <p>b) LA/SL/2153: Councillor Gerry Convery of South Lanarkshire Council. Members noted that a Hearing had been held on 4 April 2019. The Respondent was found to have breached the Code and had been censured.</p> <p>c) LA/Fi/2176: Councillor Linda Holt of Fife Council. Members noted that the Hearing scheduled for 30 April 2019 had been adjourned at the request of both the Respondent and the ESC and would now take place on 25 June 2019.</p> | |

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| | <p>d) LA/D/2158: Councillor Gregor Murray of Dundee City Council. Members noted that a pre-Hearing meeting had been held on 17 April 2019, with the Hearing scheduled to take place on 15 May 2019.</p> <p>e) LA/An/2134: Councillor Brian Boyd of Angus Council. Members noted that Angus Council had reviewed the Standards Commission's decision in respect of the Hearing held on 20 February 2019 at its meeting on 21 March 2019.</p> <p>f) Hearings Survey Responses: Members noted the positive feedback received in respect of the Hearing held in South Lanarkshire on 4 April 2019.</p> | |
| AOB | | |
| <p>14.</p> <p>15.</p> | <p>DISQUALIFICATION UNDER SECTION 19 Members noted that as the imposition of a disqualification at a Hearing could potentially have a significant impact on the reputation of the Standards Commission, and on the Respondent in question and their Council or devolved public body, a Hearing Panel considering imposing such a sanction may wish to seek legal advice or otherwise adjourn before doing so. Members agreed that while the Hearing Rules provided that the Chair has discretion to alter the procedures to be followed, it would nonetheless be helpful for Panel Members to have an aide memoire outlining the various options available in terms of the course of events should they be contemplating imposing a disqualification.</p> <p>AGENDA ITEMS FOR NEXT MEETING Members agreed to advise the Executive Director of any items they wished included in the agenda for discuss at the next meeting.</p> | |
| <p>16.</p> | <p>SUGGESTED 2019/2020 DIARY DATES – MEETING SCHEDULE Members noted the suggested dates for Standards Commission meetings in 2019/20 and confirmed they would advise the Executive Team if they wished to change any of these.</p> <p>2019 WORKPLAN Members noted the planned activities.</p> <p>DATE OF NEXT MEETING Members noted that the next meeting of the Standards Commission was scheduled to take place on Tuesday, 28 May 2019.</p> | <p>Executive Director</p> |