

To: Audit, Risk and Scrutiny Board

On: 21 January 2019

Report by: Director of Finance & Resources

**Heading: Commissioner for Ethical Standards in Public Life in Scotland –
Annual Report 2017/18**

1. Summary

- 1.1 The Commissioner for Ethical Standards in Public Life in Scotland has issued his 2017/18 annual report. The report is available on the Commissioner's website at

<http://www.ethicalstandards.org.uk/publications/publication/862/cespls-annual-report-and-accounts-201718>

- 1.2 The report provides details of investigation of complaints about the conduct of councillors, members of devolved public bodies and MSPs and scrutiny of Scotland's Ministerial public appointments process. Where there has been contravention of the relevant Code, the Commissioner reports this, in the case of councillors and members of public bodies, to the Standards Commission for Scotland and in the case of MSPs and in relation to lobbying complaints, to the Scottish Parliament.
- 1.3 The statutory functions of the Commissioner in relation to conduct and public appointments are set out in the report, together with details of the projects currently being developed in relation to public appointments.
- 1.4 The report relates to the second year of the 2016-20 strategic plan, looks forward to the 2018/19 period of the plan and provides an overview of the 2017/18 budget.

1. **Recommendations**

- 2.1 That the 2017/18 Annual Report by the Commissioner for Ethical Standards in Public Life in Scotland be noted; and
- 2.2 That the actions taken in Renfrewshire in relation to the Code of Conduct and members' training and development as detailed in the report be noted.

3. **Background**

Complaints About Conduct

- 3.1 The report advised that while the Commissioner experienced increased activity on public appointments, this was balanced by a reduction of approximately 25% in the number of complaints received about the conduct of councillors or members of public bodies. The largest category of complaints related to misconduct on individual applications (39). Several of these complaints involved allegations against a number of councillors, including one which named 22 members of the same authority. Complaints about the same alleged breach are investigated together as a single case. There were also 39 complaints submitted in relation to a breach of the Code's key principles and 31 complaints related to disrespect to councillors, officials and members of the public.
- 3.2 The report notes that nationally, during 2017/18 the Commissioner received 146 complaints, compared with 174 in 2016/17. The categories of complaint are set out below with the figures for 2016/17 in brackets.:

Complaints against: councillors 134(165), members of devolved public bodies 3(5) and other (outwith jurisdiction) 9 (4); complaints made by: members of the public 123(110), councillor 19(54), officer of a local authority 1 (7), MSP 1(1), member of a devolved public body 1(2) and anonymous 1(0).

- 3.3 Complaints received related to: failure to register an interest 4(6); failure to declare an interest 5(22); disrespect of councillors/officials/employees 31(63); breach of confidentiality 3 (16); misconduct relating to lobbying 3(11); misconduct on individual applications 39(15); misuse of council facilities 2(4); breach of the key principles 39(20); outwith jurisdiction 9(4); other complaints 11(13).
- 3.4 It should be noted that while the Commissioner received 146 complaints, a total of 176 complaints were closed which includes cases carried forward from previous years.
- 3.5 No specific figures relative to Renfrewshire Council are included in the report. However, information has been received separately from the Commissioner that, during the period covered by the report, one complaint was received against a Renfrewshire Councillor, for failing to declare an interest, compared with four in 2016/17 and six in 2015/16.

- 3.6 The Commissioner for Ethical Standards in Public Life in Scotland referred ten reports to the Standards Commission in 2017/18. The Standards Commission determined to hold hearings in respect of nine of the reports and, of this number, hearings were held into eight of the reports in 2017/18. The hearing in respect to the ninth report has been scheduled for 2018/19 and the Standards Commission decided to take no action in respect of one of the ten reports referred to it.

4. Code of Conduct

- 4.1 As reported to the meeting of this Board held on 6 November 2017, the Council, as part of its induction programme of events and development opportunities for councillors, provided a briefing on 10 May 2017 on Standards & Ethics in Public Life and Roles & Responsibilities of Councillors that included specific guidance on the Code of Conduct for Councillors and on registering and declaring interests.
- 4.2 Further to this, a report was considered at the meeting of Renfrewshire Council held on 27 September 2018 which advised that the Scottish Government had published an amended version of the Councillors' Code of Conduct, as agreed by the Scottish Parliament. The substantive changes to the Code related to an addition to Section 3 of the Code to make it clear that bullying or harassment was completely unacceptable and would be considered to be a breach of the Code and changes to the rules on declarations of interest by councillors who were also members of Regional Transport Partnerships. The Standards Commission had also published an Advice Note for members on bullying and harassment. There were also a number of minor changes to the Code which were intended to clarify various existing provisions. A briefing for Councillors was held on 7 November 2018 relative to the revised Code of Conduct for Councillors and associated guidance which had been issued by the Standards Commission.

5. Reviews to Inform Future Improvement

- 5.1 The Commissioner's office has three reviews underway: the first is research, which has been jointly commissioned with the Scottish Government, into the difference that diversity makes to the governance of public body boards; another review, linked to the diversity research, is into how decisions about reappointment and succession planning are made; and the third review is an examination of the Scottish Government's lessons learned process for public appointments. It is hoped that these reviews will lead to recommendations for development and implementation of the action plan.

Implications of the Report

1. **Financial** - None
2. **HR & Organisational Development** - None
3. **Community Planning** – None
4. **Legal** - None
5. **Property/Assets** - None
6. **Information Technology** - None
7. **Equality & Human Rights** – The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – None
9. **Procurement** - None
10. **Risk** – None.
11. **Privacy Impact** – None
12. **COSLA Implications** - None

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