

# MINUTES

*Meeting date: Monday 29 June 2020*

## IN ATTENDANCE ONLINE

### Members:

- Kevin Dunion (Convener)
- Michael McCormick
- Tricia Stewart
- Paul Walker
- Ashleigh Dunn

### Executive Team:

- Lorna Johnston (Executive Director)
- Elaine McLean (Business Manager)
- Julie Scott (Administrative Assistant)

ITEM	CONTENT	ACTION
<b>STANDING ITEMS</b>		
1.	<p><b>APOLOGIES</b> There were no apologies.</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, subject to a minor amendment being made, approved the minute of the meeting on 26 May 2020.</p>	
3.	<p><b>MATTERS ARISING</b> Members noted that all matters arising were either complete or were due to be discussed under the meeting agenda.</p>	
<b>STRATEGIC MATTERS</b>		
4.	<p><b>ADJUDICATORY AND OVERSIGHT ROLES UNDER THE ETHICAL STANDARDS IN PUBLIC LIFE ETC. (SCOTLAND) ACT 2000</b> Members agreed to send the Ethical Standards Commissioner (ESC) a draft direction under Sections 10 and 11 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the Act) requiring her to provide the Standards Commission with a report, at the conclusion of all her investigations into complaints about councillors or members of devolved public bodies, indicating whether she concluded there had or had not been a contravention of a Code of Conduct. This direction was aimed at ensuring there was a clearer separation between the investigative and adjudicatory processes, and would enable the ESC and Standards Commission to have timely discussions on the interpretation of the Codes. The direction would also require the ESC to notify parties that a report had been issued to the Standards Commission for it to determine what action it wished to take under Section 16 of the Act. Members agreed that the ESC should be invited to comment on the draft direction before it was finalised and issued. Members further agreed that the draft direction should be sent to the Scottish Parliamentary Corporate Body, SOLAR, COSLA and SOLACE to give them the opportunity to express any views they might have on what was being proposed.</p> <p>Members noted that some practical issues might arise following the implementation of such a direction, particularly in cases where the ESC's concluded that no-breach has occurred, but the Standards Commission decided to hold a Hearing. Members were confident, however, that these could be resolved through the amendment of the Hearing Rules and processes.</p>	<p><b>Executive Director</b></p>

	<p>Members noted that a draft direction, under Sections 10 and 11 of the Act, requiring the ESC to send the Standards Commission an interim report as to the progress of any investigation about a councillor or member of a devolved public body (including an explanation as to what requires to be done to complete it and an indication of when it is expected that a final report would be issued), if an investigation was likely to exceed three months and at every three month interval thereafter, had been sent to the ESC for comment on 4 June 2020. Members noted that the ESC had replied with comments on 17 June 2020. Members agreed that the direction should now be finalised and issued.</p>	<p><b>Executive Director</b></p>
<p><b>BUSINESS MATTERS</b></p>		
<p><b>5.</b></p>	<p><b>COMMUNICATIONS:</b></p> <p><b>(a) Online Hearing arrangements</b> Members noted that the Standards Commission’s website providers were working to ensure that any Hearings held online could be livestreamed and viewed. Members noted that status alerts banners would be used to provide updates on the livestream for times when the Hearing was paused or adjourned, for example, when the Hearing Panel was deliberating in private.</p> <p>Members noted that the Executive Team was also working on creating social distancing protocols for the Hearings that had been scheduled to take place in August and September 2020.</p> <p><b>(b) Proposal for Development Day on 26 August 2020</b> Members noted that a proposal for the programme for the development day had been circulated. Members noted that the purpose of the development day was to discuss and agree a plan for evaluating the impact of any educational activity undertaken by the Standards Commission as part of its work to promote the highest ethical standards and adherence to the Codes of Conduct. Members agreed that the proposed programme should facilitate the development of the plan.</p> <p><b>(c) Hearing Briefings</b> Members agreed that when organising a pre-Hearing Panel briefing, the Panel Chair and Executive Director should consider including all Members (unless they had a specific conflict of interest in the case), regardless of whether they were on the Panel or not, to ensure that everyone was aware of any contentious or difficult issues and could have input into the approach to be taken towards resolving these at the Hearing itself.</p>	<p><b>Executive Director</b></p>
<p><b>6.</b></p>	<p><b>BUSINESS PLAN 2020/21 – QUARTER ONE REVIEW</b> Members undertook a review of progress in the year to date against the activities outlined in the Business Plan. Members were pleased to note there had been no significant slippages and that good progress had been made in respect of the objectives identified in the plan.</p> <p>Members noted that it had been agreed that the Standards Commission would seek to host some form of round table meeting with other public bodies to discuss ways of promoting integrity and of improving the public perception of the conduct of those in public life. Members agreed that the Convener would prepare and circulate a brief outlining what the Standards Commission hoped to achieve and the potential options.</p> <p>Members further noted that restrictions in place relating to the Covid-19 pandemic could make it difficult to hold regional training roadshows in quarters two and three. Members asked the Executive Director to prepare and circulate a paper outlining the potential options and practical consequences of proceeding with the roadshows, which was to include holding them online, proceeding in person (albeit with social distancing measures in place) and postponing until such a time as the Covid-19 related restrictions had been eased.</p> <p>Members noted that the requirement for staff to assist with work relating to the Covid-19 pandemic had, to date, prevented the Scottish Government from being able to progress the consultations on the revised Codes of Conduct. Members agreed, therefore, that any</p>	<p><b>Executive Director</b></p>

	planned work in respect of updating the Standards Commission's Guidance and Advice Notes to reflect changes to the provisions in the Codes would have to be put on hold for the time being.	
<b>7.</b>	<b>STANDARDS UPDATE</b> Subject to some minor amendments, Members approved the proposed Standards Update to be issued and published at the end of June or beginning of July 2020.	<b>Executive Team</b>
<b>8.</b>	<b>SECTION 19 POLICY ON THE APPLICATION OF SANCTIONS</b> Members undertook their annual review of the Policy on the Application of Sanctions. Members agreed to revise the policy to include references to the Standards Commission's guidance on the extent of the activities in which a councillor can engage while subject to a period of full suspension (either on the finding of a breach of the Councillors' Code of Conduct at a Hearing or as an interim measure while an investigation about their conduct is ongoing). Members asked the Executive Team to make the agreed changes and thereafter publish the amended version.  Members noted that the policy may have to be reviewed again if a decision was taken to allow impact statements at Hearings (see item 10 below).	<b>Executive Team</b>
<b>9.</b>	<b>EQUALITY IMPACT ASSESSMENT POLICY</b> Members agreed the terms of an Equalities Impact Policy, which aimed to identify when and how equalities impact assessments should be undertaken.  Members agreed to amend the Human Resources Committee's Terms of Reference to include reference to oversight of equalities impact assessments. Members further agreed to amend the Finance and Procurement Policy and Procedures to include a provision requiring an equalities impact assessment to be undertaken if the value of any contract being awarded was £5,000 or more.	<b>Executive Team</b>
<b>CASES UPDATE</b>		
<b>10.</b>	<b>IMPACT STATEMENTS</b> Members reviewed a paper Mr McCormick had prepared on how Hearing Panels could consider the extent to which a Respondent's conduct had impacted on others. Members supported the idea that Panels should be provided with information about the impact on others when considering the sanction to be applied after a breach of a Code of Conduct had been found (given that they also heard from the Respondent in mitigation at that stage) in cases concerning respect and/or bullying and harassment. Members agreed that it would be appropriate to give anyone directly affected the opportunity to provide a written statement for the Panel to consider. Members agreed that any Panel considering such a statement would be mindful of the fact that the contents had not been tested and that any irrelevant information would have to be disregarded. Members asked the Executive Director to prepare a paper outlining how the proposal could be put into practice and any issues that might arise.	<b>Executive Director</b>
<b>11.</b>	<b>NO BREACH DECISIONS BY THE ESC &amp; SECTION 14 LETTERS</b> <b>(a) LA/E/3185:</b> Section 14 Letter. Members noted that the ESC had advised that a draft breach report had been sent to an Edinburgh City councillor.  <b>(b) LA/Fi/3039-3075:</b> Section 14 Letter. Members noted that the ESC had advised that a draft breach report had been sent to a Fife councillor.	
<b>12.</b>	<b>CASES</b> <b>(a) LA/AC/2276:</b> Councillor Marie Boulton of Aberdeen City Council. Members noted that a Hearing had been scheduled to take place on 8 September 2020.	

	<p><b>(b) LA/WD/3016:</b> Councillor James Bollan of West Dunbartonshire Council. Members noted that a Hearing had been scheduled to take place on 14 September 2020.</p> <p><b>(c) LA/Fi/2268:</b> Councillor Linda Erskine of Fife Council. Members noted that a Hearing had been scheduled to take place on 24 August 2020.</p> <p><b>(d) LA/R/2257:</b> Councillor Paul Mack of Renfrewshire Council. Members noted that a Hearing had been scheduled to take place on 19 August 2020, with a pre-Hearing meeting due to take place on 22 July 2020.</p> <p><b>(e) LA/SL/2252:</b> Councillor Gerry Convery of South Lanarkshire Council. Members noted that an online Hearing was scheduled to take place on 23 July 2020, with a pre-Hearing meeting due to take place on 1 July 2020.</p> <p><b>(f) LA/H/3003:</b> Councillor Alan Henderson of Highland Council. Members noted that an online Hearing was scheduled to take place on 8 July 2020 and that a pre-Hearing meeting had been held on 17 June 2020.</p> <p><b>(g) LA/AC/3199:</b> Councillor Alan Donnelly of Aberdeen City Council. Members noted that as the initial interim suspension had been due to expire on 3 June 2020, the Panel had renewed it, on 2 June 2020, for a further three months, while a report from the ESC was awaited. Members noted that a report from the ESC had been received on 16 June 2020 and a Hearing had been scheduled to take place on 6 October 2020.</p> <p><b>(h) LA/Mo/3132:</b> Councillor Shona Morrison of Moray Council. Members noted that a breach report had been received from the ESC on 26 June 2020. Members agreed that it was proportionate and in the public interest to hold a Hearing and asked that one be scheduled.</p>	
13.	<p><b>FEEDBACK INCLUDING ANY HEARINGS SURVEY RESPONSES</b> Members noted that no new feedback had been received.</p>	
<b>AOB</b>		
14.	<p><b>AGENDA ITEMS FOR NEXT MEETING</b> Members asked the Executive Director to add management of the relationship with the ESC to the agenda for the following meeting.</p>	
15.	<p><b>2020 WORKPLAN</b> Members noted the planned activities.</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, 27 July 2020.</p>	