

MINUTES

Meeting date: Monday, 26 June 2023

IN ATTENDANCE

Members:

- Paul Walker (Convener)
- Ashleigh Dunn
- Suzanne Vestri
- Anne-Marie O’Hara
- Helen Donaldson

Executive Team Members:

- Lorna Johnston (Executive Director)

ITEM	CONTENT	ACTION
STANDING ITEMS		
1.	<p>APOLOGIES Apologies were received from Richard Wilson, Case Manager.</p> <p>DECLARATIONS OF INTEREST No declarations of interest were made.</p>	
2.	<p>MATTERS ARISING Members noted that all matters arising, as noted, were complete or due to be discussed at the meeting.</p>	
CONSENT ITEMS		
3.	<p>DRAFT MINUTE OF PREVIOUS MEETING Members reviewed and approved the minute of the meeting on 30 May 2023.</p>	
4.	<p>UPDATE ON COURT DECISION CONCERNING ARTICLE 10 OF ECHR Members noted the findings of the European Court of Human Rights, in respect of the application of Article 10 of the European Convention on Human Rights in the recent case of <i>Sanchez v. France [GC] - 45581/15</i>. Members noted that the case being reviewed by the Court concerned the conviction of a politician for failing to remove someone else’s comments on his Facebook wall.</p> <p>Members noted, in particular, that the Court found that:</p> <ul style="list-style-type: none"> • while it did not deny the need to take account of the specific nature of online communication (being that it is often colloquial/vulgar), it noted that in the run-up to an election the impact of racist and xenophobic discourse became greater and more harmful. This was particularly so where the political and social climate was troubled at the local level and there were clear tensions in the population. • the comments on the Facebook wall “constituted a form of dialogue representing a coherent whole”. The Court noted that the effective monitoring of all comments made on a popular social media account would have been difficult, but that exempting people from all liability for such monitoring might lead to abuse or misuse. There should be a sharing of liability between all actors involved. Politicians could be expected to be all the more vigilant as they are more likely to influence voters, or incite them. The duties required of politicians were indissociable from the rights that come with such status. 	

	<ul style="list-style-type: none"> • a politician experienced in communication to the public, must be aware of the greater risk of excessive and immoderate remarks that might appear and necessarily become visible to a wider audience. <p>Members noted that the Court had applied a proportionality approach to determine the degree of liability that could be attributed to the account holder. It determined that a private individual of limited notoriety would have fewer duties than a local politician, who in turn would have a lesser burden than a national figure.</p>	
STRATEGIC MATTERS		
5.	<p>PROMOTING THE ETHICAL STANDARDS FRAMEWORK AND UPDATE ON OUTREACH WORK</p> <p>Members noted the outreach work undertaken by the Executive Team since the last meeting. Members noted, in particular, that a new animated video on bullying and harassment had been published on the Standards Commission’s website on 6 June 2023.</p> <p>Members noted that the Executive Director was to present a session, on the revised Councillor’s Code of Conduct to members of the Scottish Member Services Development Network on the morning of Friday, 30 June 2023, in Stirling.</p> <p>Members noted that the Standards Commission had agreed to present on the Councillors’ Code to elected members of Clackmannanshire Council on 21 September 2023 and on the Model Code to members of Clackmannanshire Health and Social Care Integration Joint Board on 29 November 2023. Members provisionally agreed that the Executive Director, Case Manager and Ms Donaldson would cover the event on 21 September, and the Executive Director, Ms Dunn and Ms O’Hara would cover the event on 27 September.</p> <p>Members noted the Convenor had followed up with an academic interested in the Commission's work and had a useful meeting with him with some potential to follow up.</p>	Executive Director
BUSINESS MATTERS		
6.	<p>ANNUAL REPORT 2022/23</p> <p>Members agreed the proposed content of Section 1 of the Annual Report for 2022/23, being the Chair’s Introduction.</p> <p>Members noted that all content had been agreed and, as such, the report would be sent to a graphic design company for formatting, before being laid before the Scottish Parliament.</p>	Executive Team
7.	<p>DATES FOR STANDARDS COMMISSION MEETINGS AND EVENTS 2024</p> <p>Members agreed the dates and formats (whether online or in person) for the Standards Commission meetings to be held in 2024, and that the meetings in February and November were to be held in public.</p> <p>Members further agreed that the Standards Commission meeting on 6 November 2023 should be held in public.</p> <p>Members asked the Executive Team to circulate the dates agreed.</p>	Executive Team
8.	<p>DRAFT ADVICE NOTE FOR COLLEGE BOARD MEMBERS</p> <p>Members noted that the Standards Commission was awaiting feedback on its draft Advice Note for College Sector Board Members from the College’s Good Governance Steering Group. Members noted that the draft Advice Note would be circulated for approval once a reply had been received, and amendments made, in light of any feedback provided.</p>	Executive Team
9.	<p>BUSINESS PLAN 2023/24 QUARTER ONE REVIEW</p> <p>Members reviewed the progress made in quarter one against the actions outlined in the Business Plan for 2023/24. Members were pleased to note the majority of tasks identified for quarter one had been completed or progressed.</p>	

10.	<p>STANDARDS UPDATE JUNE 2023</p> <p>Subject to some minor amendments, and the detail relating to its reporting of two very recent cases, Members approved the Standards Update to be issued and published on 29 June 2023.</p>	Executive Team
11.	<p>ANNUAL REVIEW SECTION 19 POLICY ON THE APPLICATION OF SANCTIONS</p> <p>Members undertook their annual review of the Standards Commission’s Section 19 Policy on the application of Sanctions at Hearings.</p> <p>Members agreed some minor formatting changes together with the inclusion of a new paragraph stating: <i>The Standards Commission will also consider, and give weight to, the timing and proximity of local government elections in determining the length of any disqualification, in order to ensure that it is appropriate and proportionate; and that any interference with the Respondent’s Article 10 rights is the minimum necessary, while achieving the aims of maintaining standards in public life.</i></p> <p>Members agreed that a copy of the amended version should be sent to the ESC and published on the Standards Commission’s website.</p>	Executive Team
CASES UPDATE		
12.	<p>REPORTS FROM THE ESC & SECTION 14 LETTERS</p> <p>(a) LA/As/3784: Members noted that a ‘do neither’ decision had been made on a report received from the ESC about an Aberdeenshire Councillor.</p> <p>(b) LA/E/3645: Members noted that the ESC had sent a draft breach report to a City of Edinburgh Councillor under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p> <p>(c) LA/E/3768: Members noted that a ‘do neither’ decision had been made on a report received from the ESC about a City of Edinburgh Councillor.</p> <p>(d) LA/E/3775: Members noted that the ESC had sent a draft breach report to a City of Edinburgh Councillor under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p> <p>(e) LA/NL/3705: Members noted that the ESC had sent a draft breach report to a North Lanarkshire Councillor under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p>	
13.	<p>CASES</p> <p>(a) LA/D/3745 & 3742: Members noted that a Hearing was held on 6 June 2023. The Respondent was found to have breached the Councillors’ Code and was censured. Members noted that the Panel had determined, however, that it would have imposed a lengthy suspension, had the Respondent still been a councillor.</p> <p>(b) LA/S/3571: Members noted that a Hearing was held on 21 June 2023. The Respondent was found to have breached the Councillors’ Code and was suspended.</p> <p>(c) LA/SL/3558a: Members noted that a Hearing was scheduled to take place on 27 June 2023 at Council Headquarters, Hamilton.</p> <p>(d) LA/Fi/3614: Members noted that a Hearing was scheduled to take place on 11 July 2023 at Council Headquarters, Glenrothes.</p> <p>(e) LA/Mi/3803: Members noted that a Hearing was scheduled to take place on 23 August 2023 at Council Headquarters, Dalkeith.</p>	

	(f) LA/SL/3558b: Members noted that a Hearing was scheduled to take place on 30 August 2023 online.	
14.	<p>INVESTIGATIONS EXCEEDING 3 MONTHS – INTERIM REPORTS</p> <p>a) LA/As/3780: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about an Aberdeenshire Councillor had taken more than six months to investigate.</p> <p>b) LA/WL/3698: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about a West Lothian Councillor had taken more than six months to investigate.</p> <p>c) LA/WL/3790: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about a West Lothian Councillor had taken more than three months to investigate.</p> <p>d) LA/NA/3707: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about a North Ayrshire Councillor had taken more than six months to investigate.</p>	
15.	<p>FEEDBACK INCLUDING ANY HEARINGS SURVEY RESPONSES</p> <p>a) Members noted the feedback from a Hearing Survey response received on 30 May 2023.</p> <p>b) Members noted the feedback from a Hearing Survey response received on 12 June 2023.</p> <p>c) Members noted the terms of a complaint about the Standards Commission received from the Respondent in case LA/D/3745 & 3742 and the response provided by the Executive Director. Members noted that the complaint had not been upheld.</p>	
ANY OTHER BUSINESS		
16.	<p>MEMBERS' TRAINING</p> <p>Members noted that the Executive Team would arrange refresher training on the conduct of Hearings, that would specifically focus on ensuring relevancy and best evidence, how to question witnesses, assessing credibility & reliability and general practical matters.</p> <p>ANY EMERGING RISKS</p> <p>None identified.</p> <p>AGENDA ITEMS FOR NEXT MEETING</p> <p>Members noted that the direction outlining the eligibility criteria for complaints about councillors and members of devolved public bodies, as issued to the ESC under Section 10 and Requirement under Section 11 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 was due to expire on 26 August 2023. Members noted that as they were not due to meet in August, a decision on whether to renew or extend the direction would need to be made at the next meeting, on 25 July 2023.</p>	
17.	<p>2023 DIARY DATES AND WORKPLAN</p> <p>Members noted the diary dates and ongoing workplan.</p> <p>DATE OF NEXT MEETING</p> <p>Members noted that the next meeting of the Standards Commission was scheduled to take place online on Tuesday 25 July 2023 at 11:00 am.</p>	