

# MINUTES

Meeting date: Monday 2 November 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)

ITEM	CONTENT	ACTION
<b>STANDING ITEMS</b>		
1.	<p><b>APOLOGIES</b> There were no apologies.</p> <p><b>DECLARATIONS OF INTEREST</b> Mr Walker declared an interest and took no part in the discussions on items 15 (f) and (g).</p>	
2.	<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>CONSENT ITEMS</b>		
3.	<p><b>DRAFT MINUTE OF PREVIOUS MEETING</b> Members reviewed and approved the minute of the meeting on 28 September 2020.</p>	
4.	<p><b>PROPOSED DATE FOR STANDARDS OFFICER'S WORKSHOP</b> Members agreed that the annual workshop for Standards Officers of devolved public bodies should be held on 15 March 2021. Members noted that the workshop would be held in a central Edinburgh hotel unless Covid-19 related restrictions in place at the time prevented this, in which case it would be held online. Members asked the Executive Team to send emails asking Standards Officers to save the date, in due course.</p>	<b>Executive Team</b>
5.	<p><b>CONSULTATION ON REVIEW OF COUNCILLORS' AND MODEL CODES OF CONDUCT</b> Members noted that the Scottish Government's consultation on proposed changes to both the Councillors' and Members' Codes had launched on 19 October and would remain open until 8 February 2021.</p>	
6.	<p><b>STANDARDS COMMISSION MEMBERS' CODE OF CONDUCT</b> Members undertook the five-yearly review of their Code of Conduct, which is based on the Model Code and, subject to one minor amendment, approved its contents. Members noted that the Code would need to be updated if changes were made to the Model Code following the Scottish Government's consultation. Members agreed the approved Code should be published on the Standards Commission's website in the meantime.</p>	<b>Executive Team</b>
<b>STRATEGIC MATTERS</b>		
7.	<p><b>DRAFT DIRECTION UNDER SECTION 10 OF THE ETHICAL STANDARDS IN PUBLIC LIFE ETC. (SCOTLAND) ACT 2000 ON THE OUTCOME OF INVESTIGATIONS</b> Members noted that both SOLAR and SOLACE had confirmed that they supported the Standards Commission's proposal to issue the Direction to the Ethical Standards Commissioner (ESC) requiring her to provide the Standards Commission, at the conclusion of every investigation into a complaint about a councillor or member of a devolved public</p>	

	<p>body, with a report outlining her findings and conclusions as to whether or not there has been a contravention of the relevant Code. The direction would require the ESC to advise the parties that the report had been submitted to the Standards Commission for it to make a decision, under Section 16 of the Act, as to whether to direct that further investigation be carried out, to hold a Hearing or to do neither.</p> <p>Member agreed that the Direction would ensure there was a clear separation of functions between the two organisations, in that the ESC's role would be to investigate complaints, and the Standards Commission would, on receipt of the ESC reports, adjudicate on all complaints that had been deemed eligible for investigation. Whilst the ESC could indicate that in her opinion a breach had or had not occurred, the final determination would be made by the Standards Commission. This approach would remove any concerns about fairness of process or inconsistencies between the two organisations as to how the Codes should be interpreted. Members noted that the Direction would allow any disputed evidence or representations on how the provisions of the Codes should be interpreted to be tested fully at a Hearing, where evidence is taken on oath or affirmation and where the participants and the Panel can question and respond to submissions made. The implementation of the Direction would also make the procedures for the adjudication of complaints about councillors and members of devolved public bodies more consistent with the approach taken in respect of complaints about MSPs.</p> <p>Members noted that the ESC had not responded to the Standards Commission's letter inviting her to comment on its proposal. In the absence of any comments and in light of the support from other key stake holders, Members agreed the Direction should be finalised and issued. Members noted that the Hearing Rules would be revised to reflect the potential changes to procedures as a result of the Direction and agreed that, when finalised, the amended version should then be published on the Standards Commission's website.</p>	<p><b>Executive Director</b></p>
<p><b>8.</b></p>	<p><b>DIRECTION UNDER SECTIONS 10 AND 11 OF THE ETHICAL STANDARDS IN PUBLIC LIFE ETC. (SCOTLAND) ACT 2000 ON THE PROGRESS OF INVESTIGATIONS</b></p> <p>Members noted that the ESC had not responded to the Direction issued to her on 1 July 2020 requiring her to provide the Standards Commission with progress reports on the investigations into any complaints about councillors and members of devolved public bodies that had taken longer than three months. Members agreed that the Standards Commission should seek confirmation from the ESC that:</p> <ul style="list-style-type: none"> <li>• as of 1 July 2020, no ongoing investigations about any councillor or member of a devolved public body, where a decision or final report had not yet been issued, were more than three months old; and</li> <li>• that all investigations opened since 1 July 2020 have taken less than three months to complete and for the decision or final report to be issued.</li> </ul>	<p><b>Executive Director</b></p>
<p><b>BUSINESS MATTERS</b></p>		
<p><b>9.</b></p>	<p><b>ONLINE TRAINING WORKSHOPS</b></p> <p>Members agreed the format and agenda for the proposed online training workshops on the Councillors' Code of Conduct. Members agreed that four 90-minute workshops would be held before the end of 2020/21, with approximately 20 participants invited to each, on a first come, first served basis. Members agreed the workshops following dates and facilitators:</p> <p>7 December 2020: Mrs Stewart, Ms Dunn  14 January 2021: Mr Walker, Professor Dunion  27 January 2021: Mr McCormick, Mrs Stewart  1 February 2021: Ms Dunn, Mr Walker</p> <p>Members noted that requests had been received from Angus, Stirling and Scottish Borders Councils and agreed the invitations should be sent to elected Members from those local authorities in the first instance.</p>	<p><b>Executive Team</b></p>

10.	<p><b>THE COMMITTEE ON STANDARDS IN PUBLIC LIFE STANDARDS MATTER 2: PUBLIC CONSULTATION</b></p> <p>Members noted that the Committee on Standards in Public Life Public (CSPL) was carrying out a landscape review of the institutions, processes and structures in place to support high standards of conduct. Members noted that the terms of reference included:</p> <ul style="list-style-type: none"> <li>• reviewing how well ethical standards are upheld in public life in the UK, as a whole, and the strength of the arrangements for regulating and promoting them;</li> <li>• reviewing the principles of public life; and</li> <li>• identifying best practice in the regulation of ethical standards and in the promotion of cultures that celebrate and encourage high ethical standards.</li> </ul> <p>Members agreed that the Standards Commission should submit a response outlining the Standards Commission’s experiences in respect of how ethical standards are upheld by councillors and members of devolved public bodies in Scotland. Members asked the Executive Director to circulate a draft response for them to consider, so that it could be finalised and submitted before the deadline of 18 December 2020.</p>	Executive Director
11.	<p><b>ACTIONS ARISING FROM MONITORING OFFICERS’ WORKSHOP</b></p> <p>Members noted that there had been a good turnout at the Monitoring Officers’ workshop held online on 26 October 2020, with representatives from most Councils being in attendance. Members noted that matters discussed included the ongoing review of the Councillors’ Code of Conduct and work the Standards Commission had undertaken and was planning to undertake. In addition, attendees had discussed general issues and trends that participants have noticed and experienced. In particular attendees had discussed:</p> <ul style="list-style-type: none"> <li>• their experiences and discuss any trends in respect of the ethical standards framework, the interpretation of the Councillors’ Code of Conduct and how complaints were being investigated and adjudicated upon;</li> <li>• how to promote and encourage compliance with the respect and bullying / harassment provisions in the Councillors’ Code of Conduct; and</li> <li>• the relationships between elected members and officers and how to ensure there was a clear distinction between strategic and operational matters.</li> </ul> <p>Attendees had also made suggestions in respect of how the Standards Commission could assist with training elected members on the provisions in the Councillors’ Code both before and after the local government elections in May 2022.</p>	
12.	<p><b>APPEAL IN RESPECT OF LA/R/2257 &amp; 3262: COUNCILLOR PAUL MACK OF RENFREWSHIRE COUNCIL</b></p> <p>Members noted that an appeal had been lodged, on 20 October 2020, against a Hearing Panel’s decision to find (former) Councillor Mack in breach of the Councillor’s Code and to disqualify him for 17 months. Members noted that answers would be lodged on behalf of the Standards Commission within the 21-day deadline and that a procedural Hearing before Paisley Sheriff Court was due to take place on 25 November 2020. Members asked the Executive Team to keep them updated on the work undertaken in defence of the appeal.</p>	Executive Team
13.	<p><b>QUARTER 2 EXPENDITURE AGAINST BUDGET REPORT</b></p> <p>Members noted the report on expenditure in the year to date and projected expenditure to the year end. Members noted that while expenditure was currently within budget, contingency funding may have to be sought to cover legal expenses to defend the appeal in respect of the decision on case LA/R/2257 &amp; 3262, should it proceed.</p>	
<b>CASES UPDATE</b>		
14.	<p><b>NO BREACH DECISIONS BY THE ESC &amp; SECTION 14 LETTERS</b></p> <p><b>(a) ESC Decision of No Breach: File reference 222012:</b> Members noted the decision.</p> <p><b>(b) ESC Decision of No Breach: File reference 322012:</b> Members noted the decision.</p>	

15.	<p><b>CASES</b></p> <p><b>(a) LA/Mo/3132:</b> Councillor Shona Morrison of Moray Council. Members noted that a Hearing took place online on 12 October 2020. The Hearing Panel found that the Respondent had breached the Councillors' Code of Conduct and censured her.</p> <p><b>(b) LA/AC/2276:</b> Councillor Marie Boulton of Aberdeen City Council. Members noted that a Hearing took place online on 22 October 2020. The Hearing Panel found that the Respondent had breached the Councillors' Code of Conduct and censured her.</p> <p><b>(c) LA/Fi/3125:</b> Councillor Brian Thomson of Fife Council. Members noted that a Hearing was scheduled to take place online on 9 November 2020.</p> <p><b>(d) LA/ER/3271:</b> Councillor Jim Swift of East Renfrewshire Council. Members noted that a Hearing was scheduled to take place online on 13 November 2020.</p> <p><b>(e) LA/AC/3199:</b> Councillor Alan Donnelly of Aberdeen City Council. Members noted that a Hearing was scheduled to take place on 20 November 2020.</p> <p><b>(f) LA/Fi/3039 &amp; 3075:</b> Councillor Tony Miklinski of Fife Council. Members noted that a Hearing was scheduled to take place on 23 November 2020.</p> <p><b>(g) LA/Fi/3278:</b> Councillor Andy Heer of Fife Council. Members noted that a Hearing was scheduled to take place on 16 December 2020, with a pre-Hearing meeting to be held on 17 November 2020.</p> <p><b>(h) LA/SI/3305:</b> Councillor Ryan Thomson of Shetland Islands Council. Members noted that a Hearing was scheduled to take place on 17 December 2020.</p> <p><b>(i) LA/OI/3265:</b> Councillor John Ross Scott of Orkney Islands Council. Member noted that a breach report had been received from the ESC.</p>	
16.	<p><b>FEEDBACK INCLUDING ANY HEARINGS SURVEY RESPONSES</b></p> <p>a) Hearings Survey response received 17 September 2020.</p>	
<b>AOB</b>		
17.	<p><b>AGENDA ITEMS FOR NEXT MEETING</b></p> <p>Members agreed to advise the Executive Director of any items they wish added to the agenda for the next meeting.</p>	<b>Executive Director</b>
18.	<p><b>BUSINESS MANAGER</b></p> <p>Members noted that the Business Manager had advised of her intention to retire at the end of the financial year. Members agreed that the Business Manager would be greatly missed and thanked her for her hard work to date. Members agreed that the Executive Director should arrange a meeting with the Human Resources Committee Members to discuss recruitment and replacement options in due course.</p>	<b>Executive Director</b>
19.	<p><b>2020 WORKPLAN</b></p> <p>Members noted the planned activities.</p> <p><b>DATE OF NEXT MEETING</b></p> <p>Members noted that the next meeting of the Standards Commission was scheduled to take place on Monday, 14 December 2020.</p>	