

**To:                      Audit, Scrutiny & Petitions Board**

**On:                      28 November 2016**

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**Report by:            Director of Finance and Resources**

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**Heading:              Commissioner for Ethical Standards in Public Life in  
Scotland – Annual Report 2015/16**

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## **1.      Summary**

- 1.1. The Commissioner for Ethical Standards in Public Life in Scotland has issued his 2015/16 annual report. The report is available on the Commissioner's website at [www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk)
  - 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.
  - 1.3. The statutory functions of the Commissioner in relation to conduct and public appointments were set out in the report.
  - 1.4. The report also contains a review of the regulation of appointments and the main activities of the public appointments staff and assessors during the year.
  - 1.5. The report related to the last year of the 2012-16 strategic plan, looked forward to the first period of the 2016-20 plan and provided an overview of the 2015/16 budget.
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## **2      Recommendations**

- 2.1. That the 2015/16 Annual Report by the Commissioner for Ethical Standards in Public Life in Scotland be noted.
  - 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.
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### 3 Background

- 3.1 The report advises that the volume and complexity of conduct complaints remained high during the year with the number of cases received representing an increase of 19% over the previous year. The report highlights that whilst the number of complaints relating to failure to register or declare an interest appears to be on a downward trend, there had been a significant increase in the number of complaints alleging failure to show respect to councillors, to officials or to members of the public.
- 3.2 The report indicates that there was an increasing number of complaints about comments made on social media but highlights that the Code did not deal explicitly with this issue as it was drafted before social media usage became widespread. Whilst Guidance issued by the Standards Commission for Scotland in March 2016 addresses the issue, the Commissioner suggests that the position would be clearer if the Code itself were to be adjusted to reflect the current practice. For assistance the Standard's Commission's guidance is appended to this report. Members were also provided with a copy the Improvement Service guidance on social media '#Follow me: a guide to social media for elected members in Scotland'
- 3.3 The report notes that nationally, during 2015/16 the Commissioner received 245 complaints, compared with 692 in 2014/15 (as indicated in the 2014/15 report this figure was misleading however in that 524 complaints related to a single issue). The figures for 2014/15 are in brackets. The categories of complaint are set out below:

#### Complaints against:

Councillors	202 (680)
Members of devolved public bodies	39 (3)
Other (outwith jurisdiction)	4 (9)

#### Complaints made by:

Members of the public	202 (663)
Councillor	36 (20)
Officer of a local authority	5 (3)
MSP	1 (2)
Member of a devolved public body	0 (1)
Anonymous	1 (3)

- 3.4 Complaints received related to: failure to register an interest 4(4); failure to declare an interest 19(26); disrespect of councillors/officials/employees 75(33); financial misconduct 0(3); breach of confidentiality 9(4); misconduct relating to lobbying 19(3); misconduct on individual applications 46(44); misuse of council facilities 0(525); breach of the key principles 47(30); outwith jurisdiction 4(9); other complaints 22(11).
- 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, 6 complaints were received against Renfrewshire councillors compared with 10 in 2014/15 and 11 in

2013/14. During the period covered by the report there were no hearings involving Renfrewshire councillors.

- 3.6 The Council, as part of the elected members' training and development programme, has provided briefings on code of conduct matters, including on the Code itself in September, 2015, on the revised guidance to the Code in March, 2016 and a briefing is scheduled to take place in November 2016 on the Code of Conduct and Arms Length Organisations. A new programme of briefings for members is in preparation for 2017.
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### **Implications of this report**

1. **Financial Implications** – none
  2. **HR and Organisational Development Implications** – none
  3. **Community Plan/Council Plan Implications** – none
  4. **Legal Implications** – as detailed in the report
  5. **Property/Assets Implications** – none
  6. **Information Technology Implications** – none
  7. **Equality and Human Rights Implications**
    - (a) 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 because for example it is for noting only. 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 and Safety Implications** – none
  9. **Procurement Implications** – none
  10. **Risk Implications** – none
  11. **Privacy Impact** – none
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### **List of Background Papers – none**

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## Guidance from the Standards Commission for Scotland in relation to Social Media

1. The rules of good conduct may apply when you are engaging in media activity including using social media. Social media is a term used to describe on-line technologies, applications and practices that are issued to share information, knowledge or opinions. These can include, but are not limited to, social networking sites, blogs, wikis, content sharing sites, photo sharing sites, video sharing sites and customer feedback sites. The conduct expected of you in a digital medium is no different to the conduct you should employ in other methods of communication, such as face to face meetings and letters. Factors to consider when using social media include:
  - whether you are identifiable as a councillor by directly referring to yourself as such or indirectly as such by referring to the Council or through information or images posted;
  - whether you are using Council equipment and / or your Council's information technology network or your own;
  - whether you have complied with the law including defamation, copyright, data protection, employment and equalities or harassment provisions;
  - whether you have complied with any policy your Council has produced on the use of social media;
  - whether information you are posting is confidential and you only have access to it because you are a councillor;
  - whether you are demonstrating bias or pre-determination – do not express an opinion on an application you will be determining;
  - whether you have considered the immediate and permanent nature of the contribution you are about to make.
2. As a councillor, your right to freedom of expression under Article 10 of the European Convention on Human Rights attracts enhanced protection when your comments are political in nature. However, you may also wish to think about:
  - whether you are treating others with respect and consideration;
  - whether 'liking', re-posting and re-tweeting comments or posts, or publishing links to other sites could be reasonably perceived in the circumstances as endorsing the original opinion, comment or information, including information on other sites;
  - whether to allow disagreement on your social media pages;
  - tone can be harder to convey online so consider whether humour, irony and sarcasm be perceived as such;
  - whether you have to respond;
  - the stricter rules that apply to election publicity;
  - whether anything you post could be considered obscene.