

The City of Edinburgh Council

10.00am, Thursday 26 August 2021

Consultation Response to Ethical Standards Commissioner - Strategic Plan 2021-24

Executive/routine Wards Council Commitments	Executive All
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1. Recommendations

- 1.1 To note an extension period has been agreed with the Acting Ethical Standards Commissioner to allow consideration of the consultation at Council.
- 1.2 To agree the proposed Council response to the consultation at Appendix 1.

Stephen S. Moir

Executive Director of Corporate Services

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Report

Consultation Response to Ethical Standards Commissioner - Strategic Plan 2021-24

2. Executive Summary

- 2.1 This report proposes a draft response to the Ethical Standards Commissioner's consultation on the Strategic Plan 2021-24 attached at appendix 1.

3. Background

- 3.1 The Ethical Standards Commissioner is an independent regulator appointed by the Scottish Parliamentary Corporate Body, approved by MSPs and supported by legislation.
- 3.2 The Commissioner is supported by a team of staff who investigate complaints about the behaviour of MSPs, councillors, and board members of public bodies and also lobbyists, and help regulate how people are appointed to the boards of public bodies in Scotland.
- 3.3 The Acting Commissioner has published his [Strategic Plan 2021-24](#) for consultation.
- 3.4 On 4 February 2021, the Council approved its response to the [Scottish Government's consultation on the Councillors' Code of Conduct](#). As part of the response, Council agreed to specifically reference the Ethical Standards Commissioner and proposed a review of the office should take place.

4. Main report

- 4.1 The consultation of the revised Ethical Standards Commissioner Strategic Plan 2021-21 was launched on 28 May 2021, earlier than anticipated by the usual planning cycle to reflect the altered operational context; specifically, an increase in complaints to the Commissioner about the ethical conduct of individuals in public life, a decision by Audit Scotland to extend the scope of their external audit to include a full wider scope review into the work of the office, and working within the context of a global pandemic.

- 4.2 The consultation document acknowledges some of the challenges faced by the office over recent years and aims to provide clarity on purpose, values and strategic objectives and sets out the resourcing requirements needed to meet these aims.
- 4.3 As noted above, as part of the Council's response to [Scottish Government's consultation on the Councillors' Code of Conduct](#), Council agreed to specifically reference the Ethical Standards Commissioner and proposed that a review of the office should take place. *'While the review to update the documents is helpful for the reasons above, the omission of a review of the effectiveness of the Ethical Standards Commissioner and Standards Commission itself means there is likely to remain a fundamental lack of confidence by many Councillors, Council staff and the public in issues being addressed swiftly and effectively. Following the conclusion of the review of the Councillors' Code of Conduct (if not before), there should be a review of the Commission and the activities of the Commissioner to examine the effectiveness of decision making, culture and approach of these institutions. Until this review is carried out, it is likely any changes to the Code itself will be meaningless in trying to provide effective protection for elected members, and most importantly, Council staff and the public'*
- 4.4 The consultation provides an opportunity to respond to the proposed Strategic Plan and expand on points noted above.
- 4.5 The consultation formally closes on 30 July 2021; however, the Acting Commissioner has provided an extension to take into account the Council recess period and full consideration by Council.

5. Next Steps

- 5.1 If approved, the consultation response will be submitted to the Commissioner.

6. Financial impact

- 6.1 There are no direct financial implications.

7. Stakeholder/Community Impact

- 7.1 Key officers and political groups have been consulted on the proposed response.

8. Background reading/external references

- 8.1 [Ethical Standards Commissioner – Draft Strategic Plan 2021-24 consultation](#)
- 8.2 [Councillors Code of Conduct Consultation Item 7.1](#) – The City of Edinburgh Council
4 February 2021

9. Appendices

- 9.1 Appendix 1 – Draft response to Ethical Standards Commissioner – Strategic Plan 2021-24

Ethical Standards Commissioner Strategic Plan 2021-24 draft consultation response.

The City of Edinburgh Council welcomes the opportunity to contribute to the development of the Ethical Standards Commissioner's Strategic Plan 2021 – 24 and supports the need to bring forward consideration of this Plan ahead of the usual timetable to address the altered operational context, as set out within the consultation document.

Overall, the City of Edinburgh Council is supportive of the content of the Plan and welcomes the key changes set out on page 5 of the consultation document:

- Greater assurance on quality than currently provided via targets, indicators and review systems all of which will be consulted on and published;
- Improved governance designed to oversee and ensure delivery of our strategic objectives;
- Recruiting and developing staff to ensure consistent high quality of our professional skills base;
- Better complaints handling via a streamlined, high quality service
- More meaningful engagement with MSPs, local authority councillors and public body board members to inform and shape our work and our performance;
- Codifying a coherent, comprehensive suite of procedures which we'll publish so people know what to expect; and,
- Revising the Code and guidance on Ministerial Appointments to Public Bodies in Scotland and promoting and supporting its implementation.

We note the acknowledgement within the consultation document that the Commissioner's previous plan lacked a clear statement about how the Office would go about fulfilling its purpose and objectives. This has caused a lack of confidence in the Office and its ability to investigate complaints swiftly and effectively. The commitments, noted above, particularly to codify procedures and make these publicly available, alongside improved governance and assurance is therefore welcomed.

Regular quality assurance reporting will help to rebuild confidence in the Office, particularly if stakeholders are able to contribute to the scrutiny and review of this information. When improvement actions are required, clear milestones and targets should be set and publicly reported on.

The commitment to recruit and develop staff to ensure consistent high-quality investigations is also welcomed and will help rebuild the confidence in the investigation process and the Office's willingness to consider and respond to issues when raised. The implementation of a high-quality complaints system is also welcomed to consider feedback and builds trust that stakeholder views are being acted upon.

The City of Edinburgh Council intends to build a stronger, effective relationship with the Office and welcomes the commitment to consult comprehensively and the explicit commitment to engage meaningfully with local authorities. We anticipate that this engagement will be consistent and carried out on a regular basis with both officers and councillors and, at an early stage, when issues do arise, or complaints are received.