

# Ethical Standards Commissioner

## REPORT ON AN INVESTIGATION

March 2024

Reference: 7777//2023

**TITLE: COMPLAINT – INEFFECTIVE SUCCESSION PLANNING AND COMPLAINT  
HANDLING**

**APPOINTING MINISTER: LORNA SLATER MSP, MINISTER FOR GREEN SKILLS,  
CIRCULAR ECONOMY AND BIODIVERSITY**

**DIRECTORATE: ENVIRONMENT AND FORESTRY**

**PUBLIC BODY: CAIRNGORMS NATIONAL PARK AUTHORITY**

**APPLICABLE CODE: 2013 CODE OF PRACTICE FOR MINISTERIAL APPOINTMENTS  
TO PUBLIC BODIES IN SCOTLAND**

**SUMMARY**

- 1) The Complainer, a prior board member of the Cairngorms National Park Authority (CNPA), alleged that decisions about them (and others) were not made on the basis of sound evidence and process. The Complainer alleged that the reappointment decisions taken could not, therefore, be objective, fair, open and transparent and nor could it be assured that the process led to the best people being reappointed.

The Complainer further alleged that a decision at some level was taken about their suitability for reappointment between March and May 2022, with no evidence and, whatever the status of that decision, it set the scene as the relative priority of members seeking reappointment did not change thereafter.

I undertook to assess these allegations by reference to the Code of Practice for Ministerial Appointments to Public Bodies in Scotland (the Code) and to the guidance on its application (the Guidance) as these apply to succession planning in respect of reappointments. I have upheld the part of the complaint relating to the processes followed to determine who should be reappointed, inclusive of the Complainer. I reached this conclusion because the Scottish Government's own guidance, which it introduced in order to comply with the Code's provisions, was not followed. As a consequence, the initial ministerial decision on whom to reappoint (or not as the case may be) was based on limited evidence provided by the public body. The failure to follow due process also had ramifications for the treatment of the Complainer and other board members and could have had negative ramifications for the body's governance.

There is no obligation under the Code for the Scottish Ministers to appoint (or reappoint) any individual and no obligation on the Scottish Ministers to reappoint "the best people" although the needs of the board should be a consideration in all appointment decisions. Although the reappointment decisions were based on limited evidence, it remained the minister's prerogative to reappoint individuals or not.

- 2) The Complainer alleged that the Chief Executive and Director of Corporate Services were inappropriately involved in reappointment decisions. The Complainer alleged that such involvement would be inappropriate, given that the role of board members is to hold the executive team to account.

I undertook to investigate whether the process used to reappoint individuals to the board of the CNPA was representative of effective succession planning. As part of this, I also assessed the involvement of all parties who were engaged in the process.

I did not uphold this complaint because the involvement of officers in succession planning is not specifically excluded by the Code and because the reappointment decisions were, rightly, taken by the appointing minister. I did find evidence of the involvement of these officers in board succession planning. I have some observations about such practices,

which I have included in the body of my report, as there will be circumstances in which they are inappropriate. As such, a revision to the Code may be required. My observations on the effectiveness of succession planning in this case are set out under the other heads of complaint.

- 3) The Complainer alleged that they were given insufficient notice about the reappointment decisions made about them. I undertook to investigate whether the Complainer was given sufficient notice (in accordance with the statutory guidance) and if not why not. The statutory guidance in force at the time required reappointment decisions to be communicated to the individuals concerned at least 13 weeks in advance of their appointment terms coming to an end. In October 2022, the Complainer was given five days' formal notice about a decision to reappoint them for a five-month period. The appointing minister had actually taken the decision not to reappoint them (at all) in April 2022 and so there was ample opportunity for that decision to be communicated to them. The fact that it was not was attributable to a range of factors, but primarily due to the fact that proper processes were not adhered to (see issue one of complaint above). That failure to follow proper processes also led to significant delays and ultimately to the decision to reappoint them for an additional five months, to provide continuity on the board while new members were found. The ministerial decision to reappoint them for five months was taken at some point between 13 and 26 October. The letter informing of the decision was sent on 26 October, just five days before their term of office was due to expire. As a consequence, I upheld this complaint.
- 4) The Complainer alleged that they were reappointed for a period of five months but that the reappointment was not supported by a proper appraisal of their performance. I undertook to investigate whether the Complainer's performance was properly appraised as being effective during their term of appointment, prior to their reappointment.

The Scottish Government provided me with two key pieces of documentary evidence relating to the appraisal of the complainer. The first was a completed pro-forma provided by the board to the Scottish Government in August 2022 which certified that the Complainer performed effectively during their current term and that the board held "copies of appraisals carried out on this individual or other evidence of effective performance". The second piece of evidence was entitled "Board development record" and this was provided by the board to the Scottish Government to allow it to respond to the stage 1 complaint investigation. This records two discussions with the Complainer held in December 2020 and February 2022. The single document is a completed pro forma which indicates it should be signed by both the appraiser and appraisee. Only the appraiser has signed it so it is unclear whether the results of these appraisal discussions were ever agreed with the Complainer. It is also worthy of note that the letters issued to CNPA appointees indicate that they are to be appraised annually. That clearly did not occur in the case of the Complainer. I consider that the appraisal process was not, as a consequence, representative of good practice. Evidence nevertheless exists that the

Complainer's performance was properly appraised as effective during their current term. As such, this complaint is not upheld.

- 5) The Complainer alleged that the time taken to respond to their stage 1 and stage 2 complaint was unacceptable and that the conclusions of the stage 1 complaint failed to address their main concerns. The Complainer further alleged that in pursuit of answers to their concerns they requested and were provided with a heavily redacted document, whereas a less redacted version was provided to another individual in response to an FOI request. They were concerned that this precluded them from obtaining information that they were entitled to be provided with.

I undertook to investigate whether the Scottish Ministers have in place an effective system for handling, and recording details of, all complaints about the appointment process. As part of this, I also undertook to investigate the allegation that the Complainer was provided with incomplete information when they were pursuing their original complaint.

My investigation showed that the Scottish Government did not have an effective system in place for handling this particular complaint. I upheld this complaint for the following reasons.

I first reviewed the time taken for handling the complaint. At stage 1, the complaint took 43 days overall to investigate, although allowing for holidays and weekends it took 29 working days in total. On the webpage on the Scottish Government website which gives guidance on how to make a complaint about public appointments, no timescale for stage 1, also known as frontline resolution, is given. Stage 2 indicates that it will be normally be completed within 20 working days. It also indicates that reasons for delays should be provided. It is clear from the correspondence that the Complainer felt this timescale should apply to each stage. My own view is that this is a reasonable expectation. At stage 1, I note that a few days were taken up at the start of the process with the Complainer in correspondence with the complaint handler discussing which Code of Practice would be applicable to the complaint. Notwithstanding this, my view is that the complaint could have been handled more quickly. At stage 2, the delays were considerable and although I asked for the reasons for this, none were provided. It took over a month for a complaint handler to be assigned. It took 109 days for the complaint to be handled at stage 2 from end to end, which equated to 76 working days in total; almost four times the published timescale. It is my view that the Complainer was not provided with satisfactory reasons for these delays.

As to whether the complaint was properly investigated, at stage 1, the Scottish Government did not identify in its response to the Complainer that its own processes for succession planning had not been appropriately followed, inasmuch as no updated skills matrix and no reappointment pro-formas had been completed to inform the appointing minister's decision about his own reappointment and that of other board members. If it had, its conclusions would be more likely than not to have addressed the Complainer's

main concerns and, as such, it may have precluded the need for the investigation to have moved to stage 2. The Complainer revised the scope of his complaint at stage 2, in correspondence with the complaint handler. At stage 2, the complaint handler was clearly not familiar with the Code of Practice or the Guidance on its application. Instead, the complaint handler was familiar with service complaints about maladministration, which are ultimately referred to the Scottish Public Services Ombudsman, as opposed to my office. As such, this was the focus of their investigation and informed their findings and conclusions. If their focus had been on assessing compliance with the Code and Guidance, they may have reached different conclusions and been able to address the Complainer's concerns. This again was a missed opportunity and ultimately led to the complaint being made to my office.

As to the different levels of redaction applied to the same document provided to the Complainer in comparison with another requester, the Scottish Government has explained that this was attributable to different responders interpreting and applying the policies on redactions differently. I am content that this is a reasonable explanation for what occurred in this case although it is clearly concerning that this level of variation can occur when requesters should have a reasonable expectation that FOI requests will be responded to consistently. The Complainer may wish to raise this with the Information Commissioner's Office, although I recognise that he may first be required to request an internal review of the Scottish Government's initial response to him.

#### Other observations

- 6) My own investigation in this case was initially and substantively hampered due to a lack of cooperation on the part of the sponsor directorate. My initial request to the Scottish Government for responses to questions and relevant material was made on 17 November 2023, with the information requested to be provided no later than 24 November. As a two-stage investigation had already been undertaken, my view was that the material should be readily available. An extension was requested to 6<sup>th</sup> December and I afforded the directorate further time to respond (to 9<sup>th</sup> December). In the event, I did not receive the requested information until 20<sup>th</sup> December, after having referred to both the 2003 Act and the Code – both of which are clear that the Scottish Ministers have a statutory obligation to provide me with the information that I reasonably require to acquit my statutory functions – in an email of 19<sup>th</sup> December requesting a response the following day. What began as a relatively straightforward and reasonable request on my part for material that I require in order for me to acquit my statutory functions has now transformed into a significant concern on my part about the willingness of the Scottish Ministers to assist me with my enquiries, in accordance with the provisions of the Code and the Act.”
- 7) My office was closed over the holiday period and I was first able to review the material submitted to me on my return in the new year. It was concerning to me to find that a high proportion of the material sent to me had been redacted and that many of my questions remained unanswered. I requested a meeting and subsequently met with officials on 17<sup>th</sup>

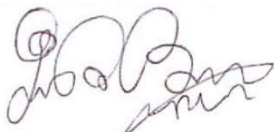
January to discuss my concerns. I followed up with a table showing which material had been inappropriately redacted (this was not an FOI request and the exemptions the officials had apparently applied were not, as a consequence, appropriate) and which questions remained unanswered.

Further to additional correspondence with officials about the statutory functions of my office, I received a more helpful and fulsome response from them in two tranches on the 2<sup>nd</sup> and 13<sup>th</sup> of February. This was supplemented with some additional key information that I received on 1<sup>st</sup> March further to a request I made for it. Although I consider the material to remain incomplete, and although several questions remained unanswered, I have been provided with sufficient information to reach conclusions on the balance of probabilities.

- 8) My overall conclusion is that the Code was not complied with and that, as a consequence, several aspects of the Complainer's complaint have been upheld. I did not conclude that the non-compliance was material in nature, although I may well have reached a different conclusion if I had been assessing what occurred in this case against the principles and provisions of the 2022 version of the Code of Practice. I am also using this report to lay down a marker for the need for officials to cooperate fully with my investigations at the first time of asking. A failure to do so in future may, in and of itself, lead me to conclude that the Code has not been complied with in a material regard.

My reasons for reaching these conclusions are set out in the body of this report.

- 9) I have also included some recommendations in the body of the report which are intended to preclude the circumstances which gave rise to this complaint arising again in future.
- 10) For balance, it is fair to observe that the Scottish Government has very effective processes in place to ensure that, in the vast majority of cases, ministerial decisions on succession planning are well informed and based on good evidence. Instances of non-compliance in this area are relatively rare and it is my hope and expectation that the findings of this investigation will make them rarer still.



Ian Bruce  
Ethical Standards Commissioner  
21 March 2024

<b>CONTENTS</b>	<b>PAGE</b>
BACKGROUND	8
THE COMPLAINT	9
DETAILS OF THE INVESTIGATION	11
RESULTS OF THE INVESTIGATION	13
Complaint Part One	13
Complaint Part Two	23
Complaint Part Three	24
Complaint Part Four	25
Complaint Part Five	26
Other Observations	32
Recommendations	34
APPENDIX ONE – Relevant Principles and Provisions of the Codes of Practice and Guidance (2013 Code)	35
APPENDIX TWO – Reappointment pro forma	36
APPENDIX THREE – Time Taken For Complaint Handling	40

## **BACKGROUND**

The Commissioner for Ethical Standards in Public Life in Scotland, known as the Ethical Standards Commissioner, independently regulates how Scottish Ministers make appointments to the boards of public bodies that are within his remit.

The Commissioner's statutory functions in relation to public appointments are set out in the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (the 2003 Act) and (in summary) are to:

- prepare, publish and, as necessary, revise a Code of Practice for Ministerial Appointments to Public Bodies in Scotland (the Code)
- issue guidance on the Code and promote compliance with it
- examine the methods and practices employed by the Scottish Ministers when making appointments
- investigate complaints about how an appointment was made
- report to the Scottish Parliament instances of material non-compliance with the Code; the Commissioner may direct the minister to delay making the appointment until Parliament has considered the report.

The Commissioner is to exercise these functions with a view to ensuring that appointments are made fairly and openly and allow everyone, where reasonably practicable, the opportunity to be considered for an appointment.

The most recent Code of Practice was introduced in March 2022 and took effect from October 2022. Appointments and reappointments made before this were done so under the 2013 Code of Practice. The practices being investigated in this report were assessed against the principles and provisions of the 2013 Code of Practice.



## THE COMPLAINT

A complaint was received by my office on 5<sup>th</sup> September 2023. It initially appeared to be a complaint about not being reappointed to the board of the Cairngorms National Park Authority (CNPA) and the Complainer was advised that decisions on whether or not to reappoint board members was entirely the prerogative of the Scottish Ministers.

Further discussions with the Complainer and exchanges of correspondence led me to conclude that the complaint actually alleged that succession planning for the board had been ineffective. The Code provides that, *“The Scottish Ministers are responsible for succession planning to ensure boards have the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively”* and that, *“They will determine the period for which an appointment, reappointment or extension to an appointment term is to be made based on the needs of the body concerned.”* The thrust of the Complainer’s complaint was that the appointing minister could not have had any clarity on the needs of the body concerned and could not, as a consequence, have made an informed decision on how best to plan for succession. As such, the Code of Practice was engaged. He also had concerns about the involvement of the officers of the body in decisions relating to board appointments. As a non-executive whose role is to hold officers to account, his view was that this was inappropriate. When the Complainer complained about these issues to the Scottish Government, he felt that his complaint was handled poorly and that he had not been provided with satisfactory answers to address his concerns. As a consequence, he submitted his complaint to my office.

I agreed a final statement of complaint with the Complainer on 16<sup>th</sup> November. It was issued to the Scottish Government on 17<sup>th</sup> November, alongside my notification that I intended to investigate the Complainer’s concerns and a request for relevant information, inclusive of a request for responses to a range of questions. The statement of complaint is set out below. I undertook to investigate the complaint against the relevant principles and provisions of the 2013 Code of Practice and its accompanying statutory guidance, which were applicable to the practices complained of. The relevant extracts from the Code and Guidance are included in Appendix One to this report<sup>1</sup>.

### **Statement of complaint**

#### Complaint part one

*The Complainer alleged that decisions about them (and others) were not made on the basis of sound evidence and process. The Complainer alleged that the reappointment decisions cannot therefore be objective, fair, open and transparent, nor can it be assured that the process has led to the best people being reappointed.*

*The Complainer alleged that a decision at some level was taken between March and May [2022], with no evidence and, whatever the status of that decision, it set the scene as the relative priority of members seeking reappointment did not change thereafter.*

---

<sup>1</sup> As Scottish Government officials initially failed to cooperate fully with my investigation, I have subsequently included reference to paragraph A1iv of the Code of Practice, which places an obligation on the Scottish Ministers to do so.

Complaint part two

*The Complainer alleged that the Chief Executive and Director of Corporate Services were inappropriately involved in reappointment decisions, [and that the involvement was inappropriate] given that the role of board members is to hold the executive team to account.*

Complaint part three

*The Complainer alleged that they were given insufficient notice about the reappointment decisions made about them.*

Complaint part four

*The Complainer alleged that they were reappointed for a period of five months but that the reappointment was not supported by a proper appraisal of their performance.*

Complaint part five

*The Complainer alleged that the time taken to respond to their stage 1 and stage 2 complaint was unacceptable and that the conclusions of the stage 1 complaint failed to address their main concerns.*

*The Complainer alleged that in pursuit of answers to their concerns they requested and were provided with a heavily redacted document, whereas a less redacted version was provided to another individual in response to an FOI request. They are concerned that this precluded them from obtaining information that they were entitled to be provided with.*

## DETAILS OF THE INVESTIGATION

I requested the following information from Scottish Government officials in order to assess whether the complaint should be upheld.

- a. Your responses to [the Complainer's] allegations (see appendix 1).
- b. Any and all information about succession planning which was used to inform the minister's decision about this reappointment (initially not to reappoint, and then to reappoint for a five-month period) and the other reappointment decisions reached at the same time. This should include material generated by the board itself, inclusive of the work of Performance Committee, which the complainer referred me to as part of their complaint.
- c. Details of all performance reviews conducted with the complainer during the period of their initial appointment. This should include details of where and when the performance reviews took place, by whom and any notes/results generated during the course of these reviews.
- d. An explanation of how this reappointment process was undertaken, for all board members about whom decisions to reappoint or not was taken at the time. This to include a time line as to when the minister was provided with any information, when each decision was made, who was asked to convey any messages to the board members being (or not being) reappointed and when any verbal or written information were conveyed. All relevant correspondence relating to the process should be provided alongside the explanation. The explanation should also cover the alleged involvement of CNPA officers in the process.
- e. A copy of the ministerial decision or decisions made in respect of reappointment (or not) inclusive of any reasons given for that decision or those decisions.
- f. All correspondence between the complainer, the Scottish Government and the body, relevant to his reappointment and the subsequent decision not to reappoint them (not already provided in response to point `d` above).
- g. Copies of all correspondence relating to stages one and two of this complaint. This should include an explanation for the alleged difference between the redactions in the document(s) provided to the complainer in response to their subject access and FOI requests and another individual who requested the same material under FOI.

My office additionally asked for details of all process and practice changes made, following the Scottish Government's investigation of the complaint at stages one and two.

I was asked for an extension to the deadline for response to 6 December, which I granted to 9 December. I felt that it should be perfectly possible for the Scottish Government to respond within the original deadline, given that it had already run a two-stage investigation and should have collated this same material in order to do so. Notwithstanding this, the Scottish Government did not provide the requested information until 20<sup>th</sup> December.

My office was closed over the holiday period and I was first able to review the material submitted to me on my return in the new year. It was concerning to me to find that a high proportion of the material sent to me had been redacted and that many of my questions remained unanswered. I requested a meeting and subsequently met with officials on 17<sup>th</sup> January to discuss my concerns.

I explained that my statutory functions conferred powers on me to investigate complaints about the appointment practices of the Scottish Ministers and that the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (the 2003 Act) placed a statutory obligation on the Scottish Ministers to provide me with information that I reasonably require to acquit my statutory functions. I explained that this same obligation is included on the fact of the Code of Practice, with the addition of the word “timeously”, in order to allow me to conduct investigations within a reasonable timescale. Given the statutory position, I also explained that my request for information was not equivalent to a Freedom of Information (FOI) request and that officials were not in a position to withhold information from me as the same exemptions did not apply. I impressed on them the importance of cooperating with my investigation and that a failure to provide information that I had made a reasonable request for may, in and of itself, constitute material non-compliance with the Code. I received assurances that my original request would be considered afresh.

I followed up with a table showing which material had, from my perspective, been inappropriately redacted and which questions remained unanswered.

Further to additional correspondence with officials about the statutory functions of my office, I received a more helpful and fulsome response from officials with information provided in two tranches on the 2<sup>nd</sup> and 13<sup>th</sup> of February. This was supplemented with some additional key information that I requested on 22<sup>nd</sup> February and received on 1<sup>st</sup> March further to a request from me. Although I consider the material to remain incomplete, and although several questions remained unanswered, I have been provided with sufficient information to reach conclusions on the balance of probabilities.

The materials provided by the Complainer, the case file of material provided by the Scottish Government and any relevant information from our own files have all been assessed in undertaking the full investigation.

The assessment was undertaken to determine whether the Code had been complied with. The relevant Code paragraphs are set out in Appendix 1 to this report. As a result of an initial lack of cooperation with my investigation, I have also included a reference to paragraph A1iv of the Code, which requires the Scottish Ministers to timeously provide me with the information I require to conduct such investigations.

## RESULTS OF THE INVESTIGATION AND ANALYSIS AND CONCLUSIONS

### Complaint part one

The Complainer had alleged that decisions about them (and others) were not made on the basis of sound evidence and process and that the reappointment decisions cannot therefore be objective, fair, open and transparent, nor can it be assured that the process has led to the best people being reappointed. The Complainer further alleged that a decision at some level was taken between March and May, with no evidence and, whatever the status of that decision, it set the scene as the relative priority of members seeking reappointment did not change thereafter.

I undertook to assess these allegations by reference to the Code of Practice for Ministerial Appointments to Public Bodies in Scotland (the Code) and to the guidance on its application (the Guidance) as these apply to succession planning in respect of reappointments.

My review of the information provided to me showed that an officer of the CNPA was provided with a reappointment pro-forma via email from a Scottish Government official on 4<sup>th</sup> February 2022, alongside a copy of the board skills matrix from 2018 that had been used to inform the last open competition to find new board members. That version of the skills matrix showed what skills (and other attributes) the board required of members collectively to fulfil its role effectively, and mapped these to the current board members.

The email advised that the skills matrix should be used as a template to identify which new skills (and other attributes) the board required and the extent to which they were covered by the current cohort of members. It advised that the Convener should complete the reappointment pro-formas for those members who continued to meet the needs of the board, as well as those that did not, that conclusion having been informed by the skills matrix mapping exercise. The pro-forma included an outline of the steps in the reappointment process, making it clear that the completed form had to be provided to the appointing minister in order to inform decisions to either reappoint members or not to in favour of an open competition. The pro-forma itself included the following advice (a blank pro-forma is included at appendix two):

*“This form provides assurance to the Scottish Ministers that any considerations made in respect of succession planning is supported by robust evidence.”*

*“The needs of the Board in delivering services are key to this process and will be the driver for the consideration of whether these needs will most effectively be met by offering a further term to the individual(s) in question, or by making a new appointment.”*

*“It is important to remember that there should be no presumption of additional terms of appointment. Given the strategic role of Boards and the long term strategic planning that underpins their work, requests for further appointment terms must be related to the Board’s long term plans and should illustrate why this is considered to be the most appropriate course of action. This pro-forma should be submitted to the Public Appointments Team **at least 8-10 months** in advance of the individual’s term coming to an end. This is to provide sufficient time, if appropriate, to carry out a recruitment campaign, or to fill the positions through an appointment round that is already being planned, should Scottish Ministers decide against offering a further term of appointment.”...*

***“Further term of appointment/New appointment***

*4. Please set out below a summary of your considerations in reaching your decision on the recommendation being proposed. This should include such detail as what steps you have taken to assess that the needs of the Board will be most effectively met by either offering a further term to the individual(s) in question, or by making a new appointment; the upcoming challenges and priorities for the Board; the skills, knowledge and experience that will be required to meet these; as well as your considerations on balancing the continuity provided by the member serving a further term with the opportunity to increase diversity around the Board table.”*

The first terms of appointment for the Complainer, and four other board members, were due to end at the end of October 2022. As such, it was incumbent on the board to conduct the skills mapping exercise and submit completed pro-formas in support of any ministerial decision to reappoint (or not) *“to provide **sufficient time** [my emphasis], if appropriate, to carry out a recruitment campaign”*.

It is apparent from a further email from a Scottish Government official to a CNPA official of 10<sup>th</sup> March that a meeting had been held on 3<sup>rd</sup> March to discuss succession planning for the board. The subject line of the email was, “Board Re-Appointments - request for information, as discussed at meeting on 3<sup>rd</sup> March”. In summary, the email reiterated the request made on 4<sup>th</sup> February 2022. The board was required to complete a new skills matrix and pro-formas and to provide them to the Scottish Government in the following week to *“support our engagement with the Minister and progress with the plan for the board appointments”*.

On 15<sup>th</sup> March, a Scottish Government official sent an email to the appointing minister to inform her decisions on CNPA board appointments, prior to a meeting with CNPA representatives. A number of attachments were included relating to these. These included a draft of the National Park Partnership Plan (NPPP), which was detailed and comprehensive, a memo from the Convener, relating to appointments and reappointments to the board, and a partially completed skills matrix. There were apparent linkages between the draft NPPP and the partially completed skills matrix. The matrix included new attributes required by the board for NPPP implementation, in comparison with the matrix completed in 2018, such as expert knowledge and understanding of “Climate Change: mitigation and adaptation and green finance” and “Nature conservation: biodiversity, ecological restoration”. However, the skills matrix did not map any of the attributes that the board required for the future to the existing members (as was done with the 2018 version). As such, there is no way of assessing if there were in fact skills and knowledge gaps and, if so, what these were.

No reappointment pro-formas were attached to the email to provide evidence in support of decisions to reappoint, or not, current board members. Instead, the memo from the Convener simply identified the current members alongside the dates of their terms ending and suggested staggering terms of appointment from 1 to 3 years to provide a measure of continuity. The memo does not make clear which of the ministerial appointees does or does not meet the needs of the board for the future, or give any reasons for the length of terms of any of them, other than simply by reference to a need for continuity. One recommendation is made to reappoint a named individual for at least a year to provide continuity on a key

committee. The memo also states that the board currently has some skills gaps which could be addressed through open competition but does not articulate them.

The appointing minister was provided with a formal submission by a Scottish Government official, attached to an email, on 8 April 2022. The submission sought the appointing minister's views on appointments/reappointments to the board of the CNPA. It highlighted also the particular challenges associated with succession planning for the board, due to its make-up. The board is made up of a mix of directly elected members (5), members nominated by local authorities (7) and regulated ministerial appointments (7). The terms of all board members were due to come to an end within a year of each other. Additionally, the minister only has direct influence over the skills, knowledge, experience and other attributes of the regulated appointment members who are appointed through open competition.

The minister was, in summary, asked to decide whether to reappoint all, or a proportion, or none of the current ministerially appointed members who wished to continue and, if choosing to appoint some, whether to stagger their terms of appointment. To inform the minister's decision, the memo from the Convener from March was attached (see above) alongside the submission itself, a table showing when all board member terms were due to end and the same skills matrix provided in March (see above).

In conclusion, the minister's decision to reappoint or not was required to be taken in the absence of a properly completed skills matrix and completed pro-formas which, as the latter confirms, *"should include such detail as what steps you have taken to assess that the needs of the Board will be most effectively met by either offering a further term to the individual(s) in question, or by making a new appointment; the upcoming challenges and priorities for the Board; the skills, knowledge and experience that will be required to meet these; as well as your considerations on balancing the continuity provided by the member serving a further term with the opportunity to increase diversity around the Board table."*

I recognise that the appointing minister will have relied on her own views, experience and strategy/policy objectives in order to reach a decision and that the submission is not the only source that led to the decision.

However, the failure to follow proper processes at this point in time set in place a chain of events which ultimately led to this complaint being made and which could have led to a negative impact on the board's governance and ability to fulfil its functions, as explained below.

The minister made her decisions on reappointments/new appointments to the CNPA and these were set out in an email sent to Scottish Government officials 25<sup>th</sup> April. The minister decided to appoint one member for a full term in order to provide continuity on a key committee and another member for two years to allow for continuity and the staggering of terms. She concluded that the other members should not be reappointed as "she would like to use this opportunity to ensure that the CNPA Board have the skills and expertise required to deliver the new corporate plan, and particularly the strong focus on nature restoration and tackling the climate emergency." The email also advised that the minister "would like to thank all other Ministerial appointees for their service and not reappoint them to allow new appointments to be made in line with delivering the new corporate plan for the Park and particularly to help deliver the Park's bold ambitions on nature restoration and tackling the

climate emergency." The decision had effectively been made at this point in time, albeit on the basis of limited information about board needs and how best they should be met. Other key events followed on from this. I set these out below, alongside my observations.

On 26 April, in response to the minister's decision, officials recommended that the two-year term to be offered to one member be reduced to one year, and that a one-year term be offered to an additional member, again to provide greater continuity.

The minister's office confirmed by email on 5<sup>th</sup> May that she was content with this proposal.

An official from the CNPA emailed the convener and others on 11<sup>th</sup> May to confirm the decisions taken by the minister about reappointments to the board. The board members concerned weren't advised of the decisions at this time.

Officials from the sponsor directorate emailed the Public Appointments Team (PAT) on 15 June to ask what it requires to proceed with the open competition. PAT replies the following day to confirm that, in order to make a submission to the minister in support of appointments, it requires completed pro-formas. As noted above, these should have been completed already in order to inform the ministerial decision taken in April.

In an email of 18<sup>th</sup> June, a Scottish Government official, in correspondence with others, highlights that the decision not to reappoint has to be communicated to the members concerned.

An official of the CNPA is sent an email on 28<sup>th</sup> June with the pro-formas attached for the Convener to complete. It highlights that the Convener will have to discuss reappointments with the parties concerned.

The CNPA official responded on 29<sup>th</sup> June to advise that they understood that the decision on reappointments was made by the Minister and should therefore be communicated by the Minister as opposed to by the Convener. It indicated also that the usual process would have been for the Convener to complete the forms in order to inform the minister's decision, which is accurate. These should, however, have been completed many months previously. The official indicates that his understanding is that the minister would wish to reserve her position. It is clearly too late for that though, given that the decision was made in April.

It was apparent that there was a lack of mutual understanding about where responsibility for these activities lay. An exchange between Scottish Government officials clarified that the ministerial decision had already been made and that the Convener should communicate them to the members concerned.

The subsequent advice from the Scottish Government to the CNPA official was that the decisions to reappoint should be framed as "the minister is minded to reappoint X" on the basis that the proformas had not been completed. What the email did not address is the fact that those not to be reappointed should be advised about this as soon as possible (although reasons are provided for not reappointing): "On the question of re-appointments is also just worth emphasising that, again, as you know, re-appointments are not automatic and, although re-appointment is dependent on performance this is by no means the sole criterion. The future direction of the board is key and those who have contributed effectively in the



past are not necessarily the best board members for the future: a refreshed strategy and a shifting board profile may necessitate the need for new/different skills etc". The email also highlights that the CNPA was sent the pro-formas for completion in February.

On 30 June, the CNPA official emailed the Convener to convey to him what Scottish Government officials had advised. In effect, although the minister had already made a final decision about reappointments in May, it could not be interpreted as such, given that the proper process had not been followed. The Convener was asked, again, to complete the pro-formas.

Also on 30<sup>th</sup> June, some further internal Scottish Government email correspondence marked "URGENT" refers to, among other things, the need to "progress the appointments". The author notes that the minister has agreed to the reappointment of 3 members (one for four years and two for one year) but that a final decision on these required completed pro-formas from the CNPA Convener. This is a moot point as far as the Complainer is concerned in this case, because the decision not to reappoint him isn't predicated on a completed pro-forma and has already been made. The submission is clear that the new appointments have to be made (because of the decision taken not to reappoint). The submission notes that the new ministerially appointed members won't be in place in time and that CNPA officers are aware but don't have concerns about quoracy. The submission also notes that the sponsors have not yet been provided with the draft role descriptions and person specifications for the vacancies that are due to arise.

On 20<sup>th</sup> July, PAT emails the sponsors to ask if they have received the completed pro-formas for the CNPA yet. The sponsors respond the same day to confirm that they have not.

On 27<sup>th</sup> July, the CNPA Convener attempts to send the completed pro-formas to Scottish Government officials via email. The reappointment proposals for those not to be reappointed have been revised to recommend short (a few months) reappointments to provide continuity because it is apparent that the open competition has not commenced and the board will have to run with vacancies if the positions aren't filled for a short period. The email and attachment is sent to the wrong email address.

On 28<sup>th</sup> July, internal Scottish Government email correspondence shows that officials understood that valedictory letters would have to be issued to those who weren't to be reappointed. It advises that "based on past experience valedictory letters have generally been left until appointment terms have ended". This may have led to a misunderstanding about when those not to be appointed should be advised of that decision.

On 17<sup>th</sup> August, an officer from the CNPA writes to a Scottish Government official, providing information on an exercise that the board has recently conducted via a survey to populate the board skills matrix. This is the material that was required to properly populate the board skills matrix in March/April in order to inform the ministerial decision. The officer also asks if the pro-formas have been received yet.

On 19<sup>th</sup> August the CNPA Convener resends his email and completed pro-formas to the Scottish Government. The sponsors forward these to PAT the same day. PAT responds the same day to highlight that short terms of a few months' duration are recommended for the members that the minister decided in April should not be reappointed and to ask if this met with sponsor approval.

On 6<sup>th</sup> September an officer from the CNPA asks Scottish Government officials when the ministerial appointees will hear about their reappointments.

On 7<sup>th</sup> September, PAT asks again via email if the short-term reappointments meet with the sponsors' approval.

On 15<sup>th</sup> September PAT emails the sponsors about the revised timeline for appointments being pushed back such that the open competition will not be completed until March/April, if there are no further delays. PAT also asks if there is any clarity yet on the skills required as they cannot make a submission to the minister in the absence of this information. There is still no real clarity on what the board requires. This, among other things, means that start dates for new members will be delayed. It means at this late stage that the sponsors and appointing minister will now have to find a way of securing board continuity by way of the short extension or reappointment of board members' terms that the minister intimated in April should not be reappointed.

On 4<sup>th</sup> October, a CNPA officer emails the Scottish Government to request "some advance warning of the timetable for the issue of the offers of reappointment and the period of reappointment that will be proposed in those letters". The purpose of the request was to set up a meeting between the Convener and members concerned to let them know what terms of reappointment they were to be offered. Their current terms were due to end at the end of the month and none of them yet knew what they were to be offered.

On 4<sup>th</sup> October, the CNPA officer emails the Convener to confirm the details of a discussion with the sponsors. He advises that the earliest they will have new ministerial appointees on the board is 1<sup>st</sup> April. He asks the Convener to confirm he is content to proceed with short term reappointments to provide continuity so that the recommendation can be made to the minister the same day. He also advises the Convener to ensure that members concerned have been briefed as to the likely terms of reappointment that they will be offered and to assess whether they would be willing to accept a reappointment for that term. He indicated that current aim is to get formal offers of reappointment issued in week commencing 24<sup>th</sup> October.

On 4<sup>th</sup> October the sponsors email PAT, in response to their email of 7<sup>th</sup> September, to confirm that they are content for short reappointment terms to be offered to the members who were originally not to be reappointed.

On 5<sup>th</sup> October the CNPA officer writes to the sponsors to confirm that the Convener is content to proceed with short reappointment terms to be offered to the members who were originally not to be reappointed.

PAT responds to the sponsors on 5<sup>th</sup> October with a draft submission for the minister and drafts of five reappointment letters.

On 6<sup>th</sup> October the sponsors email PAT with some amendments suggested for the draft reappointment letters, intended to explain why those members who may be expecting to be reappointed for four years are being offered considerably shorter terms.

The submission in support of reappointments is emailed to the appointing minister on 10<sup>th</sup> October. It includes some very brief extracts about individual board members, drawn from the pro-formas completed by the CNPA convener (which were not provided to the minister

as part of the submission). The submission advises, "Our view is that as an appointment round is about to commence, adequate time has been allowed for succession planning for these reappointments". In reality, any of the members offered unexpectedly short terms could have chosen not to take these offers up, potentially leaving the board short of up to four out of a total of seven ministerial appointees between November and April.

The sponsors email a CNPA officer on 10<sup>th</sup> October to confirm that the submission has been made and that they can now discuss the details with members.

A follow up email is sent on 13<sup>th</sup> October to confirm what those details were. In keeping with the ministerial decision made in April, one member will be offered a four-year term and two will be offered a one-year term. The only change is that the two who the minister had decided in April would not be reappointed were now to be offered five-month terms. As above, the reason for this is to provide continuity while new members are sought through open competition. This in turn was attributable to a failure to follow due process and the subsequent delay to the start of the open competition. In a further exchange between them, the sponsors ask the CNPA officer to let them know "how the conversations go".

On the 13<sup>th</sup> of October the CNPA convener and an officer discuss the proposed short appointment term with the Complainer by telephone.

On 26<sup>th</sup> October, the Complainer and other board members are sent the formal letter from the appointing minister about their reappointments. The letter advises that the reason for the short term offered was "the time is appropriate to refresh the Board membership as the body embarks on delivering its new National Park Partnership Plan over the next five years".

On 26<sup>th</sup> October, the Complainer writes to both the CNPA convener and the sponsors, asking, respectively, for the materials that were pertinent to the reappointment decision and for "the process, reasoning and evidence behind the decision".

On 28<sup>th</sup> October, a CNPA officer writes to a Scottish Government official to advise that "I need to know by Monday close/Tuesday morning who has accepted at that date as strictly speaking those members who have not accepted by end of Monday are not board members with effect from 1 November until they submit their acceptance".

The same officer sends a follow up email on 31<sup>st</sup> October "I will have to write to board members at the end of the day who have not yet accepted their offer of reappointment to indicate their temporary status as not being officially a member of the board until such time as their acceptance is communicated as requested in their [letter] of reappointment. If at all possible, could you please give me a note at the end of your working hours today as to which if any of the Cairngorms NPA members offered reappointment have communicated their acceptance and whom you have yet to hear from. We will keep all those offered reappointment up to date with forthcoming meeting dates etc. However, we will have to limit the circulation of any official papers to them until they have formally accepted the offer reappointment".

The PAT responds on 1<sup>st</sup> November to confirm that all five members have confirmed their acceptance; the last on the previous evening.

On 1<sup>st</sup> November the PAT makes a submission to the appointing minister about the appointment round to identify three new members. The skills sought are the same generic

ones as were used previously. The knowledge and understanding criteria aren't fully articulated such that, for example, "Climate Change: mitigation and adaptation and green finance" and "Nature conservation: biodiversity, ecological restoration" are listed as simply "Climate change" and "Nature conservation". The minister is invited to advise if she would like the panel to consider the inclusion of other attributes, skills, knowledge or experience for the person specifications for the vacancies or to confirm if content.

On 9<sup>th</sup> November, the PAT writes to the sponsors about the CNPA skills matrix - the document that's meant to be one of the bases for succession planning. He notes that the skills of current members aren't listed, meaning they can't identify where the gaps are for the new appointment round: "I was reading through the skills matrix and noticed that the page setting out what skills the current Board have is missing. It's usually the final page of the skills matrix and is set out as a table indicating the skills/knowledge/experience each board member has linked to the list on the earlier pages. Would you be able to ask CNPA for the full version? This version also indicates that it was updated in April 2022. Do you think that's the most recent version?" As noted above, this exercise should have been conducted in advance of the submission being made to the appointing minister in April.

On 15<sup>th</sup> November the sponsors email CNPA officers to ask if they can assist with PAT's enquiry of 9<sup>th</sup> November.

A CNPA officer responds to the sponsors on the same day to confirm that the version provided dated April 2022 is the most up to date one - acknowledging that it doesn't actually show which of the current members have the attributes required by the board. The officer attaches a version which does show this information. It is from March 2018 and clearly doesn't reflect the new needs of the board or which current members meet them. The email also refers to the SurveyMonkey skills exercise which shows current skills and skills gaps and attaches a copy (this will have been the exercise conducted in August - five months after the ministerial decision on reappointments (or not) had been made). The results of the survey have not been transferred to the skills matrix.

On 23<sup>rd</sup> November, PAT writes to the selection panel and ESC representative with a range of materials to inform early engagement for the appointment round. It is apparent that the appointing minister has given a clear high level steer on the skills, knowledge, experience and other attributes that the board requires. On 8 April, the minister's priorities were "Ms Slater noted this submission and commented that she would like to use this opportunity to ensure that the CNPA Board have the skills and expertise required to deliver the new corporate plan, and particularly the strong focus on nature restoration and tackling the climate emergency." By the end of November, the priorities were as follows (over and above the generic skills sought for all board members): "In terms of knowledge and experience, we also suggested to the Minister that the successful candidates would have experience in at least one of the following: climate change; nature conservation; land/estate management; visitor management; rural economic and community development: planning and land use; corporate governance. The Minister was content but suggested that she would also like to see members with a skill set around nature restoration and rewilding and landscape scale change. She considered it would be useful to have members with knowledge of Green Finance to support the Park with any future public/private nature restoration financing

initiatives". This is now representative of evidence that planning for succession – in terms of the new appointments to be made – is effective.

Following concerns expressed by the board members reappointed for shorter than anticipated terms, an official from the Scottish Government writes to the CNPA board on 26<sup>th</sup> January 2023. The letter refers to the board skills matrix which "has indicated that the Cairngorms National Park Authority does not currently have the breadth of skills and expertise required at a board level around certain topics including: biodiversity, climate mitigation and adaptation, landscape scale change, green finance and Human Resources/change management." This accurately reflects a proportion of the "key areas" of expert knowledge required as set out in Annex B, the skills matrix provided to the appointing minister in March 2022. However, that skills matrix did not map current members expert knowledge to current board members. The only version that does map these across is the one from March 2018, which didn't include many of these new requirements. Of equal significance are the following extracts: "The Management Statement that the CNPA operates within sets out that the Convener/ Deputy Convener shall advise the Scottish Ministers of the needs of the NDPB when Board vacancies arise, with a view to ensuring a proper balance of professional and financial expertise." The letter does not clarify if the management statement is clear about how far in advance this has to be done. In any case the pro-forma to be completed does provide this guidance. Another extract from the letter reads as follows: "The Convener/ Deputy Convener, like the whole Board, is answerable to Scottish Ministers. Scottish Government provides standardised forms to support the reappointment process. This form includes the following statement: The needs of the Board in delivering services are key to this process and will be the driver for the consideration of whether these needs will most effectively be met by offering a further term to the individual(s) in question, or by making a new appointment. The Minister has a duty to ensure that the Board has the right skills mix for the future. I am content that the correct process has been followed throughout the consideration of the recent reappointments and that the current public appointments process being followed will ensure that the Board will have the right skills mix for the future." As above, the pro-formas weren't completed until several months after the ministerial decision was made. As such, the proper process was not followed.

### Further analysis and conclusions on compliance with the Code, based on the facts

*"A2 The Scottish Ministers are responsible for succession planning to ensure boards have the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively. They will determine the period for which an appointment, reappointment or extension to an appointment term is to be made based on the needs of the body concerned."*

*"A3 The Scottish Ministers will consider whether the needs of a board will most effectively be met by an appointment, reappointment or extension to an appointment term. They will balance the continuity provided by reappointment and term extensions with the opportunity to increase the diverse range of relevant skills, knowledge and experience on a board by making a new appointment through open competition."*

I have upheld the part of the complaint relating to the processes followed to determine who should be reappointed, inclusive of the Complainer. I reached this conclusion because the

Scottish Government's own guidance, which it introduced in order to comply with the Code's provisions, was not followed. As a consequence, the initial ministerial decision on whom to reappoint (or not as the case may be) was based on limited evidence provided by the public body. Due to the failure to follow what is a well-designed process to inform ministerial decisions, the minister was not provided with accurate or complete information on "*the needs of the body concerned*". It is also worthy of note that the process, when followed, ensures that outgoing board members (either because they do not wish to continue or because the minister does not wish to reappoint them) are replaced in good time. That clearly did not happen in this case and it could have had a negative impact on the board's governance for a period of several months. It clearly also had a negative impact on the Complainer, which I will refer to later in this report.

There is no obligation under the Code for the Scottish Ministers to appoint (or reappoint) any individual and no obligation on the Scottish Ministers to reappoint "the best people" although the needs of the board should be a consideration in all appointment decisions. Although the reappointment decisions were based on limited evidence, it remained the minister's prerogative to reappoint individuals or not.

## Complaint part two

The Complainer alleged that the Chief Executive and Director of Corporate Services were inappropriately involved in reappointment decisions. The Complainer alleged that such involvement would be inappropriate, given that the role of board members is to hold the executive team to account.

I undertook to investigate whether the process used to reappoint individuals to the board of the CNPA was representative of effective succession planning. As part of this, I also assessed the involvement of all parties who were engaged in the process.

I reviewed a considerable amount of correspondence (see under complaint part one) which showed that the CNPA officers were involved in board succession planning, also acting as a conduit of information between the board and the Scottish Government sponsors and other officials. The most telling extent of their involvement is set out in the reappointment pro-forma documents completed by the CNPA convener. This is the relevant extract:

"Ahead of initiating the appointment/reappointment process, the Convener and Deputy Convener, along with the Chief Executive, Director of Corporate Services and Head of Organisational Development considered the current Board skills matrix and any gaps expected to occur due to known upcoming changes in the Board membership and new skills required for the delivery of the next National Park Partnership Plan 2022-2027. Following initial discussions a new Board skills matrix was developed and approved by the Boards Governance and Resources Committees and subsequently issued to the Board to assist with further identification of skills and knowledge gaps".

It is apparent that board officers were involved in succession planning for the board. In most cases, this is a perfectly legitimate role for them to fulfil, inasmuch as they are there to support the board in implementing and achieving its strategic aims, which would inevitably include determining what attributes the board requires to be effective. In some cases, however, officers having a role in the activity could allow them to inappropriately influence succession planning with a view to removing effective board members who are critical of officers as part of their scrutiny and challenge role. Boards and their sponsors should be live to such a possibility and I plan to discuss this with Scottish Government officials as a consequence and in case a revision to the Code should be considered. I saw no evidence of such inappropriate influence in this case.

### Further analysis and conclusions on compliance with the Code, based on the facts

I did not uphold this complaint because the involvement of officers in succession planning is not specifically excluded by the Code and because the reappointment decisions were, rightly, taken by the appointing minister.

My observations on the effectiveness of succession planning in this case are set out under the other heads of complaint.

### **Complaint part three**

The Complainer alleged that they were given insufficient notice about the reappointment decisions made about them. I undertook to investigate whether the Complainer was given sufficient notice (in accordance with the statutory guidance) and if not why not. The statutory guidance in force at the time required reappointment decisions to be communicated to the individuals concerned at least 13 weeks in advance of their appointment terms coming to an end. In October 2022, the Complainer was given five days' formal notice about a decision to reappoint them for a five-month period, having been verbally offered the short reappointment on 13 October. Their first term of appointment was due to end on 31 October.

The appointing minister had actually taken the decision not to reappoint them (at all) in April 2022 and so there was ample opportunity for that decision to be communicated to them. The fact that it was not was attributable to a range of factors, but primarily due to the fact that proper processes were not adhered to (see issue one of complaint above).

That failure to follow proper processes also led to significant delays and ultimately to the decision to reappoint them for an additional five months, to provide continuity on the board while new members were found. The ministerial decision to reappoint them for five months was taken at some point between 13 and 26 October. The letter informing of the decision was sent on 26 October, just five days before their term of office was due to expire. As a consequence, I upheld this complaint.

I highlight here that I assessed this complaint against the 2003 Code of Practice and statutory guidance on its application. The newer 2022 Code includes some new principles, including the principle of "Respect":

*"Applicants and ultimately the people appointed to boards are integral to the good governance of Scotland's public bodies. Applicants will be accorded the respect that they are due for their interest and their efforts and appointees for their contribution to public life."*

If I had assessed this complaint against the newer Code, my view is that the treatment of the Complainer would have been incompatible with this principle of the Code, inasmuch as the individual was not accorded the respect that they were due for their contribution to the work of the board spanning a four-year period.



## **Complaint part four**

The Complainer alleged that they were reappointed for a period of five months but that the reappointment was not supported by a proper appraisal of their performance. I undertook to investigate whether the Complainer's performance was properly appraised as being effective during their term of appointment, prior to their reappointment.

The Scottish Government provided me with two key pieces of documentary evidence relating to the appraisal of the complainer. The first was a completed pro-forma provided by the board to the Scottish Government in August 2022, which certified that the Complainer performed effectively during their current term and that the board held "copies of appraisals carried out on this individual or other evidence of effective performance".

The second piece of evidence was entitled "Board development record" and this was provided by the board to the Scottish Government to allow it to respond to the questions I asked and materials I requested to conduct my investigation. This records two discussions with the Complainer held in December 2020 and February 2022. The single document is a completed pro forma which indicates it should be signed by both the appraiser and appraisee. Only the appraiser – the convener of the CNPA board – has signed it so it is unclear whether the results of these appraisal discussions were ever agreed with the Complainer. It is also worthy of note that the letters issued to CNPA appointees indicate that they are to be appraised annually. That clearly did not occur in the case of the Complainer.

I consider that the appraisal process was not, as a consequence, representative of good practice. Evidence nevertheless exists that the Complainer's performance was properly appraised as effective during their current term. As such, this complaint is not upheld.

## **Complaint part five**

The Complainer alleged that the time taken to respond to their stage 1 and stage 2 complaint was unacceptable and that the conclusions of the stage 1 complaint failed to address their main concerns. The Complainer further alleged that in pursuit of answers to their concerns they requested and were provided with a heavily redacted document, whereas a less redacted version was provided to another individual in response to an FOI request. They were concerned that this precluded them from obtaining information that they were entitled to be provided with.

I undertook to investigate whether the Scottish Ministers have in place an effective system for handling, and recording details of, all complaints about the appointment process. As part of this, I also undertook to investigate the allegation that the Complainer was provided with incomplete information when they were pursuing their original complaint.

My investigation showed that the Scottish Government did not have an effective system in place for handling this particular complaint. I upheld this complaint for the following reasons.

I first reviewed the time taken for handling the complaint. A summary timeline for complaint handling is included at Appendix Three.

At stage 1, the complaint took 43 days overall to investigate, although allowing for holidays and weekends it took 29 working days in total. On the webpage on the Scottish Government website which gives guidance on how to make a complaint about public appointments, no timescale for stage 1, also known as frontline resolution, is given. Stage 2 indicates that it will be normally be completed within 20 working days. It also indicates that reasons for delays should be provided. It is clear from the correspondence that the Complainer felt this timescale should apply to each stage. My own view is that this is a reasonable expectation. At stage 1, I note that a few days were taken up at the start of the process with the Complainer in correspondence with the complaint handler discussing which Code of Practice would be applicable to the complaint. The Complainer understandably wished to have their complaint assessed against the newer 2022 Code of Practice, which includes a new principle of “Respect” for applicants and appointees, and which includes more provisions on succession planning. The Complainer was advised that the process was conducted under the 2013 Code, which was as had been agreed with my office, as I delayed the implementation date for the 2022 Code from March, when it was published, to October to allow officials to become familiar with its provisions and to prepare for it coming into force.

Notwithstanding this, my view is that the complaint could have been handled more quickly. At stage 2, the delays were considerable and although I asked for the reasons for this, none were provided. It took over a month for a complaint handler to be assigned. It took 109 days for the complaint to be handled at stage 2 from end to end, which equated to 76 working days in total; almost four times the published timescale. The Scottish Government has since confirmed that it has increased stage 2 complaint handling capacity from one complaint

handler to five, suggesting that there was simply insufficient capacity to deal with the number of stage 2 complaints that they were having to process. It is also my view that the Complainer was not provided with satisfactory reasons for these delays.

As to whether the complaint was properly investigated, at stage 1, the Scottish Government did not identify that its own processes had not been appropriately followed. If it had, its conclusions would be more likely than not to have addressed the Complainer's main concerns and, as such, it may have precluded the need for the investigation to have moved to stage 2. The relevant responses to the complaint from PAT at stage 1 were as follows, alongside my own observations (I have not referred to part 2 of the complaint, given that I did not uphold it):

*“The Minister is the decision maker for whether to make new appointments and/or to reappoint members whose (current) term will end soon and, if so, what the term for reappointment should be. A reappointment is not a given. Not being reappointed should not be assumed to be a judgement on particular individuals. There is no requirement for an initial appointment term or a reappointment term to be a particular length (except in certain circumstances, for example, such as where it is described in legislation) and the term length should be based on the needs of the board.”*

*“I am satisfied that the reason for your reappointment and its length was in respect of the needs of the board for continuity and cover during a period of bringing on to the board new appointees. Your experience of the process though was poor and it is clear to me that you would not have felt treated with respect. I apologise. Appointees such as yourself give up time and energy and give of your experience and skills in support of civic society and respect is crucial, as well as clarity.”*

As set out under complaint part one above, I concur that the Code was complied with insofar as the decision to reappoint, or not, is the prerogative of the Scottish Ministers. However, the failure to follow due process and the impact this had on succession planning has not been highlighted here.

*“The decision was conveyed to you just a few days before the end of your term. The Guidance on the 2013 Code notes that the decision should be conveyed no later than 13 weeks before the term is due to end: the government did not meet this and the impact of that on you disappoints me.”*

As set out under complaint part two above, I concur that the failure to provide sufficient notice of the ministerial decision represents a breach of the Code's provisions.

*“I am sorry that you did not receive clear information about the reappointments process and clarity about what the expectations of board members were in this process. From the description of your poor experience I believe that the process support the PAT provides to sponsors can be improved. I will review with my team how we undertake and support on reappointments and then update our processes. I will consider with my team the need to*

*ensure that respect for appointees and applicants is key and the impact on people of delays, and how to cover the issues that reappointments are not automatic, how the reappointment process is geared towards gathering evidence for a reappointment in the context of the needs of a board, and how skills and knowledge surveys or other tools might be used.*

*I will also raise these issues with the... Directorate for Environment and Forestry and discuss how practice can be improved so that the roles and responsibilities of everyone involved in the reappointments process is clear and well understood by board members."*

My view is that this represents a tacit admission that proper processes were not followed, and that there was an apparent lack of clarity about where responsibility for conveying the ministerial decision to the Complainer lay. If PAT had been clearer with the Complainer at this stage about how the process was meant to work, and why it had not on this occasion, the Complainer would have had a better understanding of the way in which the decisions about them, and others, had been taken (see my observations under complaint part one).

I have asked PAT to provide me with the details of the process and practice changes that they undertook to make following their response to the complaint at stage 1. To date, I have not been provided with a response.

At stage 2, the complaint handler was clearly not familiar with the Code of Practice or the Guidance on its application. Instead, the complaint handler was familiar with service complaints about maladministration, which are ultimately referred to the Scottish Public Services Ombudsman (SPSO), as opposed to my office. As such, this was the focus of their investigation and informed their findings and conclusions. If their focus had been on assessing compliance with the Code and Guidance, they may have reached different conclusions and been able to address the Complainer's concerns. This again was a missed opportunity and ultimately led to the complaint being made to my office. The relevant responses to the complaint from the complaint handler at stage 2 were as follows, alongside my own observations (I have not referred to part 2 of the complaint, given that I did not uphold it):

*"With this complaint, it is worth emphasising at the top of my response that, as per the latest SG complaints policy, I am specifically examining whether there has been maladministration of the SG. I am not examining the decision-making of the Minister for Green Skills, Circular Economy and Biodiversity, based on the advice of policy officials, nor the actions of the officials of the Cairngorm National Park Authority, on which I cannot comment."*

The complaint handler's focus should not have been on whether there has been maladministration, which sits within the regulatory remit of the SPSO, but whether the Code of Practice and statutory guidance has been complied with.

*"The 2013 Code of Practice states that the first stage in the public appointments process "begins with a clear picture of the public body's purpose, strategic objectives and operational context". In this context, this is relevant as this assessment of strategic objectives takes*

*place before the implementation of the “appropriate methods... to identify, recommend and decide, on the basis of merit, on the most able for appointment”.*

*“Additionally, at this stage, I also want to highlight this responsibility within the code: “Scottish Ministers are responsible for succession planning to ensure boards have the skills knowledge and experience necessary to fulfil their role economically, efficiently and effectively”.*”

*“Therefore there are two areas of potential maladministration, firstly, whether the Scottish Government provided appropriate guidance to the Minister on outlining the composition of the board, and the presence of skills gaps if any exist, against the strategic objectives of the board. Then, secondly, following ministerial feedback on this, supporting ministers to make these decisions of individual appointments/reappointments, based on merit and appropriateness for appointment.”*

*“On this first area, having reviewed the ministerial advice, I am confident that there was no maladministration from the Scottish Government in providing the Minister with the relevant information regarding the required skills of the board, and the current known skills of the board members. This reflected the skills required to manage the newly published National Park Partnership Plan, and the skills already covered by other non-ministerial appointed board members. I am confident that the advice balanced the need for these new skills against the need to ensure stability and to successfully succession plan. This led to the ministerial conclusion that the board composition needed to be changed.”*

*“Following this, on the second point, I am confident that, following the ministerial steer received, SG provided further accurate advice based on the evidence they had received at the time from the convenor of the board and the skills which had been monitored during performance reviews.”*

*“I accept that, through the reappointments decision process, you were not given a distinct opportunity to express how you may have had the skills being requested by Ministers which would not have come out through the performance of your board role to date. However, highlighting the newly requested skills of a reappointment candidate was not a requirement under the 2013 code, and instead, the mechanism to demonstrate these skills would have been through applying once more to be publicly appointed, rather than through reappointment. This would have provided you with the opportunity to demonstrate your skills against these new requirements.”*

*“Therefore, given the above, I am not upholding this section of your complaint.”*

As my investigation of part one of the complaint shows, there was a failure to follow a well-established process for ensuring that ministerial decisions on succession planning are properly informed. This should have been the conclusion of the stage 2 complaint handler.

*“In [PAT’s] response to your complaint, dated 20 April, [they] acknowledged that the decision for reappointment was not conveyed to you until a few days before the end of your team. [They] conceded that this is not in line with the guidance on the 2013 Code, which states that: “For reappointments, the Ministerial decision to reappoint should be made and communicated to the board member or chair concerned no later than 13 weeks before the reappointment is due to end.”*

*“In your response to [PAT’s] letter, you highlighted previous statements made by senior Civil Servants and the Minister to the board. At the meeting of the board, which the Minister attended, she gave assurances that the code had been followed. You have asked why a correction has not been made, based on the subsequent admission of failures within the communication process.”*

*“In reviewing the statement the Minister and Civil Servants provided at the meeting, it appears that they were referring to whether there had been any breaches of the code, rather than breaches of the guidance. It is breaches of the guidance which is conceded in your letter from [an official] on 20 April. Therefore, taking a strict judgement of the statement made at the board, I cannot definitively conclude that it was incorrect.”*

*“However, I would agree that, in response to your original complaint, the Public Appointments Team did not disclose sufficiently the further action that they were taking to ensure that the mistakes made would not happen again. However, having discussed this with the Public Appointments team, there were multiple actions and reviews of process which emerged from your complaint. These further actions, which were apparent at the time, should have been outlined to you.”*

*“Therefore, based on the above, I am upholding this aspect of your complaint. To this end, I will recommend that the Public Appointments Team write to you, outlining some of the recommendations that they concluded from your original complaint.”*

The complaint handler has erroneously failed to conclude that a failure to follow statutory guidance on the Code’s application equates to a failure to follow the Code’s provisions.

As with the Complainer, I have not as yet been provided with the details of the practice and process changes which PAT has implemented.

*“Finally, I would like to apologise for the time it has taken to reply to your original Stage-2 complaint. As per the standards set out by the Scottish Public Service Ombudsman, the Scottish Government aims to respond to respond to all Stage-2 complaints within 20 working days of receipt. I am sorry that it has taken much longer than this to reply to this complaint. We are currently reviewing our processes within the complaints team to ensure that we having the staffing resilience to deliver against these target deadlines, in all circumstances.”*

A reason for the delay has not been provided, although it is apparent from the response that there were insufficient resources within the stage 2 complaint-handling team at the time that the complaint was made.

As to the different levels of redaction applied to the same document provided to the Complainer in comparison with another requester, the Scottish Government has explained that this was attributable to different responders interpreting and applying the policies on redactions differently. I am content that this is a reasonable explanation for what occurred in this case although it is clearly concerning that this level of variation can occur when requesters should have a reasonable expectation that FOI requests will be responded to consistently.

The Complainer may wish to raise this with the Information Commissioner's Office, although I recognise that he may first be required to request an internal review of the Scottish Government's initial response to him.

## Other observations

My own investigation in this case was initially and substantively hampered due to a lack of cooperation on the part of the sponsor directorate. My initial request to the Scottish Government for responses to questions and relevant material was made on 17<sup>th</sup> November 2023, with the information requested to be provided no later than 24<sup>th</sup> November. As a two-stage investigation had already been undertaken, my view was that the material should be readily available. An extension was requested to 6<sup>th</sup> December and I afforded the directorate further time to respond (to 9<sup>th</sup> December). In the event, I did not receive the requested information until 20<sup>th</sup> December, after having referred to both the 2003 Act and the Code in an email of 19<sup>th</sup> December requesting a response the following day. An extract follows:

“I refer you to the provisions of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (the Act) at s.3:

*“3The Commissioner’s functions: further provision*

*(1) The Scottish Ministers must provide the Commissioner with such information as the Commissioner reasonably requires in the exercise of the Commissioner’s functions.”*

I refer you also to the provisions of the Code at A1:

*“A1 Fair, open and merit-based appointments are the responsibility of the Scottish Ministers who will:*

...

*vi. provide the Commissioner **timeously** [my emphasis] with whatever information the Commissioner reasonably requires to perform the statutory functions set out in the Act.”*

What began as a relatively straightforward and reasonable request on my part for material that I require in order for me to acquit my statutory functions has now transformed into a significant concern on my part about the willingness of the Scottish Ministers to assist me with my enquiries, in accordance with the provisions of the Code and the Act.”

My office was closed over the holiday period and I was first able to review the material submitted to me on my return in the new year. It was concerning to me to find that a high proportion of the material sent to me had been redacted and that many of my questions remained unanswered. I requested a meeting and subsequently met with officials on 17<sup>th</sup> January to discuss my concerns. I followed up with a table showing which material had been inappropriately redacted (this was not an FOI request and the exemptions the officials had apparently applied were not, as a consequence, appropriate) and which questions remained unanswered.

Further to additional correspondence with officials about the statutory functions of my office, I received a more helpful and fulsome response from officials in two tranches on the 2<sup>nd</sup> and



13<sup>th</sup> of February. This was supplemented with some additional key information that I received on 1<sup>st</sup> March, having made a request for it. Although I consider the material to remain incomplete, and although several questions remained unanswered, I have been provided with sufficient information to reach conclusions on the balance of probabilities.

My overall conclusion is that the Code was not complied with and that, as a consequence, several aspects of the Complainer's complaint have been upheld. I did not conclude that the non-compliance was material in nature, although I may well have reached a different conclusion if I had been assessing what occurred in this case against the principles and provisions of the 2022 version of the Code of Practice (see my conclusions under complaint part three).

I am also using this report to lay down a marker for the need for officials to cooperate fully with my investigations at the first time of asking. A failure to do so in future may, in and of itself, lead me to conclude that the Code has not been complied with in a material regard.

## **Recommendations**

These recommendations are in draft and remain subject to further consultation with the officials who would be required to implement them.

1. The public appointments complaints page should give a timescale in working days for stage 1 complaint investigations.
2. The Scottish Government should consider reviewing the framework agreement between the Scottish Ministers and the board such that it provides a timescale for the provision of completed reappointment pro-formas and skills matrices (or similar) to inform ministerial reappointment decisions in good time.
3. The Scottish Government should review its practices to ensure there is clarity on which parties should be responsible for communicating reappointment decisions in good time.
4. The team handling stage 2 investigations should receive guidance and training on handling complaints about public appointments.
5. The team handling stage 2 complaints should have sufficient resources to acquit its functions within its own published timescales.
6. The Commissioner and the PAT should discuss the commitment it made at the conclusion of handing its stage 1 complaint to revising its practices and what those may be. They should also discuss whether changes to the Code and guidance may be required, given my findings in this case.

**APPENDIX ONE**

**Relevant Principles and Provisions of the Codes of Practice and Guidance –  
(2013 Code)**

Principles

**“Merit**

*All public appointments must be made on merit. Only persons judged best able to meet the requirements of the post will be appointed.”*

**“Integrity**

*The appointments process must be open, fair and impartial. The integrity of the process must earn the trust and have the confidence of the public.”*

Provisions

*“A1 Fair, open and merit-based appointments are the responsibility of the Scottish Ministers who will...*

- i. have in place an effective system for handling, and recording details of, all complaints about the appointment process”*
- ii. provide the Commissioner timeously with whatever information the Commissioner reasonably requires to perform the statutory functions set out in the Act.*

*“A2 The Scottish Ministers are responsible for succession planning to ensure boards have the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively. They will determine the period for which an appointment, reappointment or extension to an appointment term is to be made based on the needs of the body concerned.”*

*“A3 The Scottish Ministers will consider whether the needs of a board will most effectively be met by an appointment, reappointment or extension to an appointment term. They will balance the continuity provided by reappointment and term extensions with the opportunity to increase the diverse range of relevant skills, knowledge and experience on a board by making a new appointment through open competition.”*

*“F1. The Scottish Ministers may reappoint a board member to the same position or extend a member’s appointment term provided –*

- (i) the member’s performance has been properly appraised as being effective during the current term.”*

Statutory Guidance

*11.4 For reappointments, the Ministerial decision to reappoint should be made and communicated to the board member or chair concerned no later than 13 weeks before the reappointment is due to end.”*

## APPENDIX TWO – REAPPOINTMENT PRO-FORMA

### FURTHER TERM OF APPOINTMENT

#### Purpose

1. This form provides assurance to the Scottish Ministers that any considerations made in respect of succession planning is supported by robust evidence.

#### Background

2. The needs of the Board in delivering services are key to this process and will be the driver for the consideration of whether these needs will most effectively be met by offering a further term to the individual(s) in question, or by making a new appointment.

3. It is important to remember that there should be no presumption of additional terms of appointment. Given the strategic role of Boards and the long term strategic planning that underpins their work, requests for further appointment terms must be related to the Board's long term plans and should illustrate why this is considered to be the most appropriate course of action. This pro-forma should be submitted to the Public Appointments Team **at least 8-10 months** in advance of the individual's term coming to an end. This is to provide sufficient time, if appropriate, to carry out a recruitment campaign, or to fill the positions through an appointment round that is already being planned, should Scottish Ministers decide against offering a further term of appointment.

#### Evidence

4. Any decision on proposing further terms of appointment for current members will be based on evidence:

- that the member's total period of appointment will not exceed 8 years
- of effective performance during the current term
- that the skills, knowledge and experience of that member will be required for the new term of appointment

5. Any background documentation set out in this form can be requested by Scottish Ministers. The Commissioner for Ethical Standards in Public Life in Scotland may also review the material supporting a proposal to offer a further term of appointment.

#### Process

6. Overview of process:

Step 1

The Public Appointments Team will initially contact the Public Body/Sponsor Team at least 10-12 months before appointment term expires, or earlier to allow succession planning where other appointment rounds are being planned, to provide appropriate paperwork and seek confirmation on whether a further term is being proposed or new appointment is required

- Step 2 Public Body/Sponsor Team will provide the Public Appointments Team with a completed pro-forma 8-10 months, or earlier, before appointment term is due to expire. The Public Appointments Team will work with Public Body to ensure the Supporting Statement provides all the necessary information
- Step 3 The Public Appointments Team assess and quality assure pro-forma
- Step 4 The Public Appointments Team issue submission to Minister.
- Step 5 Minister advises if further term of appointment/new appointment is approved
- Step 6 Commissioner’s office may audit the evidence in support of reappointments. The Public Appointments Team involved in audit.

**FURTHER TERM OF APPOINTMENT**

**Consideration of whether needs of Board will most effectively be met by offering a further term to the individual(s) in question, or by making a new appointment**

- 1. Name of Public Body: .....
- 2. Name and position of individual under consideration:  
.....
- 3. Please indicate below whether you are recommending a further term of appointment or new appointment in relation to this individual’s position on the Board

**Further term of appointment/New appointment**

4. Please set out below a summary of your considerations in reaching your decision on the recommendation being proposed. This should include such detail as what steps you have taken to assess that the needs of the Board will be most effectively met by either offering a further term to the individual(s) in question, or by making a new appointment; the upcoming challenges and priorities for the Board; the skills, knowledge and experience that will be required to meet these; as well as your considerations on balancing the continuity provided by the member serving a further term with the opportunity to increase diversity around the Board table.

**FURTHER TERM OF APPOINTMENT**

**ONLY COMPLETE 1-6 OF THIS FORM IF A FURTHER TERM OF APPOINTMENT IS BEING PROPOSED**

**Previous service and period of further appointment term being proposed**

1. Period of previous appointments on board, include initial start date and current end date  
From: \_\_\_\_\_ To: \_\_\_\_\_

2. Planned period of further appointment term being proposed  
From: \_\_\_\_\_ To: \_\_\_\_\_

3. Will the planned period of this further appointment term take the individual's total period of appointment in excess of eight years? **Yes/No**

**Performance**

4a. Has this individual performed effectively during their current term? **Yes/No**

4b. Are copies of the appraisals carried out on this individual or other evidence of effective performance available? **Yes/No**

If the evidence of performance is not in the form of appraisal records, please set out the nature of that evidence here:

**FURTHER TERM OF APPOINTMENT**

**Skills and Experience**

5a. Using the Board's Delivery Plan, your assessment of governance structures and supporting documents (such as skills matrix, role descriptions; person specifications; and performance appraisals), are you satisfied that proposing this member for a further term of appointment is the most suitable way of meeting the Board's needs? **Yes/No**

5b. Are you satisfied that the skill mix of the individual provides the Board with the necessary expertise required for the new term of appointment? **Yes/No**

**Supporting Statement**

6. Use this box to set out, in summary, your reasons for supporting this member’s further term of appointment; making explicit the linkages that exist between the challenges and priorities that will be facing the Board, as set out in the Board’s Delivery Plan, the individual’s skill mix, and how this meets the particular needs of the Board for the further appointment period proposed. You should also indicate why the proposed length of this further appointment term is necessary, setting out the benefits it will bring to the board.

**FURTHER TERM OF APPOINTMENT**

You should ensure that you have fully considered the documentary evidence to support this member’s proposed further term of appointment.

Please note that this completed form will represent evidence that the Scottish Ministers appointment decisions are appropriate. It and other material referred to in the form may be passed to the Commissioner for Ethical Standards in Public Life in Scotland for scrutiny.

**Form completed by:** .....

**Date**

**Signed off [Name of PAT member of staff]:** .....

**Date**

**APPENDIX THREE – TIME TAKEN FOR COMPLAINT HANDLING**

Stage 1 – frontline resolution

<b>Date</b>	<b>Description</b>	<b>Time taken to go from item in row to item in the next row (in days)</b>
08/03/2023	Initial complaint letter sent	2
10/03/2023	Public Appointments Team (PAT) acknowledges receipt of complaint and checked if content with version of Code being applied	3
13/03/2023	C responds, seeking clarity on whether stage 1 or 2 applied	18
31/03/2023	PAT updates that complaint has been passed onto another member of the team for consideration and review. No acknowledgement to C's question.	4
04/04/2023	C seeking timeframes on response to complaint	2
06/04/2023	An official acks missed call from C, assured that complaint is being processed.	6
12/04/2023	C asking for response to complaint, highlighting 5 weeks since complaint lodged and past 20 days expected response time.	1
13/04/2023	PAT updated that response expected by 20th April	7
20/04/2023	PAT issued letter outlining findings of stage 1 complaint.	0
20/04/2023	C expressed disappointment at response; sought details on evidence used to investigate complaint.	0
20/04/2023	PAT states that the requested information cannot be disclosed; suggests lodging stage 2 complaint.	11
01/05/2023	C lodging stage 2 complaint.	
	<b>Total number of days from complaint being lodged to receipt of complaint response.</b>	<b>43</b>



**Total number of WORKING days from complaint being lodged to receipt of complaint response (minus bank holidays and weekends) 29**

Stage 2

<b>Date</b>	<b>Description</b>	<b>Time taken to go from item in row to item in the next row (in days)</b>
01/05/2023	Stage 2 complaint lodged	1
02/05/2023	PAT forwards complaint to the stage 2 complaints team.	0
02/05/2023	PAT confirms to C that complaint will be passed onto the complaints team.	16
18/05/2023	C seek clarity on whether complaints team should reach out, stating no response since 2/5/2023 email.	0
18/05/2023	An official reached out to complaints team re response to complainant	0
18/05/2023	Central enquiry unit (CEU) staff states acknowledgement not sent; asked if CEU should send one retrospectively.	0
18/05/2023	Complaint team confirmed to C that stage 2 complaint lodged; in process of identifying a complaints investigating officer (CIO).	4
22/05/2023	C ack email of 18th, expressed discontent re time taken to allocate an investigating officer.	14
05/06/2023	Complaint team update: Identified CIO to investigate; will contact C on return from A/L on 13/6/2023.	0
05/06/2023	C requests timescales for investigation & update on whether the investigation has already begun	2
07/06/2023	Complaint team: unable to advise on timing of response; suggest contact with CIO for response.	1
08/06/2023	CEU staff contacted CIO re complaint	12
20/06/2023	CIO sent draft statement of complaint to C.	1

<b>Date</b>	<b>Description</b>	<b>Time taken to go from item in row to item in the next row (in days)</b>
21/06/2023	C sent revised scoping of statement of complaint to CIO; clarify need to understand why some on CNPA board had been reappointed whilst others not.	15
06/07/2023	CIO update: extra week needed for investigation due to A/L patterns of the team	0
06/07/2023	C requests interim update on how complaint investigation is progressing.	0
06/07/2023	CIO suggest 11 July for update.	4
10/07/2023	C unavailable on 11 July.	2
12/07/2023	CIO suggest update soon, unavailable 14-17 July	0
12/07/2023	C suggests timings for 13 July.	6
18/07/2023	CIO email to C as summary for meeting on 13 July: good progress on parts 1 and 2 of complaint, delays expected for part 3 due to reviews of email between SG and CNPA. Confirm that final response will be issued in full when part 3 investigation complete. Hoping to give update on timeline for part 3 investigation end of week/ start of week after.	7
25/07/2023	C ack email, prompts for update on timeline (this email is sent Tuesday of week after 18/7/2023)	2
27/07/2023	CIO update: majority of material for part 3 complaint received, final response to complaint to be issued 9/8/2023	0
27/07/2023	C content with expected completion date; reiterate right to mention extended timescale involved in investigation, but would acknowledge CIO efforts to take complaint seriously.	13

<b>Date</b>	<b>Description</b>	<b>Time taken to go from item in row to item in the next row (in days)</b>
09/08/2023	CIO update: delay due to staffing pressures, investigation to complete next week	5
14/08/2023	C disappointed with further delay, expressing frustration re relevant departments' reluctance to cooperate with CIO for complaint investigation.	4
18/08/2023	CIO issued final response to stage 2 complaint.	12
30/08/2023	C to escalate complaint to stage 3 (ie ESC office); response to CIO's conclusions and emphasise failings found in elements across all 3 issues of the complaint, defending belief that all parts should be upheld.	
	<b>Total number of days from complaint lodged to receipt of complaint response.</b>	<b>109</b>
	<b>Total number of WORKING days from complaint lodge to receipt of complaint response (minus bank holidays and weekends).</b>	<b>76</b>