

# MINUTES

Meeting date: Monday 25 January 2021

## IN ATTENDANCE ONLINE

### Members:

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

### Executive Team:

- Lorna Johnston (Executive Director)
- Elaine McLean (Business Manager) (items 1-3 and 7 only)

ITEM	CONTENT	ACTION
<b>STANDING ITEMS</b>		
1.	<p><b>APOLOGIES</b> No apologies were received.</p> <p><b>DECLARATIONS OF INTEREST</b> Mr Walker noted that while he had previously declared an interest in LA/Fi/3278, it had only been included in the agenda (at item 14a) so that an update could be provided on post-Hearing correspondence. As the update was for noting only, Mr Walker confirmed that no declaration was required.</p>	
2.	<p><b>MATTERS ARISING</b> Members noted that the Convener and Executive Director had held an online meeting with a member of the recently appointed House of Commons' Independent Expert Panel that had been established to determine appeals and sanctions in cases where complaints of bullying, harassment or sexual misconduct under the Independent Complaints and Grievance Scheme (ICGS) have been brought against MPs and House of Commons' staff. Members noted that the Convener and Executive Director had shared the Standards Commission's experience of dealing with similar types of complaints and its processes for doing so.</p> <p>Members noted that all other 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, subject to a minor amendment being made, approved the minute of the meeting on 14 December 2020.</p>	
<b>STRATEGIC MATTERS</b>		
4.	<p><b>DRAFT BUSINESS PLAN 2021/22</b> Subject to a few additions, Members agreed the principal activities to be included in the Business Plan for 2021/22, in support of the second year of the Standards Commission's Strategic Plan for 2020/24.</p> <p>Members noted the Executive Team would prepare a draft Risk Register for consideration at the Standards Commission meeting on 22 February 2021. Once this was agreed, references to the Risk Register would be added and the draft Business Plan brought back for detailed consideration at the following meeting.</p>	

5.	<p><b>DIRECTIONS ISSUED TO THE ETHICAL STANDARDS COMMISSIONER UNDER SECTIONS 10 AND 11 OF THE ETHICAL STANDARDS IN PUBLIC LIFE ETC. (SCOTLAND) ACT 2000</b></p> <p>Members noted the contents of a decision letter issued by the Ethical Standards Commissioner (ESC), in respect of a complaint about a councillor, in which she had advised that she was not investigating the matter ‘further’ and was closing the case file. Members expressed concerns that the extent of inquiries made of the Respondent, other councillors, and Council staff had the appearance of an investigation and that the reasoning that it could not amount to a breach, by virtue of public interest and ECHR considerations, was similar to that outlined by the ESC in previous no breach decisions. Members noted that this could have implications in terms of the ESC’s compliance with Direction on the Progress of Investigations and the Direction on the Outcome of Investigations, issued to her by the Standards Commission on 1 July and 12 November 2020, respectively.</p> <p>Members noted that the ESC had advised that she had set aside an hour for a meeting with them on 28 January 2021. Members agreed that as a number of items on the proposed agenda for the meeting of 28 January were impacted by compliance with the Directions, the Executive Director should write to the ESC to propose a postponement of that meeting to a later date, potentially in mid to late February 2021, (and for 2 hours to be set aside for discussion of the agenda items.) . Members noted that this would allow them time to consider the implications and to allow a full discussion of any related concerns.</p>	Executive Director
6.	<p><b>SECTION 31 OF THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973</b></p> <p>Mr McCormick advised that he intended to draft and circulate a short paper on the impact of the legislation in light of the sanctions available to the Standards Commission following a finding of a breach of a Code of Conduct at a Hearing. Members agreed, in light of this, to postpone discussion of the matter to the next meeting.</p>	Mr McCormick
<b>BUSINESS MATTERS</b>		
7.	<p><b>QUARTER THREE EXPENDITURE REPORT</b></p> <p>Members noted the Report, which detailed expenditure incurred to 31 December 2020 and projected expenditure against budget to the year end. Members noted that it was anticipated that the request for contingency funding to cover the cost of legal fees that had and would be incurred in respect of defending the appeal against the decision made on case LA/R/2267 &amp; 3262 would be agreed. As such, it was anticipated that expenditure would remain within budget.</p>	
8.	<p><b>AUDIT &amp; RISK COMMITTEE ON 20 JANUARY 2021</b></p> <p>Members noted the minutes and the verbal report provided by the Chair of the Audit &amp; Risk Committee, Mr McCormick, of the meeting on 20 January 2021.</p> <p>Members agreed the audit fee, as proposed by Audit Scotland, for the 2020/21 audit. Members noted that the draft audit plan would be issued in March, rather than January as normal, but that it was anticipated that the overall timescale for the signing-off of the Standards Commission’s accounts would not be affected by the delay.</p> <p>Members agreed that the Internal Auditor should be asked to review the Standards Commission’s response to the challenges posed by the coronavirus pandemic, as part of the 2020 / 2021 audit and, in particular, the advantages and disadvantages of holding Hearings online (including whether doing so gave rise to any accessibility issues). Members asked the Executive Team to notify the auditors accordingly.</p> <p>Members noted that the Committee had conducted a review of the 2020/21 Business Risk Register. Members agreed with the Committee’s recommendations in respect of changes to overall risk scores in light of activities undertaken. Members agreed that any ongoing risks should be included in the Risk Register for 2021/22.</p>	Executive Team

9.	<p><b>STAFFING AND RECRUITMENT</b></p> <p>Members noted that the Human Resources Committee and Executive Director had reviewed the Standards Commission staffing in light of the Business Manager’s decision to retire at the financial year-end. Members noted that the Business Manager currently undertook some case and Hearing related work and agreed that these tasks could be undertaken by the new Caseworker as part of the new post being created at the start of 2021/22. Members agreed, therefore, to increase the required hours for the Caseworker role and to revise the Business Manager’s job description and reduce the required hours for that role accordingly. Member asked the Executive Team to proceed with the recruitment for both roles.</p>	Executive Team
10.	<p><b>APPEAL IN RESPECT OF LA/R/2257 &amp; 3262: COUNCILLOR PAUL MACK OF RENFREWSHIRE COUNCIL</b></p> <p>Members noted that a case management hearing had been held online on 12 January 2021, at which the Sheriff Principal had directed that a substantive hearing be held on 4 February 2021. Members asked the Executive Director to keep them updated on the arguments and submissions made and any decision issued by the Sheriff Principal.</p>	Executive Director
11.	<p><b>TRAINING WORKSHOPS ON THE COUNCILLORS’ CODE OF CONDUCT</b></p> <p>Members noted that the Convener and Mr Walker had facilitated an online training workshop on the Councillors’ Code of Conduct for elected members of Angus Council on 14 January 2021. Members were pleased to note the Convener’s verbal report indicating that there had been good attendance and engagement at the workshop.</p> <p>Members noted that similar workshops had been scheduled for elected members of Stirling Council on 24 January 2021 and for elected members of Highland Council on 15 February 2021.</p>	
12.	<p><b>HEARING RULES</b></p> <p>Members agreed some relatively minor amendments to Section 4 of the Hearing Rules, concerning the information the Standards Commission provides to the Respondent in the initial notification of Hearing letter be amended to ensure it reflects current practice. Members agreed that the changes would ensure that while Respondents were provided with all necessary information in the notification of Hearing letter, the correspondence was sufficiently clear and concise as to enable them to understand the procedure that will be followed, their rights in terms of the governing legislation and what was expected of them. Members asked that the updated Rules be send to the ESC and published.</p>	Executive Team
<b>CASES UPDATE</b>		
13.	<p><b>NO BREACH DECISIONS BY THE ESC &amp; SECTION 14 LETTERS</b></p> <p>Members noted that no section 14 letters had been received since the last meeting. Members noted that three no-breach reports had been received. They had been so heavily redacted, however, that Members were unable to ascertain the dates the complaints had been received by the ESC, the specific nature of the allegations or the reasons for the ESC’s conclusions that there had been no breach of the applicable Code. As such Members felt unable to review them properly.</p>	
14.	<p><b>CASES</b></p> <p><b>(a) LA/Fi/3278:</b> Councillor Andy Heer of Fife Council. Members noted that a Hearing had been held on 16 December 2020. The Respondent had been found to have breached the Code and was suspended for two months.</p> <p><b>(b) LA/SI/3305:</b> Councillor Ryan Thomson of Shetland Islands Council. Members noted that a Hearing had been held on 17 December 2020. The Respondent had been found to have breached the Code and was censured.</p>	

	<p><b>(c) LA/OI/3265:</b> Councillor John Ross Scott of Orkney Islands Council. Members noted that a Hearing had been held on 18 January 2021. The Respondent had been found to have breached the Code and was suspended for three months.</p> <p><b>(d) LA/ER/3271:</b> Councillor Jim Swift of East Renfrewshire. Members noted the Council had reviewed the decision made at the Hearing on 13 November 2020.</p> <p><b>(e) LA/R/2267 &amp; 3262:</b> Councillor Paul Mack of Renfrewshire Council. Members noted the Council had reviewed the decision made at the Hearing on 10 September 2020.</p>	
<b>15.</b>	<p><b>FEEDBACK INCLUDING ANY HEARINGS SURVEY RESPONSES</b></p> <p>Members noted the survey responses received in respect of Hearing held in January 2021.</p>	
<b>AOB</b>		
<b>16.</b>	<p><b>AGENDA ITEMS FOR NEXT MEETING</b></p> <p>Members agreed to advise the Executive Director of any further items to be added to the agenda for the next meeting.</p>	
<b>17.</b>	<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, 22 February 2021.</p>	
<b>18.</b>	<p><b>DISPENSATION</b></p> <p>Members noted that the Standards Commission had issued a dispensation, in 2015, in terms of its powers under paragraphs 5.16 and 5.17 of the Councillors' Code of Conduct, for councillors who had been appointed by their Council to be a member of Health and Social Care Integration Joint Board (IJB), established for the area under the Public Bodies (Joint Working) (Scotland) Act 2014. The dispensation stated that councillors, as voting members of the IJB, did not have to declare their interest when discussions on general health and social care issues arise and could participate in discussions and voting on such issues. The Standards Commission granted a similar dispensation under the Model Code for voting members of IJBs who were Health Board Members.</p> <p>Members noted the terms of a request received from Fife Council for the wording of the dispensation to be amended or extended so that its elected members who were appointed to the local IJB could take part at Council in the impending review (including any discussion and decision-making) of its updated IJB scheme documents (being the framework documents that outline the sharing of responsibilities, both operational and financial, between the Council and NHS Fife). Members noted that there is a requirement for the scheme documents to be reviewed every five years.</p> <p>Members agreed that the proposed revised Code would allow councillor members of IJBs to take part in the discussion and decision-making on all matters concerning the IJB. This was because it was recognised that their knowledge and experience would enable them to make an essential contribution to such discussions. Members noted that it was anticipated that most, if not all, Schemes across Scotland will require to be reviewed in 2021. Members agreed, therefore, that the overall dispensations for councillor and health board members be extended to make it clear that they cover the reviews of the IJB scheme documents undertaken both by Councils and Health Boards. Members asked the Executive Team to write to the Monitoring Officers and Standards Officers of all Councils and Health Boards advising that the dispensation had been extended to cover participation in discussions and decision-making in respect of the IJB schemes (including any reviews of these).</p>	<b>Executive Team</b>