

MINUTES

Meeting date: Monday, 31 January 2022

IN ATTENDANCE ONLINE

Members:

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

Executive Team Members:

- Lorna Johnston (Executive Director)

ITEM	CONTENT	ACTION
STANDING ITEMS		
1.	<p>APOLOGIES No apologies were received.</p> <p>DECLARATIONS OF INTEREST No declarations of interest were made.</p>	
2.	<p>MATTERS ARISING Members noted that all matters arising were complete or due to be discussed, either at the meeting or at the next one, scheduled to take place on 28 February 2022.</p>	
CONSENT ITEMS		
3.	<p>DRAFT MINUTE OF PREVIOUS MEETING Members reviewed and approved the minute of the meeting on 13 December 2021.</p>	
4.	<p>RECORDS MANAGEMENT PLAN REVIEW EVALUATION Members noted that the Standards Commission had submitted a Progress Update Review (PUR) on its Records Management Plan to the National Records for Scotland (NRS) on 10 November 2021. NRS had reviewed the PUR and had issued a draft report on 16 December 2021, advising it was content that the Standards Commission had considered its record management arrangements in compliance with its statutory obligations. NRS commended the Standards Commission's efforts in keeping its Records Management Plan under review. Members noted the terms of the report and thanked the Office Manager for her work on the matter.</p>	
STRATEGIC MATTERS		
5.	<p>BUSINESS PLAN 2022/23 Subject to a few additions and minor amendments, Members agreed the principal activities to be included in the Business Plan for 2022/23, in support of the third 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 28 February 2022. Once that had been agreed, references to the Risk Register would be added to the approved Business Plan.</p>	Executive Team
6.	<p>MEMBERS' CODE OF CONDUCT Members noted that, after being approved by the Scottish Parliament, the revised Model Code of Conduct for Members of Devolved Public Bodies had been issued by Ministers on 7 December 2021.</p>	

	<p>Members noted that the Standards Commission was not listed under Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 and they were not, therefore, required to adopt the Model Code. Members agreed, nonetheless, that it would be good practice for them to do so, in order to demonstrate leadership and commitment to the ethical standards framework.</p> <p>Members agreed to adopt the Model Code as their own Code of Conduct, subject to the removal of Annex A, which summarised how complaints are dealt with and the sanctions available should a breach of the Code be found (given that the Standards Commission is not a Schedule 3 body and complaints about its members having breached the Code cannot be investigated and adjudicated upon within the framework as outlined). Members asked the Executive Team to publish a copy of the adopted Code on the Standards Commission's website.</p>	Executive Team
BUSINESS MATTERS		
<p>7.</p>	<p>COMMITTEE MEMBERSHIP</p> <p>Members noted that, following her appointment being agreed by the Scottish Parliament, Suzie Vestri was due to commence in post as a new Member of the Standards Commission on 7 February 2022.</p> <p>Members noted that the term of reference for both the Standards Commission's Audit & Risk and Human Resources Committees state that they will comprise of two Members of the Standards Commission (other than the Convener), appointed initially for a period of two years. The terms of reference note that Members of both committees are eligible for reappointment by the Standards Commission.</p> <p>As Mr Walker was now Convener, Members agreed that Ms Vestri be appointed to replace him on the Audit & Risk Committee, with Mr McCormick remaining as Chair. Members further agreed that both Mrs Stewart and Ms Dunn be re-appointed to the Human Resources Committee, with Mrs Stewart remaining as Chair.</p> <p>Members noted that Mr McCormick's and Mrs Stewart's appointments as Standards Commission Members were due to end in early 2023. Members asked that succession planning be added to the Business Plan for 2022/23, and that any delay on the part of the Scottish Parliamentary Corporate Body in recruiting replacement Members also be added to the Risk Register for the forthcoming year.</p>	Executive Team
<p>8.</p>	<p>LA/R/2257 & 3262 APPEAL TO COURT OF SESSION</p> <p>Members noted that an appeal against the decision by a Sheriff Principal to uphold the Standards Commission's decision in respect of cases LA/R/2257 & 3262 had been made to the Court of Session in November 2021.</p> <p>Members noted the Appellant's grounds of appeal and the Court's timetable. Members further noted that, with the approval of the Convener and Chair of the Audit & Risk Committee, the Executive Team had asked the Standards Commission's solicitors to instruct senior counsel to assist with the defence of the appeal, in order to ensure 'equality of arms' and also in light of the potential impact of a successful challenge to the ethical standards framework. Members noted that the Standards Commission's answers would be lodged before the deadline for doing so, which was 7 February 2022.</p> <p>Members noted that the Appellant had submitted a motion on 14 January 2022 asking for the urgent disposal of the case, to ensure that, should the Standards Commission's decision be over-turned, he could meet the deadline for nomination for election. Members noted that the Standards Commission had determined that there was no merit in opposing the motion. Members noted that the Executive Team would provide updates on the disposal of the motion and progress of the appeal by email in due course.</p>	Executive Team

<p>9.</p>	<p>AUDIT & RISK COMMITTEE MEETING Members noted the minutes and the verbal report provided by the Chair of the Audit & Risk Committee, Mr McCormick, of the meeting on 26 January 2022.</p> <p>Members agreed the audit fee, as proposed by Audit Scotland, for the 2021/22 audit. Members noted that the draft audit plan would not be issued until March due to the ongoing pressures on work resulting from the coronavirus pandemic. Members noted, however, that it was anticipated the overall timescale for the signing-off of the Standards Commission’s accounts would be completed by the end of July, as normal.</p> <p>Members agreed that the Internal Auditor should be asked to review how Members and staff of the Standards Commission exchanged information and how Members’ time was recorded and monitored. The Committee agreed with the proposal, which would build on work it had commenced proactively, and noted that the audit would not only ensure the Standards Commission was prepared to respond to any requests for assurance, but would also identify any improvements that could be made to ensure best practice was achieved. Members asked the Executive Team to notify the internal auditor accordingly.</p> <p>Members noted that the Committee had conducted a review of the 2021/22 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 2022/23.</p>	<p>Executive Team</p> <p>Executive Team</p>
<p>10.</p>	<p>FORMAT OF ANNUAL REPORT 2020/21 Members agreed that the format for Annual Report for 2021/22, which was due to be laid before the Scottish Parliament before the end of August 2022, should reflect the format of the Strategic Plan for 2020/24, with a section for each strategic aim (in addition to an introduction and a section on governance). Members agreed the report should be divided into the sections outlined below:</p> <ol style="list-style-type: none"> 1. Introduction; 2. Impact, being a description of how the Standards Commission had had a positive impact on ethical standards in public life; 3. Improvement, being a description of how the Standards Commission had pursued continuous improvement in the ethical standards framework and the way it had undertaken its work; 4. Stakeholders, being an outline of how the Standards Commission has pursued and developed strong relationships with its stakeholders; 5. Clarity, being a description of how the Standards Commission had ensured that all stakeholders, including members of the public, had easy access to high quality information about the organisation and its adjudicatory work; and 6. Governance, comprising a brief description of the governance arrangements and a short financial overview. <p>Members welcomed the refresh in the Report's approach and style and noted that the Executive Team would circulate draft sections of the report for approval in due course.</p>	
<p>11.</p>	<p>AUDIT SCOTLAND’S SECTION 22 REPORT ON THE ETHICAL STANDARDS COMMISSIONER Members discussed the terms of the Section 22 report on the Ethical Standards Commissioner (ESC) produced by Audit Scotland and published on 20 December 2021. Members noted that reports were prepared by the Auditor General under Section 22 of the Public Finance and Accountability (Scotland) Act 2000 if any specific concerns or issues had been identified in an audit of one of the public bodies for which he is responsible.</p> <p>Members noted that the findings of the Auditor General included that:</p> <ul style="list-style-type: none"> • the operation of the ESC’s investigation and assessment processes had not complied with the required legislation or the Directions issued by the Standards Commission; • the processes and functions previously in place including the SPCB and Parliamentary Committees have failed to adequately scrutinise and challenge the ESC; and 	

	<ul style="list-style-type: none"> the ESC's office had not been open and transparent. <p>Members noted that the Auditor General had made a number of recommendations for improvement and that the Acting ESC had confirmed that he had taken, or was planning to take, actions to address the majority of these concerns. Members noted these matters had been considered by the Scottish Parliament's Public Audit Committee at a meeting on 27 January 2022.</p> <p>Members noted that some of the recommendations concerned matters that were not entirely within the control of the Acting ESC and which could have a potential impact on other Officeholders, including the Standards Commission. These included how the performance of Officeholders was monitored and the governance structures that were in place. Members noted that, following a request to do so from the Scottish Parliamentary Corporate Body (SPCB), the Executive Director had provided information about the Standards Commission's governance and scrutiny arrangements and was due to discuss these further at a forthcoming meeting with the Parliament's Officeholder Services' Team. Members agreed to email the Executive Director with any suggestions they had for how the SPCB could improve its scrutiny of Officeholders, so that she could raise these at the meeting.</p> <p>In addition, Members noted that the Auditor General had recommended that:</p> <ul style="list-style-type: none"> all eligibility decisions and investigations carried out since August 2020 should be reviewed by an appropriate external investigator; and once this review had been undertaken, that all statistics produced and reporting made in relation to investigations be redrafted and submitted to the relevant stakeholders including but not limited to the Standards Commission and Parliamentary committees using information directly from the ESC's case management system. <p>Members are asked to note the ESC had confirmed that these recommendations can only be actioned if there if the SPCB agrees to provide funding. While there did not seem to be any suggestion that any complaints rejected as ineligible during the period in question should be re-opened (or indeed any legislative route for doing so), the Standards Commission would nevertheless be required to analyse the report and statistics and determine whether any further action should be taken in terms of its oversight powers (including the issuing of any new Directions). Members agreed, therefore, that an action to undertake the analytical work should be added to the Business Plan for 2022/23 to ensure the allocation of sufficient time and resources.</p>	<p>Members / Executive Director</p> <p>Executive Team</p>
<p>12.</p>	<p>SURVEYS OF MONITORING OFFICERS AND COUNCILLORS</p> <p>Members noted that the previously agreed surveys for existing elected members and for Council Monitoring Officers, on the ethical standards framework and the Standards Commission's role and work, would be issued in late February or early March 2022. Elected members and Monitoring Officers would be given six weeks to complete the surveys. The Executive Team would then prepare a report analysing the responses for consideration by Standards Commission members and for publication on the website. The Standards Commission would then consider whether any improvements to its educational material and its approach to training and its adjudication of complaints should be made in light of the feedback and any suggestions received.</p>	<p>Executive Team</p>
<p>13.</p>	<p>REGIONAL ROADSHOWS ON COUNCILLORS' AND MODEL CODES OF CONDUCT</p> <p>Members noted that Mr Walker and Mr McCormick would facilitate an online workshop on the revised Councillors' Code on 23 February 2022 for elected members of Angus Council.</p> <p>Members further noted that Ms Dunn and Mrs Stewart would facilitate an online workshop on the revised Model Code on 22 March 2022 for members of all college boards and regional college boards. Members noted that the College Development Network was assisting with the arrangements for the workshop.</p>	

14.	<p>NEW VIDEOS FOR WEBSITE AND SOCIAL MEDIA</p> <p>Members noted that videos of them discussing some of the key principles of public life had previously been filmed and published on the Standards Commission’s website. The videos had also been released on both the Standards Commission’s Twitter and Facebook sites.</p> <p>Members agreed that it was time to update the videos and therefore that new ones should be filmed, to cover the key principles in more depth and also to discuss some of the main provisions in the Codes of Conduct. Subject to some minor changes, Members agreed the content of the scripts for the new videos and noted that the Executive Team would circulate instructions for filming.</p>	Members / Executive Team
CASES UPDATE		
15.	<p>REPORTS FROM THE ESC & SECTION 14 LETTERS</p> <p>(a) LA/AC/3592: Members noted that a ‘do neither’ decision had been made on a report received from the Acting ESC about an Aberdeen City councillor.</p> <p>(b) LA/E/3589: Members noted the terms of a report received from the Acting ESC about a City of Edinburgh councillor. Members agreed that it was proportionate and in the public interest to direct the Acting ESC to undertake further investigation. Members asked the Executive Team to advise the Acting ESC, Respondent and complainer accordingly.</p>	Executive Team
16.	<p>CASES</p> <p>(a) LA/Mo/3516: Members noted that a pre-Hearing meeting was held on 21 January 2022 and that a Hearing was scheduled to take place on 16 February 2022.</p> <p>(b) LA/H/3515: Members noted that a report on the outcome of further investigation by ESC was expected by 11 February 2022.</p>	
17.	<p>INVESTIGATION EXCEED 3 MONTHS – INTERIM REPORT</p> <p>(a) LA/S/3571: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(b) LA/G/3563: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(c) LA/Fi/3544: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(d) LA/AB/3533: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(e) LA/SL/3575: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(f) LA/R/3579: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(g) LA/SL/3558: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(h) LA/AN/3561: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(i) LA/AN/3546: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p> <p>(j) LA/D/3580: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p>	

	Members asked the Executive Team to circulate a table outlining the dates the complaints in respect to the cases listed above had been received by the ESC and when the ESC expected the investigations to conclude.	Executive Team
18.	FEEDBACK INCLUDING ANY HEARINGS SURVEY RESPONSES None received.	
AOB		
19.	AGENDA ITEMS FOR NEXT MEETING Members agreed to advise the Executive Director of any further items to be added to the agenda for the next meeting.	Members
20.	2021 WORKPLAN Members noted the planned activities. DATE OF NEXT MEETING Members noted that the next meeting of the Standards Commission was scheduled to take place online on Monday, 28 February 2022.	