

MINUTES

Meeting date: Tuesday, 26 September 2023

IN ATTENDANCE

Members:

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

Executive Team Members:

- Lorna Johnston (Executive Director)
- Richard Wilson (Case Manager)

ITEM	CONTENT	ACTION
STANDING ITEMS		
1.	<p>APOLOGIES Not applicable.</p> <p>DECLARATIONS OF INTEREST Mr Walker declared an interest in items 14g and 14j, and took no part in the discussions. Ms Vestri declared an interest in item 14f and took no part in the discussion.</p>	
2.	<p>MATTERS ARISING Members noted that all matters arising, as noted, were complete, awaiting other's input, or were 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 25 July 2023.</p>	
4.	<p>DIRECTION ON ELIGIBILITY Members noted that the Ethical Standards Commissioner (ESC) had updated his publicly available investigations manual to reflect the agreed amended eligibility criteria for complaints about councillors and members of devolved public bodies. As such, the Direction on Eligibility, issued by the Standards Commission to Ethical Standards Commissioner under Section 10 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, had been rescinded. Members noted that the Standards Commission had advised its key stakeholders of this decision.</p>	
5.	<p>REVIEW OF BRITISH SIGN LANGUAGE PLAN Members noted that the Standards Commission's publicly available BSL Plan defines the actions the organisation had agreed to take, by 2023, to improve access to information and services to users of BSL. Members noted that the last progress review of the plan, undertaken in September 2022, identified the following two outstanding actions, which had now been completed:</p> <ol style="list-style-type: none"> 1. To produce information in BSL video format for the BSL community on the Standards Commission's advice note for members of the public on the Model Code of Conduct for Members of Devolved Public Bodies. The video explains in very general terms what the Model Code does and does not cover, so that BSL users are provided with an awareness of what is expected of a member and what actions could constitute a potential breach of the 	

	<p>Code. (Members noted that a similar video on the Councillors' Code had already been produced and published on the Standards Commission's website).</p> <p>2. All Standards Commission staff had attended BSL awareness training on 21 February 2023.</p>	
STRATEGIC MATTERS		
6.	<p>PROMOTING THE ETHICAL STANDARDS FRAMEWORK AND UPDATE ON OUTREACH WORK</p> <p>Members noted that, since the last meeting, the Executive Director and Case Manager had presented on the Councillors' Code to officers and elected members of Clackmannanshire Council on 21 September 2023. The Case Manager had also presented, with the ESC, on the Model Code of Conduct at the Scottish Government's 'Welcome on Board' induction workshop for Ministerial appointees' online on 13 September 2023.</p> <p>Members further noted that since the last meeting, the Standards Commission had been asked to present on the Model Code to Members of Glasgow City College, and to elected members and officers of Perth & Kinross Council. Dates for these sessions were yet to be agreed. Members further noted that the Executive Director had also been asked to present a joint session with the ESC, on the ethical standards framework and an update on the work and future plans of both organisations, at the SOLAR Autumn Conference, on 10 November 2023.</p> <p>The Convener had a meeting with the senior SPCB official to discuss generally areas of mutual interest.</p>	
BUSINESS MATTERS		
7.	<p>BUSINESS PLAN 2023/24</p> <p>Members reviewed the progress made in quarters one and two against the actions outlined in the Business Plan for 2023/24. Members were pleased to note the majority of tasks identified for the first half of the year had been completed or progressed.</p> <p>Members asked the Executive Team to arrange online refresher training on Section 7 of the Councillors' Code of Conduct to take place in quarter three.</p>	Executive Team
8.	<p>REVIEW OF SUSPENSION GUIDANCE</p> <p>Members reviewed the Standards Commission's Suspension Guidance, which outlines the extent of the activities in which a councillor should engage while they are the subject of a suspension (either one imposed as an interim measure while the Ethical Standards Commissioner's investigation is ongoing, or a full one imposed after a breach finding is made at a Hearing).</p> <p>Members agreed some changes to be made to the Guidance, which were aimed at covering as many of the potential aspects of a councillor's role as possible. Members agreed that the updated version of the Guidance should be circulated to the ESC and Council Monitoring Officers, for information, before being published on the Standards Commission's website.</p>	Executive Team
9.	<p>MANDATORY TRAINING FOR COUNCILLORS ON PLANNING SYSTEM CONSULTATION</p> <p>Members noted that the Scottish Government was consulting on mandatory training for councillors on their role in the planning system. Members agreed the content of the Standards Commission's response to the consultation and, in particular, the suggestion that the training should include a focus on the requirements outlined in Section 7 of the Councillors' Code of Conduct, which sets out already what councillors should and should not do when dealing with planning applications, and what they should and should not do when dealing with policy and strategic issues under which individual applications may subsequently be decided.</p> <p>Members asked the Executive Team to submit the response before the deadline of 26 October 2023. Members agreed a copy of the response should also be published on the Standards Commission's website.</p>	Executive Team

<p>10.</p>	<p>HEARING COSTS</p> <p>Members noted the content of an analysis document prepared by the Executive Team, which demonstrated overall that the average time spent by Members on Hearings had increased slightly since 2019/20. Members noted that while the increase was relatively small, when multiplied by 5 (members) and by the number of Hearings held in a year, it has a significant impact in terms of overall expenditure and the budget submission.</p> <p>Members considered the potential reasons for the increase with a view to:</p> <ol style="list-style-type: none"> 1. ensuring they were satisfied that the time spent is appropriate and represents best value; and / or 2. seeking to try and decrease the time, or at least preventing it from increasing further. <p>Members were satisfied that cases were not more complex than they had been previously. Members further noted that the analysis shows that the time spent by individual members was similar, other than when they were acting as Panel Chair (which was to be expected), with newer Members not spending longer on cases than more experienced ones.</p> <p>Members agreed that potential reasons for the increase could be one or more of the following, being:</p> <ul style="list-style-type: none"> • the ESC’s reports were more complex and /or more productions were being submitted, with more time being required to review them at either the Section 16 stage (which does not incur Hearing-related costs) or in preparation for Hearings (which incur Hearing costs). • more preparatory work was being undertaken by Members before Hearings for other reasons / they were taking a different approach in terms of how they prepare. <p>Members agreed to advise the Executive Team of any feedback on reports or concerns about unnecessary productions (that did not add value in terms of being relevant or material to the question of whether the applicable Code had been breached), so that this could be passed on to the parties, where appropriate. Members agreed to monitor the time spent for a further few months, before considering the matter again at a meeting later in the year.</p>	
<p>11.</p>	<p>STANDARDS UPDATE SEPTEMBER 2023</p> <p>Subject to some minor amendments, Members approved the Standards Update to be issued and published on 28 September 2023.</p>	<p>Executive Team</p>
<p>12.</p>	<p>REVIEW OF SECTION 16 POLICY AND PROCESS DOCUMENTS</p> <p>Members noted that it had been agreed, as part of the Business Plan for 2023/24, that the Standards Commission would review its policy, process document, publication scheme and templates for the making and issuing of decisions under Section 16 of the Ethical Standards in Public Life etc. (Scotland) Act 2000. Members noted that Section 16 provides that, on receipt of a report from the ESC about an investigation into a complaint about a councillor or member of a devolved public body, the Standards Commission can choose to:</p> <ul style="list-style-type: none"> • Hold a Hearing; • Direct further investigation; or • Do neither (which, in effect, means no further action will be taken in respect of the complaint. <p>Members agreed some minor changes to the policy and process documents, which were intended to provide clarity. Members agreed that the updated policy and process documents should be shared with the ESC before being published on the Standards Commission’s website.</p> <p>Members noted that, following feedback from the surveys issued in 2022, the Standards Commission decided not to publish summaries of ‘do neither’ decisions in the Standards Commission quarterly updates, as it was considered that doing so could undermine the importance of complying with the Codes of Conduct as it gave rise to the perception that the Standards Commission would rarely take action on referrals from the ESC. The Standards Commission had instead decided to publish its Hearing and ‘do neither’ decisions on separate pages on its website. The names of the Respondent and Complainer are not included in ‘do</p>	<p>Executive Team</p>

	neither' decisions. Having reviewed the current arrangements, Members agreed no changes should be made to the publication scheme.	
13.	<p>REVIEW OF WHISTLEBLOWING POLICY</p> <p>Members undertook their biennial review of the Fraud Prevention and Whistleblowing, which outlines how staff and Members should report any concerns about serious wrongdoing or malpractice within the Standards Commission, which they believe has occurred or is likely to occur.</p> <p>Members agreed some minor changes to the text and format. Members asked the Executive Team to circulate the revised version to staff and Members before publishing it on the website.</p>	Executive Team
CASES UPDATE		
14.	<p>REPORTS FROM THE ESC & SECTION 14 LETTERS</p> <p>(a) NB/NHS NS/3874: Members noted that a 'do neither' decision had been made on a report received from the ESC about a member of NHS National Services Scotland.</p> <p>(b) LA/H/3759: Members noted that the ESC had sent a draft breach report to a Highland Councillor under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p> <p>(c) NHS/WI/3815: Members noted that a 'do neither' decision had been made on a report received from the ESC about a former member of NHS Western Isles.</p> <p>(d) LA/AC/3812: Members noted that the ESC had sent a draft breach report to an Aberdeen City Councillor under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p> <p>(e) LA/NA/3707: Members noted that the ESC had sent a draft breach report to a North Ayrshire Councillor under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p> <p>(f) LA/EL/3839: Members noted that a 'do neither' decision had been made on a report received from the ESC about an East Lothian councillor.</p> <p>(g) LA/S/3791: Members noted that a 'do neither' decision had been made on a report received from the ESC about a Stirling councillor.</p> <p>(h) LA/As/3827: Members noted that the ESC had sent a draft breach report to an Aberdeenshire Councillor under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p> <p>(i) LA/WL/3790: Members noted that the ESC had sent a draft breach report to a West Lothian Councillor under Section 14 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p> <p>(j) LA/Fi/3740: Members noted that a report had been received from the ESC about four Fife councillors and two former councillors, and that a decision under Section 16 was due to be made.</p>	
15.	<p>CASES</p> <p>(a) LA/SL/3558a: Members noted that South Lanarkshire Council had confirmed that it had formally considered a decision the Standards Commission made at a Hearing held on 27 June 2023.</p> <p>(b) LA/Mi/3803: Members noted that a Hearing was held on 23 August 2023. The Respondent was found not to have breached the Councillors' Code.</p>	

	<p>(c) LA/SL/3558b: Members noted that a Hearing was held on 30 August 2023. The Respondent was found to have breached the Councillors' Code and was censured.</p> <p>(d) LA/NL/3705: Members noted that a Hearing was scheduled to take place on 29 September 2023 in the Sir John Wilson Town Hall, Airdrie.</p> <p>(e) LA/E/3645: Members noted that a Hearing was scheduled to take place on 9 October 2023 at Lothian Joint Valuation Board, Edinburgh.</p> <p>(f) LA/As/3780: Members noted that a Hearing was scheduled to take place online on 30 October 2023.</p>	
16.	<p>INVESTIGATIONS EXCEEDING 3 MONTHS – INTERIM REPORTS</p> <p>(a) LA/S/3791: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about a Stirling Councillor had taken more than six months to investigate.</p> <p>(b) 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 nine months to investigate.</p> <p>(c) LA/I/3764: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about an Inverclyde Councillor had taken more than nine months to investigate.</p> <p>(d) LA/SB/3722: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about a Scottish Borders Councillor had taken more than six months to investigate.</p> <p>(e) 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 nine months to investigate.</p> <p>(f) LA/G/3846: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about a Glasgow City Councillor had taken more than three months to investigate.</p> <p>(g) LA/ED/3832: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about an East Dunbartonshire Councillor had taken more than three months to investigate.</p> <p>(h) LA/H/3838: Members noted the contents of an interim report from the ESC advising that an investigation into a complaint about a Highland Councillor had taken more than three months to investigate.</p>	
17.	<p>FEEDBACK INCLUDING ANY HEARINGS SURVEY RESPONSES</p> <p>Members noted the feedback received in respect of two recent Hearings held. Members noted the feedback on the Suspension Guidance provided by one resondee had been taken into account in the review undertaken in respect of item 8 above.</p>	
ANY OTHER BUSINESS		
18.	<p>BIODIVERSITY REPORT</p> <p>Members noted that the Standards Commission had submitted its three-yearly biodiversity report as required by The Nature Conservation (Scotland) Act 2004, as amended. Members noted that the report, which outlines the actions which the Standards Commission has taken to meet its biodiversity duty, had also been published on its website.</p>	

	<p>ANY EMERGING RISKS None identified.</p> <p>AGENDA ITEMS FOR NEXT MEETING</p>	
19.	<p>2023 DIARY DATES AND WORKPLAN Members noted the diary dates and ongoing workplan.</p> <p>DATE OF NEXT MEETING Members noted that the next meeting of the Standards Commission was scheduled to take place online and in public on Monday, 6 November 2023.</p>	