

Ethical Standards Commissioner

ANNUAL REPORT AND ACCOUNTS

2023/24

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PERFORMANCE REPORT

for the Commissioner for Ethical Standards in Public Life in Scotland known as the Ethical Standards Commissioner (ESC)

OVERVIEW

This section of the report provides a summary of our performance as well as outlining any significant activities undertaken during the year. It also describes the organisation's purpose and the key risks affecting it.

COMMISSIONER'S STATEMENT

This is the first annual report and accounts that I have published since my appointment as Commissioner. The year has been characterised by a period of relative stability and gradual improvement, with all areas of the office benefiting from and building on our now strong foundations and governance. At the end of the financial year I published my strategic plan for 2024 to 2028, following extensive consultation with a range of stakeholders. It is unashamedly ambitious about the further improvements that I and all of the staff have committed to making. These include:

- better, more meaningful and more accessible communications with the public and other stakeholders about our role
- improvements in the time taken to assess, investigate and report on the complaints submitted to us
- the further development of our governance, staff and systems to ensure that they fulfil their potential and secure greater levels of efficiency and achieve value for money
- contributing significantly to the maintenance of an effective ethical standards framework through supportive and constructive engagement with equivalent bodies both here and in other administrations.
- contributing through our regulation to a public appointments system that produces effective and diverse boards that are reflective of the communities that they serve.

We have also made a commitment to reporting publicly on the impact of our work.

It remains a privilege to have been appointed to this role and I, and everyone in the office, look forward to making the improvements to our work that the public has a right to expect during the course of my tenure.

Public appointments

The public appointments team is now fully staffed, following the recruitment and induction of a new Public Appointments Support Officer in July 2023. There did remain one Public Appointments Officer post to fill, which I decided should be filled by a contractor instead. That will be over a fixed term which will realise savings for the public purse in the medium to longer term. The contractor will be dedicated to refreshing Diversity Delivers, a strategy which will make recommendations about improving board diversity at a local, regional and national level.

The three public appointments staff and our team of 12 Public Appointments Advisers, consultants working to Service Level Agreements with us, continued to work alongside the Scottish Government during the year with the intention of improving on appointment practices. The 2022 Code of Practice for Ministerial Appointments, which was effective from October 2022, became fully embedded during 2023/24. We are now seeing those incremental changes and improvements in practices taking effect. This includes panel chairs taking on new responsibilities for activities such as providing reports on good practice to us and appointing ministers at the conclusion of appointment rounds. Due to our increased capacity in the appointments team, we have been able to re-establish:

- surveying applicants about their experiences of applying
- contacting panel chairs and body chairs for their views on PAA performance at the end of appointment rounds and
- contacting panel chairs and body chairs for their views on the difference that the successful appointee has made to the board at the end of 12 months and their contribution to the work of the board.

We have also been pulling all the strands of learning at the end of each round together to identify trends and develop good practice case studies.

The current demographic profile of Scotland's public body boards continues to be encouraging with boards increasingly reflective of the communities that they serve. I commend everyone involved for this achievement, including the Scottish Government's Public Appointments Team, as these positive changes would not have occurred without hard work and commitment.

On a less positive note, we had to conduct one examination of appointment practices during the year which resulted in a report of material non-compliance with the Code being made to the Scottish Parliament. This was the first such report since 2011.

We also received two complaints and conducted full investigations into both. The reports following both investigations have been published on our website. One of the complaints involved an allegation that the Scottish Ministers adopted an unwritten policy of progressing applicants who shared protected characteristics over those who did not. As a result of the complaint we conducted a full and detailed investigation involving 15 different appointment rounds; the most extensive in our office's history. It was reassuring to find that, following investigation, there was no evidence to support the allegation. All of those who were appointed were appointed on merit, not on the basis of a protected characteristic.

In the coming year we intend to continue to embed the revised Code through the provision of guidance, based on an analysis of all reports made to us about the appointment practices that are most effective.

MSP complaints

We investigate complaints about the conduct of MSPs. No MSP cases were admissible this year, meaning that we did not require to submit any reports on MSP conduct to the Scottish Parliament. This is heartening in comparison with the prior year, although it doesn't mean that we haven't had to conduct investigations in response to complaints, the majority of which are submitted by members of the public.

When we receive several complaints about the same or closely related issues, we combine these complaints together and assess and/or investigate them in what we describe as a single case. We report on both the number of complaints and cases to better reflect the actual volume of work in a given year. We take the same approach for complaints about councillors and board members (see below).

When we receive a complaint about an MSP, we assess it for admissibility; this is known as Stage 1. Where a complaint is admissible (i.e. accepted), it moves to Stage 2 which we term further investigation.

Details on the volumes of complaints and cases are included later in this report. In summary, we received double the number of complaints this year in comparison with 2022/23 (93 vs. 46) although it was just under a 40% increase in cases (43 vs. 31).

We deal with a wide range of differing complaints about the behaviour of MSPs such as the use of inappropriate language at events and the work of parliamentary committees. We have seen a decline this year in the number of complaints about conduct on social media, which tend not to be admissible because the MSPs are not engaged in their parliamentary duties. Many of the cases received this year related to complaints that MSPs were not engaging with their constituents. Such complaints are specifically excluded from our remit and are dealt with by the Presiding Officer of the Scottish Parliament.

Councillor and member complaints

During the 2023/24 financial year, the number of complaints received more than doubled compared to the previous financial year (344 vs. 156) and the number of cases was just under 70% higher (184 vs. 109). The Standards Team successfully completed a total of 141 cases, representing a 12% increase from the previous year. The higher completion rate was achieved despite a 29% rise in the number of active cases under consideration in 2023/24 compared to 2022/23. The expansion of the Standards Team during the course of the year, with the recruitment and induction of a new Hearings and Investigations Officer and two new Investigating Officers, has provided the much-needed additional capacity we required to begin to manage this increased demand.

Roughly 80% of complaints are received from members of the public, with the next most significant tranche of complainers being councillors and members, at approximately 17%, increasing their share from 10% in 2022/23. Councillors and members are complaining about each other's conduct more frequently.

The vast majority of complaint allegations continue to relate to disrespectful behaviour against council officers, members of the public and other councillors. Such allegations have been on the rise for the last five financial years, with this one being the highest yet, with approximately 55% of cases being related to disrespectful, discourteous or bullying and harassing conduct. Roughly a quarter of these relate to conduct online using social media.

All of this has led to increases in the number of reports submitted to the Standards Commission for Scotland and a concomitant rise in the number of hearings.

This year also brought significant positive changes and new ways of working that have strengthened our operations. For example:

- we have reinforced our existing triage process, shortening the time taken to respond to certain types of complaints
- all cases are now graded for complexity to help ensure that cases are distributed in an even way across the team and handled systematically as they progress to conclusion
- we have adopted more flexible reporting procedures for more straightforward cases
- we have increased the team's efficiency by expanding to a two-tier, standardised peer review process which also sees cases progress more quickly.

The advent of a target operating model, alongside the reinforced triage system, has given us more certainty around our capacity. We are now better equipped to model the effects of high or low demand on the time complaints will take to complete and the effect this may have on our ability to meet stakeholder expectations.

By the very nature of our work, which is demand-led, there will always likely be a queue of cases. However, we are committed to managing this workflow as efficiently and effectively as possible, without compromising on quality of output. Waiting times have improved, particularly at Stage 1 assessment, which are now 20% shorter than in the previous financial year. However, we acknowledge that a waiting period of around 4 months is still too long and will aim to reduce this further during 2024/25. Stage 2 investigation wait times remain similar to last year, despite a doubling of complaints and a 29% increase in active cases compared to 2022/23.

The new operating model and reinforced triage process will help us to continue to tackle waiting times and the raft of linked improvements described above will generate more capacity through more efficient ways of working. We will continue to be transparent about our performance by publishing full details of current waiting times on our website.

Much has been achieved in the past year but we recognise there is room to grow and build on this good work in order to deliver more value in the future. Details on how we intend to do so are included later in this report and in our strategic plan for 2024 to 2028.

Finance and governance

Total funding awarded for the year, including contingency funding, was £1,606,000 (2022/23: £1,228,000). Of the funds awarded £1,554,000 was drawn down (2022/23: £971,000). Including adjustments for accruals and prepayments, expenditure was £1,540,000 (2022/23: £1,014,000). The cash budget was underspent by £74,000 (2022/23: £133,000 underspend). Staff costs were under budget by £72,000. We submitted a bid for additional staff in May 2022, which was approved by the Scottish Parliamentary Corporate Body (SPCB) in October that year. When submitting the 2023/24 budget bid, we had anticipated having recruited to all of the additional posts by the beginning of April 2023. In the event, these staff members came on board throughout the 2023/24 year, reducing expenditure in this area. In addition, I decided not to make an appointment to one post as I considered that the work could be done by a contractor instead over a fixed term (see above under `public appointments`).

Savings of £15,000 in other areas were used to offset £13,000 of expenditure on rolling replacement of IT equipment, enhancements to the Case Management System as well as updating the operating system and making accessibility improvements to the website.

During the year we continued to operate in accordance with the [strategic plan for 2021-24](#) and our rolling [biennial business plan](#) covering all office functions. The business plan continues to also demonstrate progress against each of the external and internal auditors' recommendations. More detail on progress is included below and later in this report.

Our performance management systems continue to work well to ensure that section and staff action plans are all aligned to our business and strategic plans.

Our governance and associated transparency reporting are fully embedded and our external auditors had no recommendations for us in the prior year. We continue to publish the minutes of our mostly monthly Senior Management Team (SMT) on our website as well as the minutes from our Advisory Audit Board (AAB) meetings. All of these demonstrate that we are functioning effectively and transparently. We have benefited greatly from the AAB's advice and will be sorry to see the Chair departing in 2024. His replacement, who is currently the second AAB member, will doubtless continue to be an effective source of advice and guidance for us in the year ahead.

In order to provide assurance that our systems are robust, appropriate and appropriately implemented, we commissioned our internal auditors to conduct a range of reviews into our work this year as well as to review our progress against their previous recommendations. I am delighted to report that they assessed our systems of control as strong – the highest rating – in respect of workforce planning, data management (GDPR) and the follow up review on our governance, our investigations procedures and our risk management. The independent auditor's conclusions and assurance on our workforce planning exercise were particularly welcome, given that our accepted bid for increased resources was subject to considerable public scrutiny by a parliamentary committee. Our cyber security arrangements were assessed as substantial and we are now working to implement the one medium and one low recommendation that they had for us. On that front, we achieved Cyber Essentials Plus reaccreditation during the year.

Our work is also subject to oversight by the SPCB and a range of parliamentary committees, including the Finance and Public Administration Committee this year for the first time. It is conducting a strategic review into the officeholder landscape and we look forward to seeing it's report and conclusions. The SPCB, Local Government, Housing and Planning Committee and Standards, Procedures and Public Appointments Committee all provide robust scrutiny of and constructive challenge on the way in which we fulfil our functions, which continues to be helpful and welcome.

As with all other public sector organisations, we continue to have a range of risks and challenges to address. These include risks relating to our cyber resilience and public and stakeholder confidence in our work. We have plans in place to mitigate all of them, again as set out in our strategic plan for the next four years.

I am very grateful to each and every one of the staff in the office, and to the Senior Management Team in particular, for taking our work onto another level during the preceding

year. It wasn't straightforward to make the changes that we have, given the sharp increase in complaint volumes and the introduction of new staff members over the same period.

I am privileged to lead a team of talented and dedicated professionals who share the office's values and who see the need for and are committed to making further improvements to the way in which we fulfil our role. We know that day in and day out our work makes a difference to people's lives and we don't take that responsibility lightly.



Ian Bruce
Ethical Standards Commissioner

Date: 03 October 2024

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OUR PURPOSE

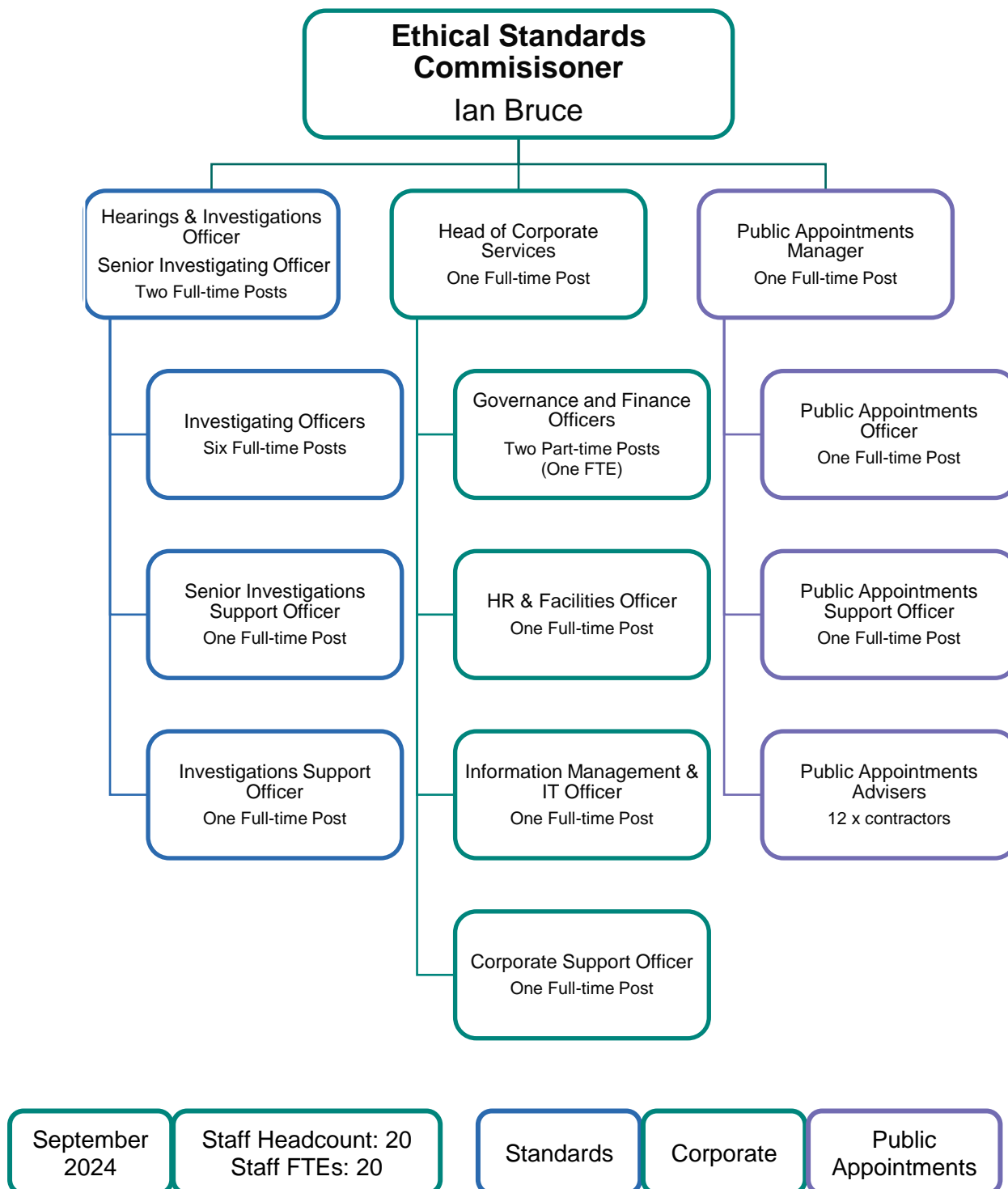
The Commissioner's primary functions are:

- to investigate complaints about the conduct of Members of the Scottish Parliament (MSPs), local authority councillors and board members of public bodies. Where the Commissioner considers that there has been a breach of the relevant Code of Conduct, they will report
 - in the case of councillors and members of public bodies, to the Standards Commission for Scotland (SCS)
 - in the case of MSPs, to the Scottish Parliament.
- to investigate complaints about lobbyists who have failed to register or provide certain information to the Scottish Parliament and, where there has been a contravention, to report to the Scottish Parliament.
- to regulate and monitor how people are appointed to the boards of public bodies in Scotland, and to promote diversity in that process. The key functions are:
 - to prepare, publish and, as necessary, revise a Code of Practice for Ministerial Appointments to Public Bodies in Scotland (the Code)
 - to issue guidance on the Code and to promote compliance with its provisions
 - to examine the methods and practices employed by the Scottish Ministers when making appointments
 - to report to the Scottish Parliament instances of material non-compliance with the Code of Practice; the Commissioner may direct the Minister to delay making the appointment until Parliament has considered the report, and
 - to ensure that, as far as possible, appointments are made fairly and openly and allow everyone, where reasonably practicable, the opportunity to be considered for an appointment.

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OUR STRUCTURE

Figure 1



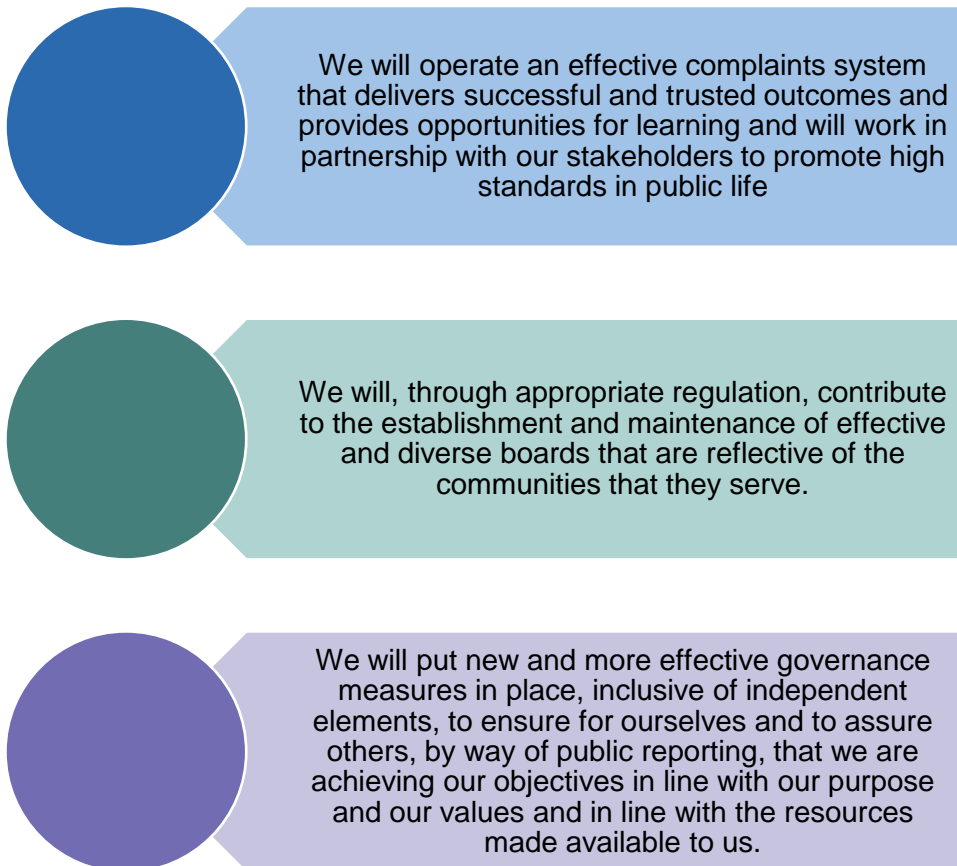
The Senior Investigating Officer (SIO) and Hearings and Investigations Officer (HIO) jointly manage and oversee the work of the Standards Team. Line management for the team is split equally between the SIO and HIO.

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OUR OBJECTIVES

Our strategic objectives during 2023/24 are drawn from the from [the Revised Strategic Plan 2021-2024](#) and summarised here:

Figure 2



Our strategic plans are supported by biennial business plans. These detail the actions we will take over a rolling two-year period to achieve our strategic objectives. The [Biennial Business Plan for 2023-2025](#) showing the year end position is available on our website.

A new four-year [Strategic Plan for the period April 2024 to March 2028](#) was launched on 1 April 2024. Both it and the current [Biennial Business Plan for 2024-2026](#) are available on our website.

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OUR PERFORMANCE

COMPLAINTS ABOUT CONDUCT

This year brought significant positive changes and new ways of working that have strengthened our operations, enabling us to enhance the efficiency of our existing processes, improve the team's resilience and investigate complaints in a shorter timeframe. However, we also recognise that there remains room to grow and improve year on year. Key highlights from 2023/24 are set out below.

Enhancing efficiency and resilience

We have reinforced our existing triage process so all complaints are proactively checked for admissibility, shortening the time taken to respond to certain types of complaints. We also introduced a new system of clarifying a complaint or capturing relevant information during triage, so that assessments can proceed faster when an Investigating Officer is allocated. All cases are now graded for complexity using a carefully considered traffic light system to help ensure that cases are distributed in an even way across the team and handled systematically as they progress to conclusion. We have worked with the Standards Commission's input for more flexible reporting, so there is less time taken to report on more straightforward cases. In addition, we have increased the team's efficiency by expanding to a two-tier, standardised peer review process. This ensures quality control and, by spreading peer review work across the team, also ensures there are no bottlenecks due to limited capacity for such reviews. This more efficient system of delegation also means that cases move through the process more quickly.

The advent of a target operating model, alongside the reinforced triage system, has given us more certainty around our capacity. We are now better equipped to model the effects of high or low demand on the time complaints will take to complete and the effect this may have on our ability to meet stakeholder expectations.

Case queue and wait times

By the very nature of how our workload presents, which is entirely demand-led, there will always likely be a queue of cases. However, we are committed to managing this workflow as efficiently and effectively as possible, without compromising on quality of output. Waiting times have improved, particularly at Stage 1 assessment, which are now 20% shorter than in the previous financial year. However, we acknowledge that a waiting period of around 4 months is still too long and will aim to reduce this further during 2024/25. Stage 2 investigation wait times remain similar to last year, despite a doubling of complaints and a 29% increase in active cases compared to 2022/23. The planned expansion of the Standards Team in early 2023/24 has provided the necessary capacity to manage this increased demand in future.

The new operating model and reinforced triage process will help us to continue to tackle waiting times and the raft of linked improvements described above will generate more capacity through more efficient ways of working. Waiting times are a particularly important indicator of system performance and, notwithstanding potential spikes in demand, we hope to limit the time taken to assess and investigate complaints as far as practicable. We will continue to be transparent about our performance by publishing full details of current waiting times on our website.

Quality assurance

We recognise that quality assurance arrangements are vital for maintaining high standards, fostering trust and ensuring that the complaint management process is effective and reliable. Our Investigations Manual, published in March 2023, continues to serve as a codification of our overarching complaint handling framework. It outlines our approach to handling complaints and reassures stakeholders that we maintain robust, transparent processes to ensure fair and trusted outcomes. It is updated every three months to respond to any feedback about our processes and to ensure it remains relevant and up to date, with each revised version being published on our website. The Manual is likely to be published in a revised web-format in the 2024/25 financial year with a view to improving its accessibility for all stakeholders.

Our expanded approach to peer review has also meant that reviewers assess the thoroughness and accuracy of any complaint assessment or proposed report. This ensures that the relevant evidence has been considered and the findings are supported by the facts. The effective introduction and operation of a Scheme of Delegation has also established clear guidelines and protocols for handling complaints and promoting consistency in our responses to them.

Standards Commission for Scotland Directions

One of three Directions issued by the Standards Commission for Scotland, pursuant to sections 10 and 11 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, expired in August 2023 and was not renewed. This Direction related to the admissibility or eligibility criteria for investigation. The Direction was not renewed further to our undertaking to integrate the substantive provisions within it, relating to admissibility, into the Investigations Manual. One of the two remaining Directions has also been rescinded by the Standards Commission, effective from 30 May 2024. That Direction related to updating all parties to an investigation on its progress every three months until its conclusion. This is also permanently integrated into the Manual and forms part of the office's standard operating procedure. As such, the only Direction that remains live relates to reporting on all investigations' outcomes to the Standards Commission. This Direction currently has an expiry date of 31 January 2025.

Training

The effectiveness of our team is key to making all this work. We have very consciously intensified efforts to train and develop all our staff as a consequence. Our goal is to enhance our knowledge and abilities both broadly and in specific areas, ensuring solid core skills as well as in-depth expertise in key areas such as the technical aspects of planning and licensing decisions. We have emphasised the importance of consistency in our training, seeking to manage all parties in a fair and reasonable way. Our organisational values are woven into our training and everything we do is rooted in our commitment to transparency, empathy, kindness, and respect.

Stakeholder Engagement

Looking outwards to stakeholders, we actively work to support the Commissioner and foster productive and helpful relations with key partners such as the Standards Commission, COSLA, SOLAR, professional bodies and other public bodies. Ongoing engagement is key to this, and we plan to expand our engagement in the next financial year so the views and

ideas of equivalent bodies and key stakeholders inform future ways of working and improvements.

Much has been achieved in the past year but there is room to grow and build on this good work in order to deliver more value in the future.

PUBLIC APPOINTMENTS

It has been a busy year for the Public Appointments section of the office. During the year we successfully recruited to the post of Public Appointments Support Officer, which means that the Public Appointments Team now consists of 3 full time staff. We also have a team of 12 consultants (Public Appointment Advisers – PAAs). Training has taken place through the year to ensure that everyone on the team is fully up to speed with what regulation of Public Appointments involves.

The 2022 Code of Practice, which was effective from October 2022, became fully embedded during 2023/24 and we have seen the changes that it introduced make a difference to practices. Embedding the Code has resulted in increased queries about compliance, which is to be expected, as selection panels become more familiar with the changes involved.

Following increased reports of individual incidences of good practice in the preceding two years, there were fewer this year. However, panel chairs are now required under the 2022 Code to provide a report at the conclusion of a round detailing the reasons for success or failure and setting out the extent to which it delivered or failed to deliver the desired outcome set by the appointing minister. We have been seeing increasing levels of candid reflection from panel chairs in these reports, including details of good practice employed during appointment rounds. We record provision of reports from panel chairs separately to individual reports of good practice, which may account in part for the drop in individual reports of good practice. Notwithstanding this, we continue to see good practice being deployed. For example, of the appointments made in 2023/24, 48% of these reported good practice during some, or several, stages of the round. These were not recorded as individual examples of good practice but are being analysed separately. The main areas of good practice identified within this time period are: using learning from previous rounds (45%); publicity methods (38%) and understanding of the community being advertised to (28%). We have been working on gathering information from all end of round learning (including the panel chair reports) and we are developing new webpages to showcase some of the areas of good practice that we have observed.

Due to our increased capacity in the appointments team, we have been able to re-establish:

- surveying applicants about their experiences of applying
- contacting panel chairs and body chairs for their views on PAA contribution at the end of appointment rounds and
- contacting panel chairs and body chairs for their views on the difference that the contribution of the successful appointee has made to the work of the board at the end of 12 months.

We have also been pulling all the strands of learning at the end of each round together to identify trends and have also started work on developing new good practice case studies.

Through the year we have seen almost full compliance by panel chairs in undertaking training in advance of taking part in an appointment round. During 2023, 51 panel chairs had responsibility for 64 2022 Code rounds. Not every round includes an Independent panel member (IPM) but, from these 64 appointment rounds, 23 IPMs were involved. All of these panel chairs and IPMs were trained on the appointments process and on diversity, equality and inclusion in the context of making public appointments. We had five reports of non-compliance relating to these appointment rounds in that panel chairs were not trained in advance of the early engagement meeting, but on each occasion the training was completed in time for the planning meeting.

Since the introduction of the 2022 Code and as at 31 March 2024, all but eight rounds have had a panel chair end of round report submitted detailing the reasons for success or failure of the round. Those not submitted were from some of the earliest rounds under the 2022 Code, when panel chairs may not have been as clear about their new responsibilities. Some of these late reports have been provided since 31 March 2024 and it is hoped that all outstanding reports will be submitted eventually. Overall, it has been positive to see panel chairs taking on the responsibility for appointments, undertaking the training and providing such candid and insightful reports which will only assist in learning for future appointment rounds.

On a less positive note, we had to conduct one examination of appointment practices during the year which resulted in a report of material non-compliance with the Code being made to the Scottish Parliament. This related to a round run under the 2013 Code of Practice (which was superseded by the 2022 Code for rounds commencing from October 2022). As a result of our findings, changes were made to the Statutory Guidance on application of the Code. The Scottish Ministers also introduced some practice changes as a result of our findings and recommendations.

We also received two complaints and conducted full investigations into both. The reports following both complaints have been published on our website. One of the complaints involved an allegation that the Scottish Ministers adopted an unwritten policy of progressing applicants who shared protected characteristics outlined in positive action statements in applicant packs, over those who did not. As a result of the complaint we conducted a full and detailed investigation involving 15 different appointment rounds. During this investigation we checked all information available (notes of all meetings, email exchanges between the panel, all paperwork for the round) for any signs of such a policy existing. We also convened two review panels, each consisting of a member of HR qualified staff and a PAA who reviewed the application form of each applicant who was interviewed in all 15 appointment rounds. It was reassuring to find that, following such a detailed and substantial investigation, there was no evidence to support the allegation.

The current demographic profile of Scotland's public body boards continues to be encouraging. We have seen increased reflection of those with a disability and minority ethnic background on boards over the last 2 years. The percentage of female board members has also remained steady. Where it is available, we have included information for the first time this year from Scotland's 2022 census data (the results for disability have not

been published at the time of writing). This shows that boards are still not fully reflective of the overall population for disability, minority ethnicity or age. When looking at the levels of applications and appointments, steady progress would appear to be being made for female, disabled, non-visible Minority Ethnic (ME) and Lesbian, Gay and Bisexual (LGB) applicants. Improvements in practices on a round-by-round basis should continue to see improvements in board diversity. A more strategic approach will be required though for significant change to take place.

It is a little concerning that less than half of those who apply who are visibly ME and just a little more than half of those who apply and are under the age of 50 then go on to be appointed. We will encourage the Scottish Government to reflect on why this is happening. The Scottish Government now record whether applicants have a trans history. Although the figures are low enough that we would not publish the exact values, in order to reduce risk of disclosure of information about individuals involved, the percentage of applicants and appointees was slightly higher than the overall population in Scotland according to the 2022 Census data, which suggests that 0.44% of the population have a trans history.

In the coming year we intend to continue to embed the revised Code through the provision of guidance. By gathering and analysing the end of round reports we intend to aid learning between and across appointment rounds. We will also be tendering to contract with an individual or organisation to work on the revised diversity strategy which will provide recommendations on how all regulated boards in Scotland can become still more reflective of the communities that they serve.

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KEY ISSUES AND RISKS

During the period, the Commissioner identified the following key risks for the office.

1. Complete disruption to our IT systems

Risk: Unable to carry out any functions due to impact of cyber-attack, national power outages or accidental damage resulting in loss of most or all records/ICT systems.

Mitigating Action: Maintaining and implementing a range of business continuity and information technology policies, staff training and external accreditation. Decentralising services and regular testing of backup systems.

2. Compliance with Standards Commission for Scotland (SCS) directions

Risk: Impacts on workload and resources through additional reporting, investigations and hearings due to adherence to SCS directions.

Mitigating Action: Ensure effective working relationship with SCS in place including regular, open communication. Monitor impact of directions to allow open reporting and ensure staffing levels are matched to meet our obligations for compliance.

3. Lengthy waiting times impact complainer confidence

Risk: Persistent lengthy waiting times for complaints leads to a loss of confidence in the office and reduction in volume of complaints. An increase in complaints about us diverts staff resources.

Mitigating Action: Ensure clear and accurate communications with complainers and with those involved in the complaints process. Maintain action plan to address waiting times and migrate to an ongoing, managed queue.

4. Worsening economic climate leads to reduction in funding

Risk: Scottish Government and Parliament reduce public sector expenditure directly impacting ESC's budget.

Mitigating Action: Maintain networks and horizon scanning to ensure changes in government direction are identified in good time. Identify areas where expenditure could be adjusted. Identify and implement changes to working methods to improve productivity. Ensure organisation is managed efficiently, effectively and economically. Introduce ways of measuring the impact of work and demonstrate the difference that we make. Explore shared services with officeholders and wider public sector.

5. Migration to cloud-based system (M365) fails or is significantly delayed or requires additional resources.

Risk: Migrating our systems and records to M365 diverts resources away from core functions either through preparation for the move or remedial work if the move fails.

Mitigating Action: Robust and deliverable project plan in place and effectively communicated to all staff. Ensure SMT and staff 'buy-in' to project. Project to proceed only when plan and full communications in place.

Further information about management of risks is given in the Governance Statement.

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GOING CONCERN ASSESSMENT

These accounts must be prepared in line with the UK Government's Financial Reporting Manual.

Management have assessed the appropriateness of the going concern basis of accounting, that is whether the organisation will continue to operate.

The functions of the Commissioner are set out in legislation passed by the Scottish Parliament. The Commissioner's office must continue to fulfil these functions unless the Scottish Parliament rescinds the legislation or transfers the functions to another body.

In common with similar public bodies, the future financing of the Commissioner's office will be met by funding approved annually by the Scottish Parliament. Funding for 2024/25 has already been awarded and there is no reason to believe that future approvals will not be forthcoming.

Accordingly, it is considered appropriate to adopt a going concern basis for the preparation of these financial accounts.

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PERFORMANCE ANALYSIS

COMPLAINTS ABOUT CONDUCT

COMPLAINTS ABOUT LOCAL AUTHORITY COUNCILLORS AND BOARD MEMBERS OF PUBLIC BODIES

COMPLAINT VOLUMES IN 2023/24

Exhibits 1 & 2 set out the volumes of both complaints and cases that the Standards Team handled during 2023/24. When we receive several complaints about the same or closely related issues, we combine these complaints together and assess and/or investigate them in what we describe as a single case. This consolidated approach ensures that similar complaints are addressed in a uniform manner, promoting fairness and consistency in the outcome. Reporting on both the number of complaints and cases also helps better reflect the actual volume of work in a given year.

During the 2023/24 financial year, the number of complaints received more than doubled compared to the previous financial year (Exhibit 1). The Standards Team successfully completed a total of 141 cases, representing a 12% increase from the previous year (Exhibit 2). The higher completion rate was achieved despite a 29% rise in the number of active cases under consideration in 2023/24 compared to 2022/23 (Exhibit 2). The planned expansion of the Standards Team in early 2023/24 has provided the necessary capacity to begin to manage this increased demand.

Exhibit 1 – Complaint volumes during 2023/24 and previous two years

	2023/24	2022/23	2021/22
Already open at 1 April (beginning of financial year) ¹	96	150	24
Received	344	156	330
Councillor	317	127	272
Board Member	27	29	58
Active during year	440	306	354
Completed	209	218	208
Cases remaining open at 31 March, (end of financial year)	231	88	146

1. There are minor differences in the carry forward totals from 2021/22 to 2022/23 and from 2022/23 to 2023/24. This is due to a small number of cases either being re-opened or additional complaints being added to existing cases.

Exhibit 2 – Case volumes during 2023/24 and previous two years

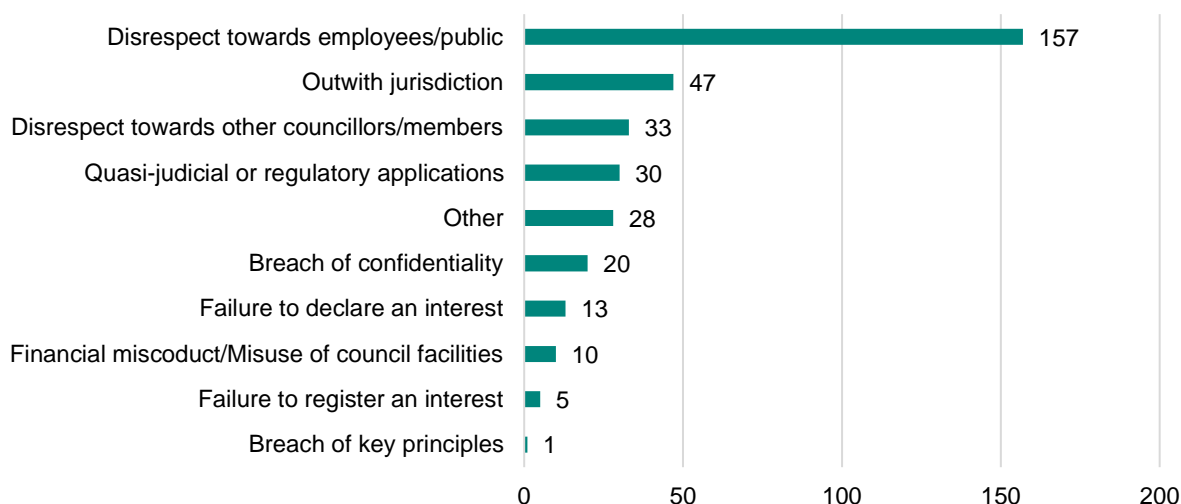
	2023/24	2022/23	2021/22
Already open at 1 April (beginning of financial year) ¹	67	86	8
Received	184	109	164
Councillor	172	94	143
Board Member	12	15	21
Active during year	251	195	172
Completed	141	127	88
Cases remaining open at 31 March, (end of financial year)	110	68	84

1. There are minor differences in the carry forward totals from 2021/22 to 2022/23 and from 2022/23 to 2023/24. This is due to a small number of cases either being re-opened or additional complaints being added to existing cases.

TYPES OF COMPLAINTS RECEIVED

Exhibit 3 details the types of complaints received during 2023/24, highlighting that disrespect towards employees and the public remained the most common complaint category, consistent with the previous years. Overall complaints related to disrespect towards employees, the public and councillors/members accounted for 55% of the total.

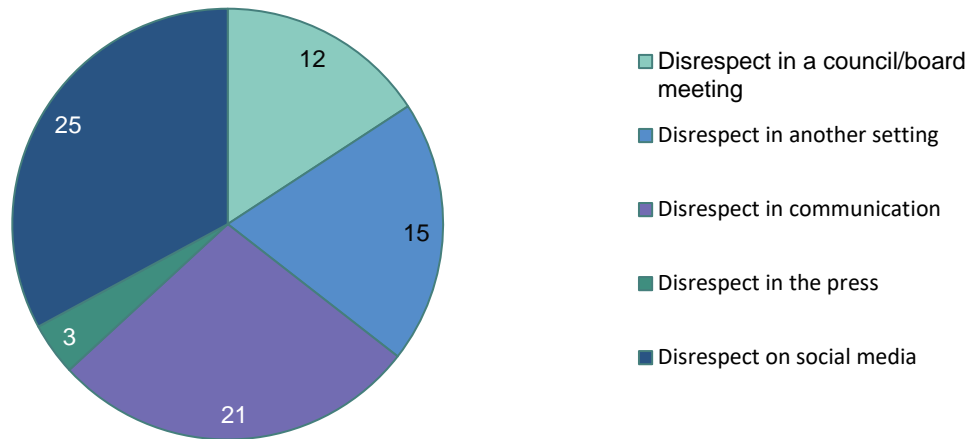
Exhibit 3 – Types of complaints received during 2023/24 (Total 344)



NOTE: Outwith jurisdiction complaints are complaints which are about conduct which, following assessment, does not fall within the remit of the Code. They are distinct from complaints which we cannot accept as they are outwith the jurisdiction of the Commissioner’s office, such as a complaint about a Councillor in England.

As detailed in Exhibit 3, we received a total of 190 complaints related to disrespect, which were consolidated into 76 cases. Exhibit 3b offers a deeper analysis of these cases, breaking down the instances of disrespect directed towards employees, the public and councillors/ members. While some complaints encompass multiple issues, they have been categorised by their key themes.

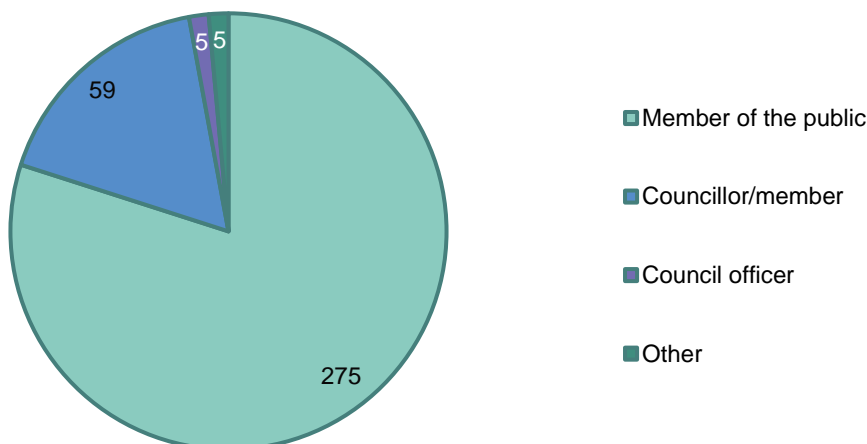
Exhibit 3b – Analysis of disrespect cases received in 2023/24 by key themes



SUBMISSION OF COMPLAINTS

Exhibit 4 details the sources of complaints received in 2023/24. Complaints from members of the public comprised 80% of the total, which is consistent with previous years. Complaints from councillors and members made up 17% of the total, increasing their 10% share from 2022/23.

Exhibit 4 – Individuals who submitted complaints during 2023/24



OUTCOMES FROM COMPLAINTS LODGED WITH US

The Standards Commission for Scotland (SCS) had previously issued three Directions to us pursuant to sections 10 and 11 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act). The Directions related variously to eligibility criteria for when a complaint requires to be accepted for investigation, issuing three-monthly updates to parties during investigations and reporting on all investigation outcomes to the SCS. Of these, the Direction on eligibility expired in August 2023 and was not renewed, on the basis that the eligibility criteria have become a permanent part of the Investigations Manual. The Direction on issuing three-monthly updates has been rescinded with effect from 30 May 2024 as, amongst other things, the SCS Members noted the office already had processes in place about updating parties and these were also written onto the face of the Manual. As a result, the remaining Direction on reporting remains in place, with a current expiry date of 31 January 2025.

Exhibits 5 and 6 set out the outcomes of the complaints and cases we received in 2023/24. Of the 209 complaints completed in 2023/24, 127 were assessed as ineligible and closed following initial assessment. This resulted in 76 complaints (amounting to 52 cases) proceeding to investigation and 6 complaints (amounting to 5 cases) being withdrawn. Of the 76 complaints investigated, we found a breach of the relevant code in 20 complaints (14 cases) and no breach in 56 complaints (38 cases). We report to the SCS on the outcomes of all cases investigated.

Exhibit 5 – Outcome from complaints completed in 2023/24 and previous two years

	2023/24		2022/23		2021/22	
Initial Assessment	127	61%	121	56%	125	60%
Full Investigation	76	36%	79	36%	75	36%
<i>Breach</i>	20	10%	17	8%	6	3%
<i>No Breach</i>	56	27%	62	28%	69	33%
Withdrawn	6	3%	18	8%	8	4%
Total completed	209		218		208	

Exhibit 6 – Outcome from cases completed in 2023/24 and previous two years

	2023/24		2022/23		2021/22	
Initial Assessment	84	59%	69	54%	56	64%
Full Investigation	52	37%	45	36%	26	29%
<i>Breach</i>	14	10%	9	7%	5	6%
<i>No Breach</i>	38	27%	36	28%	21	23%
Withdrawn	5	4%	13	10%	6	7%
Total completed	141		127		88	

CASE OUTCOMES

As set out in Exhibit 6, in 2023/24 we completed 141 cases and in 14 cases a breach of the relevant code was found. Exhibit 7 provides details of the outcome in the remaining 127 cases completed during the 2023/24. In total, 70% of these cases were closed at assessment stage, with the most common reason for this being due to *'no evidence or insufficient evidence being available to support the allegation'*, which is a term used by the internal case management system to show cases that, when assessed, do not match the eligibility criteria for acceptance to investigation.

Exhibit 7 – Case outcomes (other than a breach) during 2023/24

Categorisation of Complaint	No Breach	Not pursued further	Totals
Introduction/Key Principles		1	1
Outwith 12 months		7	7
Personal conduct/not acting as a Councillor		3	3
Insufficient/no evidence to support allegation	37	70	107
Not about a Councillor or Member		1	1
Withdrawn		5	5
Other	1	2	3
2023/24 Total	38	89	127

INTERIM REPORTS

The Commissioner has the power to issue an interim report to the SCS requesting that a Councillor or board member be suspended prior to the completion of an investigation. This may be required where the further conduct of an investigation is likely to be prejudiced if a suspension is not imposed or it is in the public interest to impose a suspension. The SCS can direct the Commissioner to submit such an interim report. On receiving the interim report, the SCS may suspend the Councillor or board member.

This step is reserved for the most serious complaints received, where the conduct complained of poses a risk of harm to others, including members of the public, other councillors or council staff, or has the potential to significantly undermine the ethical standards framework. The Commissioner did not issue any interim reports in 2023/24.

REPORTS REFERRED TO SCS

In 2023/24, a total of 52 cases were referred to SCS. The Commissioner found a breach in 14 cases, and a further 38 reports were referred where no breach was found (Exhibit 6). The outcome from these reports following referrals to SCS is set out in Exhibit 8 below. Where SCS directs further investigation, the Commissioner undertakes the further investigation requested and then refers the report back to SCS. SCS then decide whether to take no further action or to hold a Hearing.

The Commissioner may combine similar cases into one report or the SCS may combine similar reports into one hearing. Exhibit 8 shows the number of cases where a report was referred to the SCS but due to these reasons, the figures may differ from the actual number of hearings held by the SCS, which is laid out in Exhibit 9 below.

Exhibit 8 – Details of reports referred to SCS in 2023/24 and their outcome

Action taken by SCS	Breach report referred to SCS	No breach report referred to SCS
No further action taken by SCS	4	29
Hearing held by SCS	10	9
<i>Hearing held where SCS directed further investigation</i>		1
<i>Hearing held where SCS did not direct further investigation</i>		8
Total number of reports referred in each category	14	38

HEARINGS

Exhibit 9- Hearings held in 2023/24 and between April – June 2024, based on reports referred to SCS in 2022/23 and 2023/24.

Case number	Council/Public Body	Nature of Complaint	ESC Decision	Hearing Date	Hearing Decision	Sanction imposed
Reports referred in 2022/23 and hearing held in 2023/24						
LA/An/3690	Angus	Disrespect towards other Councillors	Breach	01/05/2023	No breach	Not found in breach
LA/H/3755	Highland	Quasi- Judicial or Regulatory Applications	No breach	23/05/2023	No breach	Not found in breach
LA/D/3745 ¹	Dundee City	Disrespect towards employees/public	Breach	06/06/2023	Breach	Censure
LA/S/3571	Stirling Council	Disrespect towards employees/public	Breach	21/06/2023	Breach	Suspension
LA/SL/3558(a)	South Lanarkshire	Confidentiality	Breach	27/06/2023	Breach	Suspension
LA/SL/3558(b)	South Lanarkshire	Confidentiality	Breach	30/08/2023	Breach	Censure
Reports referred and hearing held in 2023/24						
LA/D/3742 ¹	Dundee City	Disrespect towards employees/public	Breach	06/06/2023	Breach	Censure
LA/Fi/3614, 3587, 3606 and 3622	Fife	Disrespect towards employees/public	No breach	11/07/2023	Breach	Censure
LA/Mi/3803	Midlothian	Disrespect towards other Councillors	Breach	23/08/2023	No breach	Not found in breach
LA/NL/3705	North Lanarkshire	Confidentiality	No breach	29/09/2023	Breach	Censure
LA/E/3645	City of Edinburgh	Disrespect towards employees/public	Breach	09/10/2023	No breach	Not found in breach
LA/AS/3780	Aberdeenshire	Disrespect towards employees/public	Breach	30/10/2023	Breach	Censure
LA/WL/3790	West Lothian	Disrespect towards employees/public	No breach	30/11/2023	No breach	Not found in breach
LA/AC/3812	Aberdeen City	Disrespect towards other Councillors	No breach	17/01/2024	No breach	Not found in breach
LA/NA/3707	North Ayrshire	Quasi-Judicial or Regulatory Applications	Breach	26/01/2024	No breach	Not found in breach
LA/H/3759	Highland	Disrespect towards employees/public & Registration of Interests	Breach	06/02/2024	Breach	Suspension
LA/WL/3698	West Lothian	Disrespect towards other Councillors	No breach	16/02/2024	No breach	Not found in breach

Case number	Council/Public Body	Nature of Complaint	ESC Decision	Hearing Date	Hearing Decision	Sanction imposed
Report referred in 2023/24 and hearing held in 2024/25						
LA/H/3838	Highland	Disrespect towards other Councillors	No breach	02/04/2024	No Breach	Not found in breach
LA/I/3764	Inverclyde	Quasi-Judicial or Regulatory Applications	Breach	10/04/2024	Breach	Suspension
LA/SB/3722	Scottish Borders	Declaration of Interest	Breach	13/05/2024	Breach	Suspension
NPA/C/ 3831	Cairngorms National Park Authority	Disrespect towards other employees/ public & Declaration of Interest	Breach	27/05/2024	Breach	Censure
LA/As/3958	Aberdeenshire	Confidentiality & Use of Council Resources	Breach	05/06/2024	Breach	Suspension

¹These cases were reported to SCS in different financial years but were combined into one Hearing due to the similar nature of the complaints

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COMPLAINTS ABOUT MSPs

We investigate complaints about the conduct of MSPs. We adopt a similar approach to Councillor and Member complaints in that, when we receive several complaints about the same or closely related issues, we combine these complaints together and assess and/or investigate them in what we describe as a single case. This consolidated approach ensures that similar complaints are addressed in a uniform manner, promoting fairness and consistency in the outcome. Reporting on both the number of complaints and cases also helps better reflect the actual volume of work in a given year.

Upon receipt of a complaint about an MSP, the Commissioner assesses the admissibility of that complaint: this is known as Stage 1. Where a complaint is admissible (i.e. accepted), it moves to Stage 2 which we term further investigation.

Exhibits 10 and 11 set out the volumes of both complaints and cases that the Standards Team handled during 2023/24.

Exhibit 10 – Complaint volumes during 2023/24 and previous two years

	2023/24	2022/23	2021/22
Already open at 1 April (beginning of financial year)	5	526	739
Received	93	46	118
Active during year	98	572	857
Completed	71	567	97
Complaints remaining open at 31 March	27	5	760

NOTE: Towards the end of the 2020/21 financial year the Commissioner received a significant number of complaints relating to a similar issue. The majority of these complaints were grouped together into what we described as a “super complaint”. Following assessment of the “super complaint” during the 2022/23 financial year, we removed 234 complaints where complainers had failed to name the specific MSPs who they wished to complain about, despite being asked to clarify this in correspondence. As these details weren’t provided, we required to reduce the number of complaints recorded for the sake of transparency for reporting purposes. These complaints were all concluded during 2022/23.

Exhibit 11 – Case volumes during 2023/24 and previous two years

	2023/24	2022/23	2021/22
Already open at 1 April (beginning of financial year)			
Stage 1	3	19	14
Stage 2			1
Received	43	31	54
Active during year	46	50	69
Completed	37	47	50
Cases remaining open at 31 March, (end of financial year)			
Stage 1	9	3	19
Stage 2			

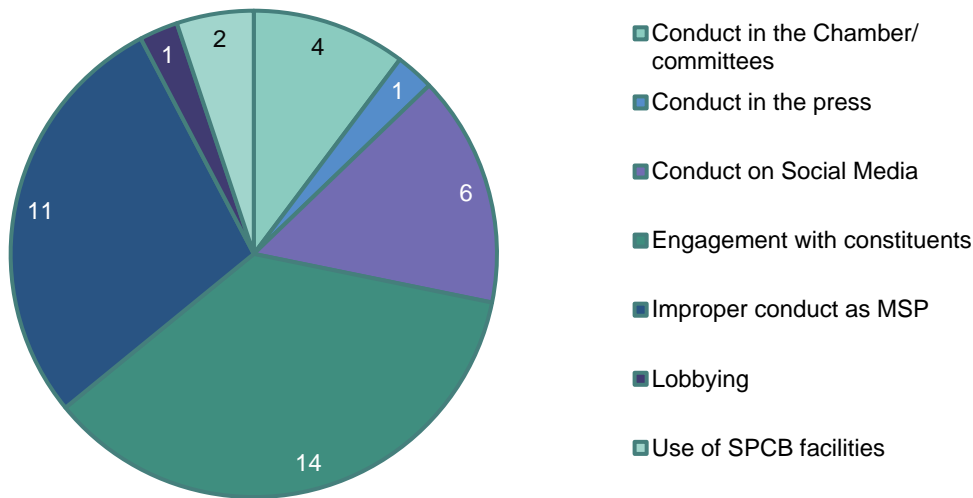
We deal with a wide range of differing complaints about the behaviour of MSPs, as set out in Exhibit 12. The category relating to other, covers all types of other complaints we received in the office covering for example the use of inappropriate language at events and the work of parliamentary committees. We have seen a decline this year in the number of complaints about conduct on Social Media.

Exhibit 12 – Types of complaints

Categorisation of Complaint	2023/24	2022/23	2021/22
Breach of confidentiality	1		11
Register/declaration of interest	2	1	3
Treatment of other MSP's/staff	1	1	6
Other	89	44	98
Total	93	46	118

As detailed in Exhibit 12, we received a total of 89 complaints categorised as “other” which were consolidated into 39 cases. Exhibit 12b provided a more detailed breakdown of those cases which have been categorised as ‘other’. These can often cover more than one topic but they have been grouped into their key themes.

Exhibit 12b- Breakdown of 'other' cases received in 2023/24 into key themes



When the Commissioner receives a complaint about the conduct of an MSP, we assess whether the complaint is 'admissible' pursuant to three statutory tests. If it does, we can accept the complaint for investigation. Exhibit 13 provides this information in more detail.

Exhibit 13 - Outcome of Complaints

Reasons for inadmissibility	2023/24	2022/23	2021/22
Dismissed under the first statutory test – the complaint was not “relevant” – for example, it did not concern the conduct of an MSP	70	76	93
Dismissed under the third statutory test – was the complaint of enough substance to justify further investigation – that is, was there sufficient evidence?	1	489	
Inadmissible	71	565	93
Admissible		2	2
Totals	71	567	95

Where a complaint is 'admissible' we investigate and report our findings to the Standards, Procedures and Public Appointments Committee of the Scottish Parliament. There were no such reports in 2023/24.

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OUR PERFORMANCE

LOCAL AUTHORITY COUNCILLORS AND BOARD MEMBERS OF A PUBLIC BODY

We currently collect high level information relating to the average number of days taken for both initial assessment (Stage 1) and investigation (Stage 2). In 2023/24, the average number of days taken for initial assessment was 140, while for investigation it was 191. Exhibit 15 sets out the information for 2023/24 and the three previous years.

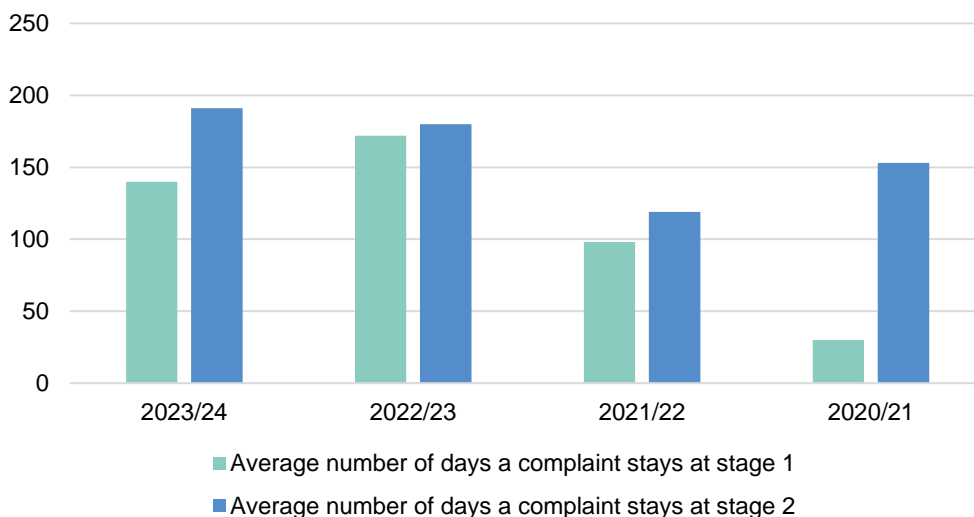
The average number of days taken at stage 1 has reduced from an average of 172 days in 2022/23 to 140 days in 2023/24. This is a 20% reduction in the average time taken compared to the previous year. This improved performance is due to the expanded range of triage interventions we have put in place and the part year effect of new colleagues joining the team. We aim to reduce this timescale further in 2024/25.

The average number of days taken at stage 2 is similar to last year, slightly up by 6%, with Respondent response times, time taken by Respondents to engage legal representation and eligible requests for extensions to reply to correspondence all adding to overall average times. Although these timescales have marginally increased this has happened within the context of increased workload for the entire team, with 29% more active cases in the year and a 12% increase in the number of cases completed compared to the previous financial year.

We also plan to collect and publish more detailed information on the extent to which we are meeting our target times for our initial assessment of complaints and for investigations. This information will be available on our website.

Work to reduce investigation times is ongoing and changes introduced to allow us to work more efficiently are now having an impact on the time taken to investigate. The situation is continually improving and the expansion of our team over the year will continue to reinforce this direction of travel, placing us in a more favourable position as we enter future years.

Exhibit 15 – Average number of days a complaint stays at stage 1 and 2 for local authority councillor and board member complaints



MSPs

There are two high level performance targets in place for MSP complaints as follows:

At Stage 1, the Commissioner is required to report to the Standards, Procedures and Public Appointments Committee, the Complainer and MSP who is the subject of the complaint, if the stage exceeds two months. Of the 37 cases that were assessed for admissibility in 2023/24, 4 cases took over two months.

At Stage 2, this same reporting arrangement as Stage 1 is required if this stage exceeds six months. No complaints proceeded to stage 2 in 2023/24.

As with Councillor and Member complaints, we will also collect and publish more detailed information on the extent to which we are meeting our target times for our initial assessment of complaints and for investigations. This information will be available on our website.

FORWARD LOOKING ASSESSMENT

During 2023/24, we received assurance from our internal auditors that the controls we have in place for our investigatory procedures are substantial and that we have fully implemented all the recommendations from 2022/23 relating to our investigatory processes.

Our future plans are all contained within our 4-year Strategic Plan that is underpinned by a detailed Action Plan for the Standards Team. This plan will help drive forward improvement over the next four years. It sets out a blueprint for a comprehensive Quality Assurance Framework to provide assurance around quality of outputs and drive forward service standards. Other elements of the Action Plan cover the new Target Operating Model and a commitment to re-establish a UK wide Ethical Standards Network.

We will maintain a focus on training and development across the team, ensuring staff are not only equipped to fulfil the requirements of the role, but also have expert knowledge across important functions in local government (such as planning and licensing) and in areas where we receive the largest number of complaints.

For those that come into contact with us, in whatever form, we want to improve the customer service experience through gathering feedback and acting on it or being able to signpost individuals quickly and efficiently to a more appropriate body, in cases where we cannot help them. During 2023/24 we rolled out a complaint survey to gather feedback on the customer service received by both complainers and responders. Due to the small sample size gathered this year, with only three surveys completed, we are unable to publish the results. We will seek to improve return rates during 2024/25 in order to provide this information in our next and subsequent annual reports. We will, in any case, continue to engage with our stakeholders, seeking opportunities to listen to their views and using this to inform our approach.

PERFORMANCE AGAINST OUR BUSINESS PLAN

The biennial business plan covering the period April 2023 to March 2025 included a range of actions to be completed by the investigations team. Progress is summarised below.

Figure 3

Investigations Team Actions for 2023/24	Achieved
Reintroduce previous KPIs and consult on these and other new ones to track progress of investigatory work.	✓
Put tracking measures in place and assess for efficacy/accuracy	✓
Report on progress internally against KPIs quarterly	✓
Report on progress against KPIs externally annually	●
Stay up to date with case and legislative developments in ethical standards framework across UK (then integrate as standing agenda item in IO meetings)	●
We will publish our procedures as revised so that everyone knows what to expect	✓
Maintain an up to date investigations manual	✓
Review and update the investigations manual on a regular basis to ensure it is fit for purpose and reflects our procedures	✓
Publish web page version of the Investigations Manual	✗
Rolling project to have information on our complaint handling work that's of interest and relevance to the public translated into BSL, Easy Read, video and other languages	●
We will highlight the need for the provision of support for complainers, respondents and witnesses in cases in which we are investigating complaints about bullying and harassment, including sexual harassment	✓
We will highlight sources of support available to stakeholders	✓
Identify sources of support in a centralised internal database	✓
Signpost support on templates	✓
Signpost support on ESC website	✓
Include a survey that both complainers and respondents can complete on an anonymous basis to give views on how we investigate complaints	✓
Design and roll out survey, updating relevant templates and contacting complainers and respondents from complaints closed from March 2023 onward	✓
Set baseline based on initial results	✗
Analyse, consider and plan how to integrate relevant feedback from survey	✗
Develop a communications strategy	✓
Implement actions arising from the Communications Strategy	●
Review contractual and practical arrangements for Case Management System (CMS)	✓
Further assess proposed amendments to existing CMS	✓

Investigations Team Actions for 2023/24	Achieved
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Review scheme of delegation to incorporate results of workforce planning	✓
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Induct all new staff into their roles	✓
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Induction new staff successfully completed	✓
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Prepare action plans for all activity for next two years based on biennial business plan – map staff/resources/available skillsets to all activities. Staff members and teams mapped to individual actions – ensure resilience/double cover as failsafe for staff departures and/or incapacity.	✓
--	---

✓ Achieved ● Partially achieved ✗ Not achieved

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COMPLAINTS ABOUT LOBBYISTS

The Commissioner can investigate complaints about a lobbyist who has not:

- a. registered with the Scottish Parliament
- b. provided accurate and complete information in their registration
- c. submitted a return detailing any lobbying undertaken
- d. supplied an accurate and complete response to a request by the Scottish Parliament for information about their lobbying.

WERE THERE ANY COMPLAINTS ABOUT LOBBYING?

During the year we received one complaint regarding a failure to register lobbying activity appropriately (2022/23: One, 2021/22: Nil). The complaint did not pass the statutory tests for admissibility and was therefore closed without proceeding to investigation and reporting.

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PUBLIC APPOINTMENTS

Improving diversity on the boards of public bodies

We have a statutory duty to use our powers with a view to ensuring that appointments are made fairly and openly and that as far as possible everyone has an opportunity to be considered. As part of our work in this area, the Commissioner agreed targets with the Scottish Ministers in the strategy document “Diversity Delivers” (published September 2008), intended to encourage applications from as wide a range of people as possible. The strategy also included a range of recommendations, agreed with the Scottish Government at the time, intended to improve on the diversity of Scotland’s boards. [Progress against the recommendations](#) is available on our website. The Commissioner has included a refresh and update of the diversity strategy in the [Strategic Plan 2024-2028](#) and plans are underway to tender for a contractor to project manage this work.

The following tables and graphs show the extent to which Scotland’s board members at the end of 2023 reflect the population of the country as a whole and how it has changed over time.

CURRENT DEMOGRAPHIC PROFILE OF SCOTLAND’S BOARDS

Figure 4

Target Group	Change in board membership profile	Profile of board members† at 31 December 2023	Profile of board members† at 31 December 2022	Scottish Population (2022 Census)	Scottish Population (2011 Census)
Female	-0.70%	50.56%	51.26%	51.41%	51.50%
Disabled	1.15%	10.95%	9.80%	Not yet published	19.60%
Black and minority ethnic††	0.14%	5.04%	4.90%	7.13%	4.00%
Aged 49 and under	-0.83%	18.50%	19.33%	49.00%	54.3%*
Lesbian, gay and bisexual	0.01%	5.33%	5.32%	4.04%	6.0%**

†All board members inclusive of the chair unless otherwise stated. Percentages do not include those who did not make a declaration.

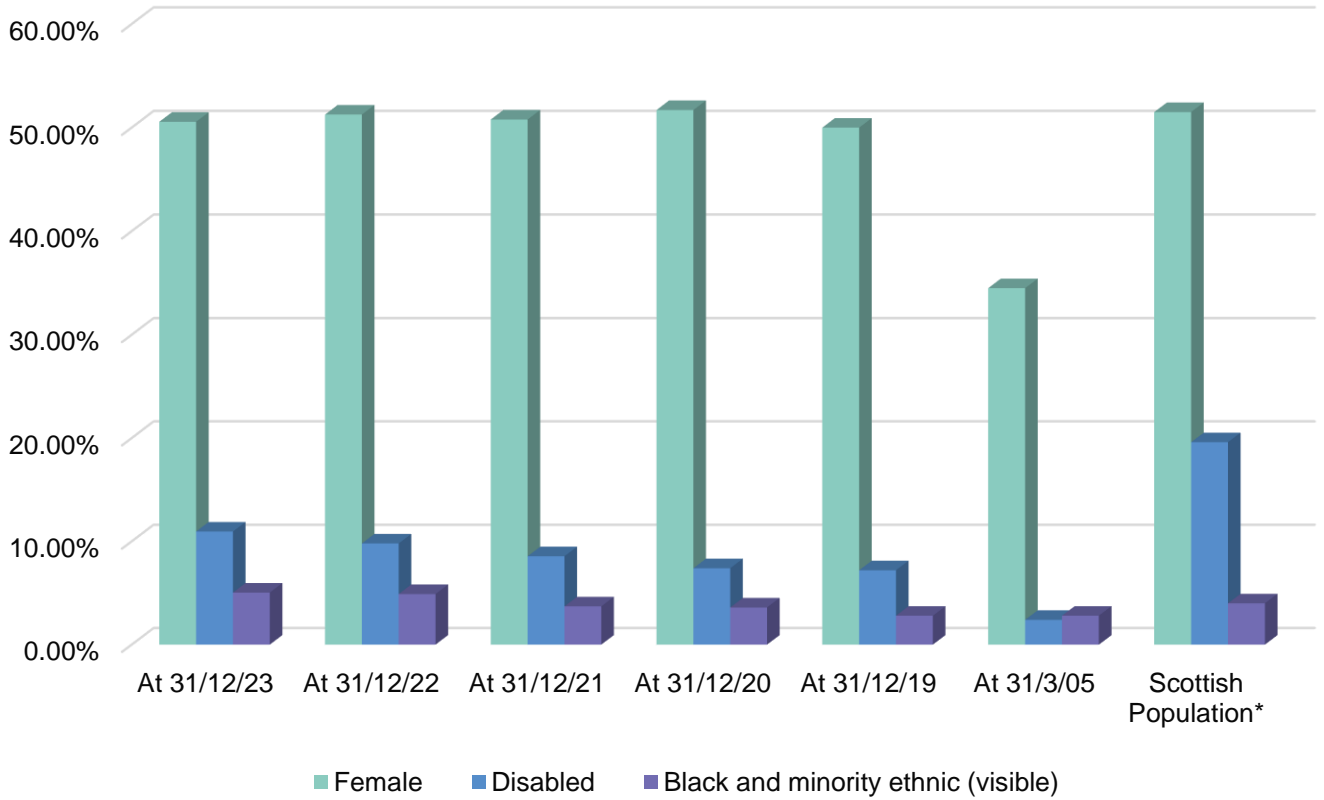
††Black and minority ethnic figures reflect people from a non-white minority ethnic background.

* Scottish Population aged 18 to 49 as a percentage of the whole population aged 18 and over.

** Estimated based on information from Stonewall Scotland website.

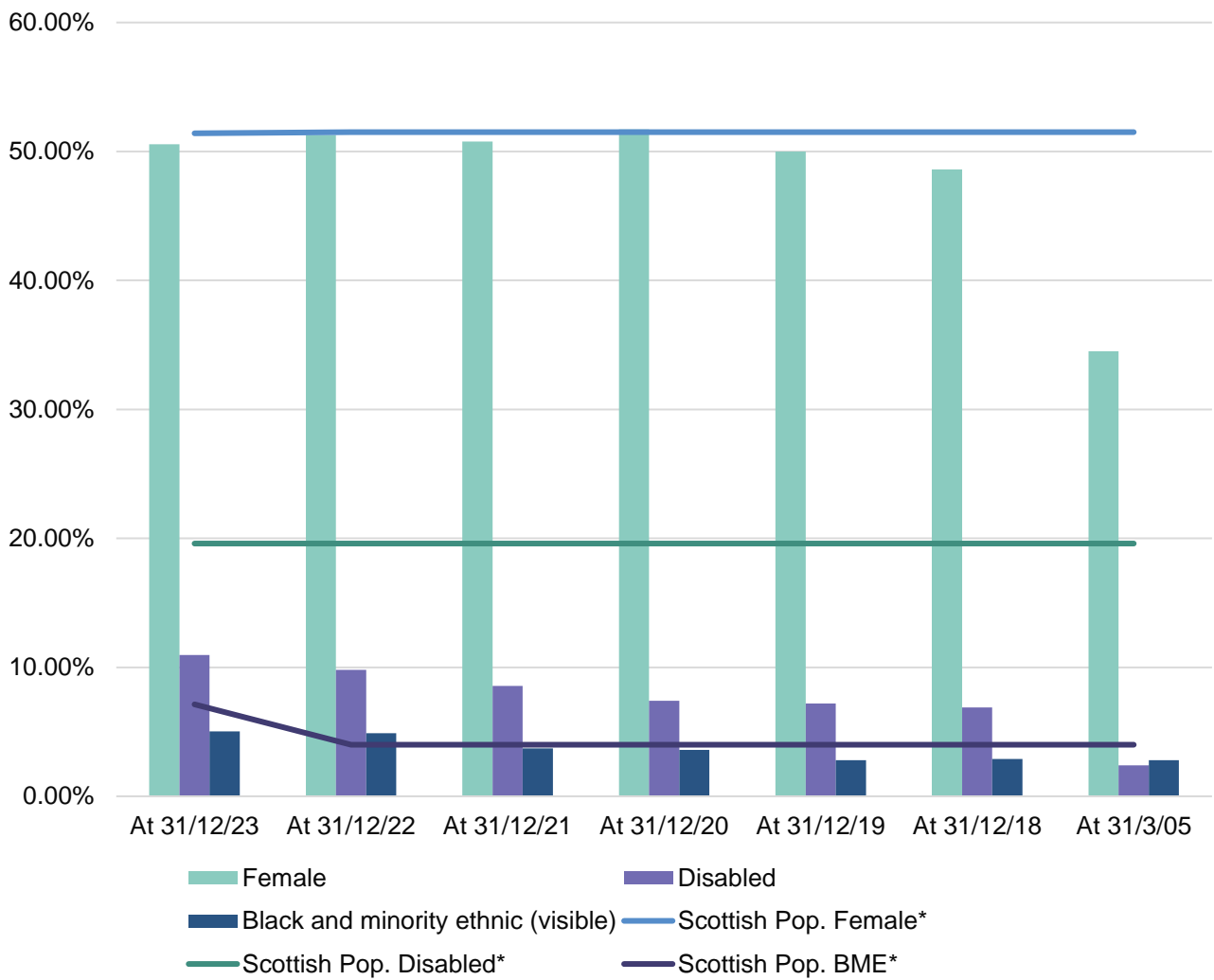
**HOW THE DEMOGRAPHIC PROFILE OF SCOTLAND'S BOARDS IS CHANGING
AS AT 31 DECEMBER**

Figure 5



* Scottish Population includes 2022 Census data for Female and ME and 2011 Census data for disability

Figure 6



* Scottish Population includes 2022 Census data for Female and ME and 2011 Census data for disability

SOCIO ECONOMIC INFORMATION

In previous years there has been interest in understanding some wider aspects of diversity and how these are reflected (or not) on Scotland’s public body boards. Household income and sector worked (or most recently worked) in were originally recorded and reported in this report. In December 2021, Scottish Government officials introduced a new system for tracking applicants. This was introduced for all Scottish Government recruitment and included Public Appointments. Standard monitoring questions were introduced for all applicants using the system and these did not include the previously asked bespoke questions about household income or sector worked in. Instead, from February 2023, the Scottish Government introduced a socio-economic background question to the diversity monitoring form; the style of the question is based on evidence from the [UK Social Mobility Commission](#) which suggests that if you are to ask one socio-economic background-related question, then parental occupation is the most effective one for determining status.

As this information is still very new in being collected, figures for the overall demographics of those on boards (only including those appointed from February 2023 who were prepared to answer the question) were too low to report this year. The situation should improve year on year as successful candidates continue to be asked the question and we will seek to report on this as soon as the numbers are significant enough to provide meaningful information. We have been able to access information about applications and appointments related to this question and have provided the limited available information here instead. This information relates to appointment rounds conducted in 2023.

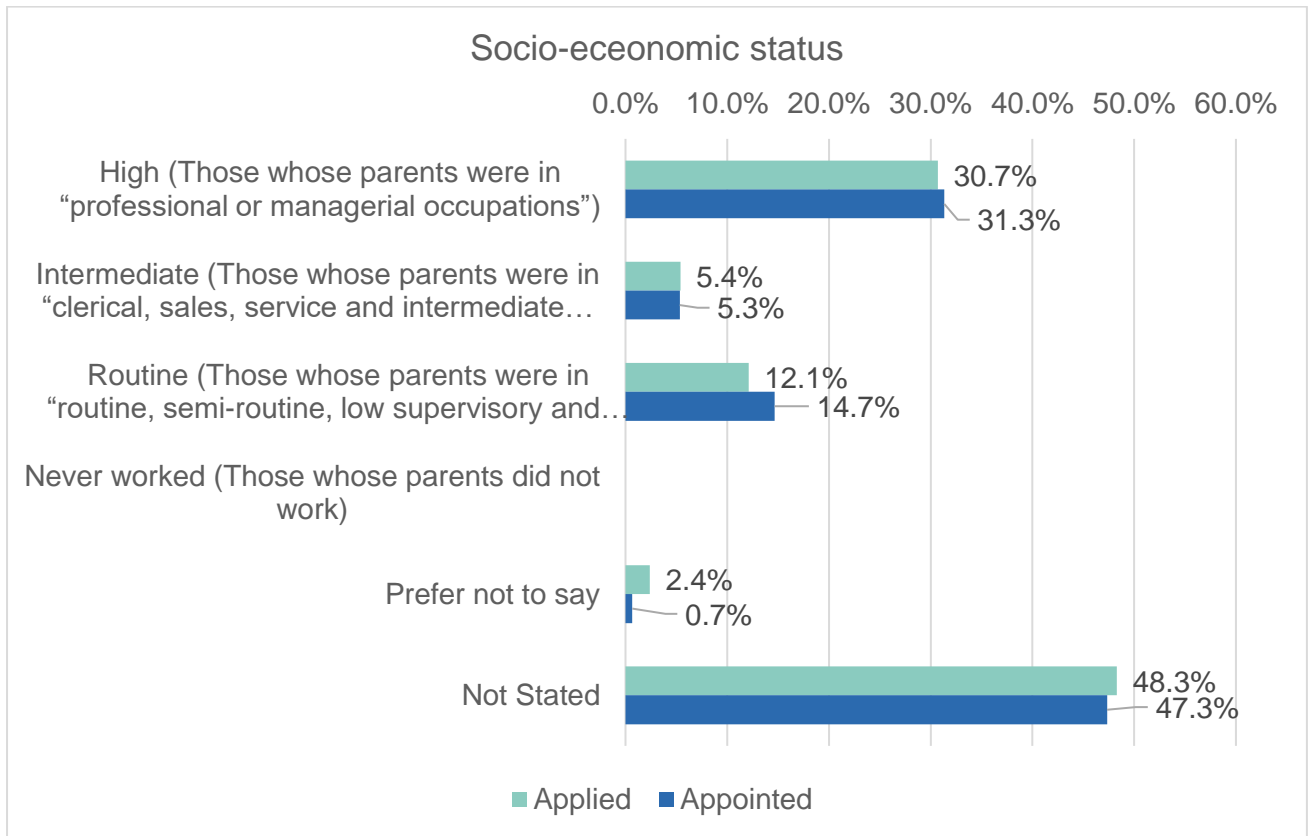
Figure 7

Socio-economic category	2023	
	●	●
	%	%
High Those whose parents were in “professional or managerial occupations	30.7	31.3
Intermediate Those whose parents were in “clerical, sales, service and intermediate technical occupations	5.4	5.3
Routine Those whose parents were in “routine, semi-routine, low supervisory and technical occupations	12.1	14.7
Never worked Those whose parents did not work	^	^
Prefer not to say	2.4	0.7
Not Stated	48.3	47.3
All	100	100

Key: Applications ● Appointed ●

^ Values for fewer than five have been suppressed to decrease the risk of disclosure of information about individuals.

Figure 8



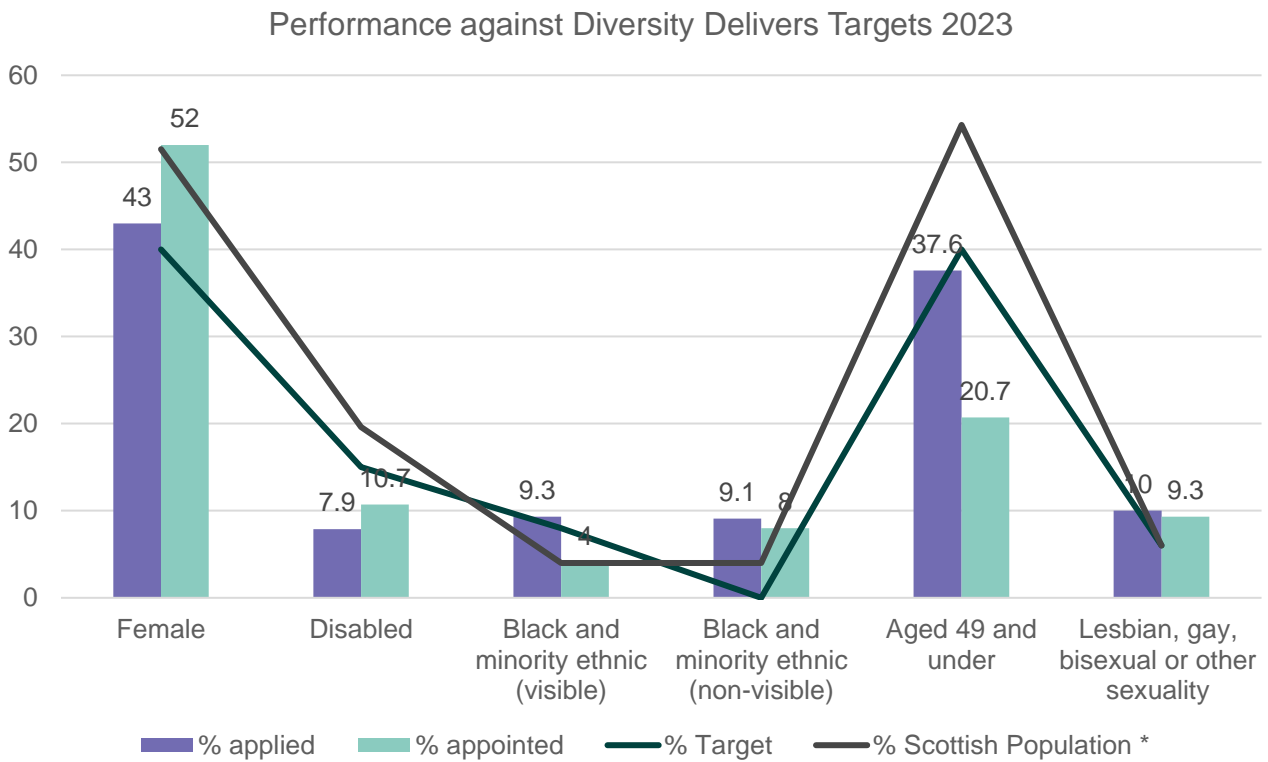
The question asked of applicants is "What was the occupation of your main household earner when you were about aged 14?" The high level of "not stated" responses has been attributed in part to the fact that the question did not begin to be asked until part way through the year.

Performance against Diversity Delivers Targets 2023

The following chart shows the percentage of applications and appointments in 2023 by each target group as set out in Diversity Delivers. This information is provided by the Scottish Government and relates to a calendar year.

PERFORMANCE AGAINST DIVERSITY DELIVERS TARGETS 2023

Figure 9



* Scottish Population includes 2022 Census data for Female and ME and 2011 Census data for disability

APPLICATIONS AND APPOINTMENTS BY TARGET GROUP

Figure 10

Target Group	Target	2023		2022		2021		2022 Scottish Population*	2011 Scottish Population*
	●	●	●	●	●	●			
	%	%	%	%	%	%			
Female	40	43	52	45.5	57.1	40.6	46	51.4	51.5
Disabled	15	7.9	10.7	10	5.7	13.8	14	Not yet published	19.6
Black and minority ethnic (visible)**	8	9.3	4	11.7	7.6	10.3	8	7.13	4
Black and minority ethnic (non-visible)	N/A	9.1	8	8.6	10.5	7.8	6.7	5.78	4.2
Aged 49 and under	40	40	20.7	47.7	37.1	30.7	27.3	49	54.3***
Lesbian, gay, bisexual or other sexuality	6	10.0	9.3	7.8	6.7	6.8	6	4.04	6.0****
Has a Trans status or history	N/A	^	^	^	0.0	0	0	0.44	N/A

Key: Applications (including incomplete) ● Appointed ●

^ Values for fewer than five have been suppressed to decrease the risk of disclosure of information about individuals.

* Unless otherwise stated, all population figures are extracted from 2011 census data

** The target for the BME population is inclusive of people from non-visible minority groups. Up until 2017 the figures reported on have related to visible minority applicants and appointees. From 2017 onwards, the figures have been provided for both visible and non-visible. For this latter category the monitoring form question responded to is "Other white" and includes those who selected "Irish", "Polish" or "Other white ethnic group".

*** Scottish population aged 18 to 49 as a percentage of whole population 18 and over

**** Estimated based on information from Stonewall Scotland website

Performance against our business plan

The Commissioner’s biennial business plan for 2023-2025 included actions intended to contribute to the achievement of our strategic objective relating to public appointments. Progress against the business plan is summarised in the following table:

Figure 11

Public Appointments		Milestones	Achieved
A1	We will assist with the implementation of the revised Code of Practice for appointments with a greater focus on outcomes, accountability and transparency and an emphasis on learning lessons	i. Have parts of Code that are of interest and relevance to the public translated into British Sign Language (BSL), Easy Read and other languages.	i ✓ (Some content has been translated into BSL and to Easy Read. We intend to consider new topics for translation on an annual basis from now on.)
A2	We will provide guidance and support to everyone engaged in the appointments process with a view to their implementing the new Code's provisions effectively.	i. Draft and publish statutory guidance ii. Run training and review training developed by Scottish Government (SG) for all relevant stakeholders on new Code's application iii. New Code comes into effect iv. Continual training and guidance developed to support revised Code	i ✓ (Published October 2022) ii ✓ (SG training reviewed July - October 2022. Joint training for Public Appointment Advisers (PAAs) and SG officials in August 2022) iii ✓ (Published 31 March 2022 and came into effect from October 2022) iv ✓ (guidance provided as required since Code came into effect from October 2022)
A3	We will report publicly on the difference that the new Code of Practice is making to the appointments process, for good or bad, with a view to improving on practices. We will do so by publicising instances of good practice or innovative practice and learning as well as areas for improvement	i Engage with the Scottish Parliament's subject committee about appointments practices with a view to making improvements and increasing transparency ii Agree suitable reporting arrangements iii. Following discussion, submit periodic reports iv. Publish good practice case studies on website. v. Continue to feed into lessons learned for the Scottish Government by seeking applicant and panel member views: • Run applicant surveys on a round by round basis and provide a feedback report, whenever a request to run a survey is made. • Survey panel chairs (and body chairs where appropriate) at the end of appointment rounds to seek their views on PAA performance and the Public Appointments process.	i ✓ ii ✗ (No suitable reporting arrangements were agreed) iii ✗ (End of round information has been analysed and is available if there is interest, but formal reporting arrangements were not agreed) iv ● (Good practice case studies are being planned and prepared – some snippets of good practice have been published.) v. ✓ (Applicant surveys have been run for all 2022 Code rounds completed) v. ✓ (The review process has re-commenced for all 2022 Code rounds)

Public Appointments		Milestones	Achieved
A4	We will seek support to revise and republish Diversity Delivers, to include new recommendations for the achievement of greater board diversity.	<ul style="list-style-type: none"> i. Consult informally from October 2023 ii Run formal consultation from June 2024 iii. Commence research into good practice and what the content of the revised strategy should include 	<ul style="list-style-type: none"> i X (This has been delayed but work is underway to tender for a contractor to project manage the work) ii X (This has been delayed but work is underway to tender for a contractor to project manage the work) iii. ● (some basic initial research has commenced)
✓ Achieved ● Partially achieved X Not achieved			

We publicly report progress against our Biennial Business Plan which can be found on the website. The most recent version is here: [Biennial Business Plan 2023-2025 - Progress as at 31 March 2024](#).

Monitoring and reporting

All information under this heading relates to the Commissioner’s statutory duties to monitor and report on appointment activity and to provide guidance on application of the Code.

The Commissioner’s remit extended to 770 posts on the boards of 100 public bodies at the year end. In the case of a proportion of these bodies, such as regional colleges, only the chair appointments are regulated. Additionally, some bodies are statutorily included in the Commissioner’s remit even though they are either abolished or no longer active.

HOW MANY BODIES AND POSITIONS DO WE REGULATE?

Figure 12

At 31 March	2024	2023	2022
No. of bodies regulated	100	100	99
No. of posts regulated	770	748	733
Avg. no. of regulated positions per board	7.7	7.5	7.4

A list of the regulated bodies is available at <https://www.ethicalstandards.org.uk/regulated-bodies>.

HOW MANY APPOINTMENTS DID WE OVERSEE?

Appointments are made through a process called an appointment round. During the financial year 2023/24, we were active in overseeing 86 appointment rounds.

Multiple appointments can be made through a single appointment round and the Scottish Ministers can run more than one round in a single year per public body. In certain circumstances we allocate a Public Appointments Adviser (PAA) to oversee all or part of the round. We report on these allocations rather than the number of appointment rounds as this better reflects our actual workload - not every allocation becomes an appointment round.

NUMBER OF ALLOCATIONS MADE

Figure 13

Allocations made	2023/24	2022/23	2021/22
Brought forward from previous year	24	54	52
Started in year	62	42	81
Active during year	86	96	133
Completed	62	72	79
Open at end of year	24	24	54

Presented by financial year rather than calendar year, as information obtained from ESC records rather than those of the Scottish Government.

NUMBER OF REAPPOINTMENTS AND EXTENSIONS DURING THE YEAR TO 31 DECEMBER

Figure 14

Number of	2023	2022	2021
Reappointments	97	129	111
Extensions	12	22	18

SATISFACTION WITH PAA CONTRIBUTION AND THE EXTENT TO WHICH PANEL CHAIRS FEEL ABLE TO SHAPE THE APPOINTMENTS PROCESS AND BODY CHAIRS FEEL ABLE TO CONTRIBUTE TO DISCUSSIONS AROUND SUCCESSION PLANNING AND INFLUENCE WHAT WAS SOUGHT

Under the 2022 Code the panel chair takes on specific responsibilities and represents the appointing minister. When seeking views on PAA performance we previously asked for feedback on the appointments process at the same time. As the panel chair is now responsible for the process, it was no longer appropriate to ask this question and we therefore now seek views about the extent to which they felt able to shape the process in their role as panel chair (1=not at all, 5=greatly). We also ask body chairs how able they felt to contribute to discussions on succession planning and to influence what was sought.

Figure 15

Average satisfaction level	2023/24	2022/23	2021/22
PAA’s contribution	4.55	4.51	4.67
Appointments process	N/A	3.91	4.15
The extent to which panel chairs feel able to shape the process	4.20		
The extent to which body chair feel able to influence discussions on succession planning	4.70		

Satisfaction levels are measured on a scale of 1 to 5 with 1 being very dissatisfied and 5 very satisfied.

The extent to which body chairs / panel chairs are able to influence are measured on a scale of 1 to 5 with 1 being not at all and 5 being greatly

Presented by financial year rather than calendar year as information obtained from ESC records rather than those of the Scottish Government.

Any comments or constructive suggestions made are acted upon by the Commissioner as appropriate.

Providing guidance

ENQUIRIES AND REPORTS ARISING FROM SCRUTINY

The following tables summarise substantive contacts with the ESC office during the reporting year. As this information is gathered by ESC, it is reported by financial year.

Figure 16

Issues raised	2023/24 (2013 Code)	2023/24 (2022 Code)	2022/23 (2013 Code)	2022/23 (2022 Code)	2021/22
Enquiry - Asked for advice on the Code of Practice	2	135	81	72	150
Enquiry - Asked for advice on good practice	-	20	15	19	32
Enquiry – Asked for exceptions to the Code, or term extensions or to discuss options not covered by the Code	3	53	20	10	39
Diversity research enquiry	-	-	-	-	-
Enquiry - General enquiry on the work of the office	-	19	7	6	10
Enquiries and Reports - Miscellaneous or “Other” enquiries or reports	4	116	85	73	206
Enquiry - Freedom of information requests	-	-	-	-	-
PAA End of Involvement report [1]	1	61	-	-	-
Panel chair end of round report [2]	-	53	-	-	-
Report a complaint about an appointment round	1	2	-	-	-
Report a concern about an appointment round or a failure in administration	1	53	40	24	71
Report about good practice	-	35	24	41	49
Report an update on round activity	4	92	65	45	41
Report about non-compliance with the Code of Practice	1	17	10	3	4
Totals		673	640		602

[1] PAAs have always provided reports at the conclusion of an appointment round, but the figures to date have not been provided.

[2] Panel chair end of round reports are new to the 2022 Code of Practice. Only 2 were provided in the 2022/23 year (due to the Code only recently being in place) and so had not been recorded formally in the 2022/23 annual report. They will be recorded from this point forward.

GUIDANCE ON APPLICATION OF THE CODE

The Commissioner's office provides Code interpretation guidance, primarily to officials and PAAs, on a very frequent, ad hoc basis. Where trends are identified, the Commissioner seeks to provide general guidance with a view to improving on practices and increasing understanding.

A number of pieces of guidance required to be issued during 2023/24:

The Statutory guidance was updated as a result of a finding of a material breach of the Code. This breach occurred as a result of the minister making a decision that there was an issue (in this case being a locally elected councillor) which precluded an individual from being appointed to the public body board. As this disqualification had not been made clear in the applicant information pack, a councillor applied in good faith and would otherwise have been appointed, had it not been that the minister decided to apply the disqualification during the final stage of selection. The statutory guidance has been updated to provide advice on such a situation and confirm that disqualifications should be considered and (where relevant) included in the applicant information pack, so that applicants can be clear about whether they want to apply or not.

Further recommendations were made as a result of two stage 3 complaints received and investigated by the office during the year. One of these investigations involved recommendations being made relating to good succession planning and reappointments. The other involved an investigation into 15 different appointment rounds where the complainant was concerned that an unwritten policy to progress applicants who shared protected characteristics as outlined in positive action statements in applicant information packs before other applicants (including them). This allegation was made based on the complainer reading the press releases issued at the end of appointment rounds. The complainer could not understand why the people appointed were more meritorious than they were. Although the investigation found that there was no such unwritten policy, it also concluded that the news releases could have provided a more accurate description of how the successful candidate had met the criteria for the role. We recommended that future news releases should more accurately reflect the requirements for the role set out in the application pack. The Scottish Government agreed to implement this recommendation.

Two overarching Code variation requests were made and granted – one to allow panels to make use of a guaranteed interview scheme and the other to request that panel membership (other than panel chair and body chair) could be changed before the planning meeting without reference to the Commissioner.

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CORPORATE AND FINANCIAL PERFORMANCE

Performance against our business plan

The biennial business plan covering the period April 2023 to March 2025 set a range of corporate and financial goals. Progress is summarised below.

Figure 17

Corporate Services Goals for 2023/24	Achieved
Recruit to additional posts	✓
Successfully induct new staff	✓
Prepare biennial business plan and action plans for each function cascaded to individual action plans.	✓
Ensure appropriate desk instructions for roles and functions are in place and up to date	●
Complete annual performance reviews and identify any training or personal development needs	✓
Develop a fully costed, training programme covering individual, functional and organisational training requirements	✓
Formally survey staff on a range of topics	✓
Ensure all staff aware of our values as an office	✓
Review and revise all outstanding policies that are currently beyond their published review date	✓
Collate existing policies and procedures to create a single Governance Framework	●
Review schemes of delegation	●
Revise our Standing Orders	✓
Prepare a Medium-term Financial Plan or equivalent	✓
Develop, consult on and publish a strategic plan for 2024 to 2028	✓
Review contractual arrangements and implement enhancements to the Case Management System	●
Regularly review website to ensure content is up to date	✓
Investigate tendering for IT Managed Service Provider	✓
Investigate tendering for website developer and hosting services	●
Investigate transfer to cloud-based server and records management and migrate main systems to M365 and Sharepoint	✓
Develop and implement project to ensure destruction of records in line with retention schedules by 2025.	●
Consult on, develop and implement revised office accommodation format	✓

✓ Achieved ● Partially achieved ✗ Not achieved

Further detail about the risks the organisation faced during the year is provided under the Key Risks and Issues heading of the Performance Overview section and in the Governance Statement.

Financial position

Background

The Commissioner is an independent office-holder and receives all of its funding directly from the Scottish Parliamentary Corporate Body (SPCB). The Commissioner operates against an annual cash-based budget that is reviewed by the SPCB and subsequently approved by the Scottish Parliament. The budget may also include access to contingency funding. The accounts are prepared on an accruals basis but the body is funded on a cash basis and management closely monitor financial performance on a cash basis.

Funding

The Scottish Parliamentary Corporate Body awarded a budget of £1,606,000 to the Commissioner for the financial year 2023/24 (2022/23: £1,143,000).

Following detailed assessment of our anticipated expenditure, the Commissioner surrendered £50,000 to the SPCB in February 2024.

Contingency funding was not required (2022/23: £85,000).

Total funding awarded for the year, including contingency funding was £1,556,000 (2022/23: £1,228,000). Of the funds awarded £1,554,000 was drawn down (2022/23: £971,000).

The Commissioner earned no income in 2023/24 (2022/23: Nil).

There was an £28,000 increase in cash during the year (2022/23: Decrease of £30,000). Cash held at the 31 March was £146,000 (2022/23 £118,000), reduced by current liabilities to £40,000 (2022/23: £32,000).

Expenditure

The accounts are prepared on an accruals basis meaning that expenses are recognised in the year in which they were incurred, rather than when the cash payment is made.

Including adjustments for accruals and prepayments, expenditure was £1,540,000 (2022/23: £1,014,000).

Expenditure against budget

Figure 18

Expenditure	Actual	Budget	Variance	
	£'000s	£'000s	£'000s	%
Staff costs	1,165	1,237	(72)	(6%)
Staff related costs	14	21	(7)	(33%)
Property	102	103	(1)	(1%)
Professional fees*	158	165	(7)	(4%)
Running costs	88	77	11	14%
Depreciation	13	-	13	-
Revenue expenditure	1,540	1,603	(63)	(4%)
Less depreciation	(13)		(13)	-
Capital expenditure	5	3	2	67%
Cash expenditure	1,532	1,606	(74)	(5%)

* Includes the costs of Public Appointments Advisers

Revenue expenditure is prepared on an accruals basis but the body is funded on a cash basis. The table above allows a comparison between the two.

The cash budget was underspent by £74,000 (2022/23: £133,000 underspend). An analysis of spend in key areas is given below.

Staff costs were under budget by £72,000.

- The Commissioner submitted a bid for additional staff in May 2022, which was approved by the SPCB in October that year. When submitting the 2023/24 budget bid, we had anticipated having recruited to all of the additional posts by the beginning of April 2023. In the event, these staff members came on board throughout the 2023/24 year, reducing expenditure in this area. In addition, the Commissioner has decided not to make an appointment to one post as he considered that the work could be done by a contractor instead over a fixed term which will realise savings for the public purse in the medium to longer term.

Savings of £15,000 in other areas were used to offset £13,000 of expenditure on:

- Rolling replacement of IT equipment, enhancements to the Case Management System as well as updating the operating system and making accessibility improvements to the website.

Depreciation fell to £13,000 this year (2022/23: £18,000), applying to a full refresh of IT hardware in October 2019, chairs for the office and remote working purchased in March 2023 and the rolling replacement of IT equipment.

A further breakdown of expenditure is given in note 6 to the financial statements.

[Payment of creditors](#)

The Commissioner has committed to the CBI Prompt Payment Code for the payment of bills for goods and services received. Payments are normally made as specified in the agreed contract conditions. Where there is no contractual position or other understanding, they are treated as requiring to be paid within 30 days of receipt of the goods or services. Payment performance for 2023/24 was 99.4% (2022/23: 99.7%).

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CORPORATE RESPONSIBILITY

Environmental matters

We recognise that our activities may have both positive and negative impacts in Scotland and further afield. The Commissioner operates a hybrid working system with staff primarily working remotely. The level of in person events, such as conferences, seminars and witness interviews remain much reduced. As a result, the level of commuting to and from the office and to external events remains low, reducing car mileage and road use. The use of electronic communications has completed the transition to a near 'paperless' office. Our policies and procedures have always encouraged the use of public transport wherever practicable and reduced reliance on paper copies and postage.

Social, community and human rights issues

The Code of Practice for Ministerial Appointments to Public Bodies adopted in October 2022 includes a principle of "Equality, Diversity and Inclusion" which requires appointment practices to be inclusive for people from all walks of life and backgrounds. The Code also includes a principle of Respect and associated provisions. These require applicants to be accorded the respect that they are due for their interest and their efforts and appointees for their contribution to public life. The ESC strategic plan for 2024-28 includes an objective to refresh "Diversity Delivers", a strategy intended to increase the diversity of Scotland's boards such that they better reflect the communities that they serve. The strategic plan also includes a commitment to making the office more accessible to a wider range of people; the plan itself has been published as an Easy Read version.

Our activities are intended to ensure high levels of ethical standards on the part of elected members and those appointed to public office by Ministers. We also work to ensure fairness, transparency and equality of opportunity in the appointment process. Our strategic plan for 2024-2026 includes a set of values that reflect our approach to our interactions with the public and our stakeholder organisations. We have made a public commitment to treat each individual who comes into contact with us with kindness, empathy and respect. The conclusions that we reach on whether councillors, board members or MSPs have breached the rules that are applicable to their conduct are always reached having taken cognisance of the provisions of the European Convention on Human Rights.

Authorisation



Ian Bruce
Accountable Officer

Date: 03 October 2024

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ACCOUNTABILITY REPORT

CORPORATE GOVERNANCE

COMMISSIONER'S REPORT

Officeholders

Ian Bruce was appointed as Commissioner and Accountable Officer from 1 March 2023 for a period of six years.

Senior Management Team (SMT)

The Commissioner leads a senior management team which oversees the operation and development of the office. During 2023/24, this comprised:

Name	Position
Ian Bruce	Ethical Standards Commissioner
Karen Elder	Head of Corporate Services
Angela Glen	Senior Investigating Officer
Melanie Stronach	Public Appointments Manager
Sarah Pollock	Hearings & Investigations Officer (from May 2023)

Register of interests

The Commissioner and members of the Senior Management Team (SMT) must declare any interests. No significant company directorships or other interests were held which may have conflicted with their management responsibilities and neither the Commissioner nor any member of the SMT had any other related party interests which conflicted with their responsibilities.

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STATEMENT OF ACCOUNTABLE OFFICER'S RESPONSIBILITIES

Under paragraph 22 of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 the Commissioner must prepare annual accounts for each financial year, in accordance with any directions given by the Scottish Ministers. The Scottish Ministers have directed the Commissioner to prepare accounts in the form and on the basis set out in the Accounts Direction (Appendix 1).

The annual accounts are prepared on an accruals basis and must give a true and fair view of state of affairs of the Ethical Standards Commissioner, its income and expenditure, statement of financial position, changes in taxpayers' equity and cash flows for the financial year.

The SPCB has appointed the Commissioner as Accountable Officer, with responsibility for preparing the accounts of the Ethical Standards Commissioner and for submitting them for audit.

In preparing the accounts, the Accountable Officer is required to comply with the Government Financial Reporting Manual (FReM) and has:

- observed the Accounts Direction issued by the Scottish Ministers, including the relevant accounting and disclosure requirements, and applied suitable accounting policies on a consistent basis
- made judgements and estimates on a reasonable basis
- stated whether applicable accounting standards, as set out in the FReM, have been followed; and disclosed and explained any material departures in the accounts
- prepared the accounts on a "going concern" basis; and

The Accountable Officer confirms that so far as he is aware, there is no relevant audit information of which the Commissioner's auditors are unaware and that he has taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to establish that the Commissioner's auditors are aware of that information.

The Accountable Officer confirms that this annual report and accounts taken as a whole is fair, balanced and understandable. The Accountable Officer takes personal responsibility for the annual report and accounts and the judgements required for determining that it is fair, balanced and understandable.

The full responsibilities of an Accountable Officer are set out in the [Memorandum to Accountable Officers of other Public Bodies](#).

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GOVERNANCE STATEMENT

As Accountable Officer, I have responsibility for maintaining a sound system of governance and internal control that supports the Ethical Standards Commissioner (ESC) to successfully achieve its objectives, policies and aims. I am also responsible for safeguarding the public funds and assets assigned to the organisation, in accordance with the responsibilities set out in the [Memorandum to Accountable Officers for Other Public Bodies](#).

BACKGROUND

The audit for 2020/21 identified serious issues regarding the operation of this office. These issues resulted in the Auditor General for Scotland concluding that a report under section 22 of the Public Finance and Accountability (Scotland) Act 2000 for both 2020/21 and 2021/22 was required. By 2022/23 standard governance and management arrangements had been fully reinstated, resulting in an unqualified audit opinion for that year and we have now entered a period of stability and ongoing improvement.

SYSTEM OF GOVERNANCE AND INTERNAL CONTROL

A system of governance and internal control should both ensure and demonstrate that an organisation is operating effectively, efficiently and economically. The ESC's system of governance consists of a number of elements.

It is my responsibility to ensure that the functions of the office are fulfilled.

I am supported by the Senior Management Team (SMT), which comprises the Public Appointments Manager, the Head of Corporate Services, the Senior Investigating Officer and the Hearings & Investigations Officer. During the year, the SMT met on 10 occasions to discuss operational and strategic matters. Its actions and decisions are recorded in minutes published on our website.

A Scheme of Delegation relating to the running of the office is in operation. Under the scheme, members of the SMT and individual staff members have delegated authority to make decisions on my behalf. It is available to all staff members and is published on our website. A review of this Scheme and that for Public Appointments are currently underway. The Scheme of Delegation for complaints handling was updated in 2023.

During the year, the office has been working to our Revised Strategic Plan for 2021 to 2024. Following extensive consultation, a Strategic Plan for the period 2024-2028 launched on 1 April 2024. These plans set out our purpose and strategic objectives as well as the values the ESC will work to.

We operate a biennial business plan. This sets out the actions we will take to achieve the organisation's strategic objectives. Biennial business plans and associated progress updates are available on our website.

Each function prepares action plans to support the biennial business plan. These outline the specific steps required to complete each action, capture key operational requirements and address recommendations arising from external and internal audit and risk assessment.

The ESC operates a set of standing orders. These describe the organisation's key operating requirements. An updated set of Standing Orders were approved by the SMT in March 2024.

Managing finances

The ESC is funded through the SPCB and, each year, submits an evidence-based budget bid for scrutiny and approval. The budget is based on the requirements of strategic and biennial business plans as well as projections of anticipated activity and prior year performance. The budget bid is scrutinised and approved by the SMT.

Performance against budget is analysed and reviewed on a monthly basis. Key issues are raised with the Head of Corporate Services and myself, as they occur and at SMT meetings. This allows any financial concerns to be promptly identified and resolved.

The Scheme of Delegation provides clear guidelines for the ESC's financial management and is supported by a set of financial instructions.

Managing staff

A performance management system fully underpinned by the Strategic Plan, biennial business plans and annual action plans is in operation. Staff members agree a series of specific objectives directly related to and designed to achieve the organisation-wide objectives outlined in these plans. As a result, staff objectives are aligned to business plans.

As well as the performance management system, the ESC maintains a number of staff policy documents. These reflect both statutory duties to staff, as well as terms and conditions and HR-related procedures. A full suite of updated HR policies, fully reflecting ESC's values, are regularly reviewed. Staff members are consulted on and informed about any revisions and also trained on their responsibilities. This ensures that staff members are fully aware of the rights and responsibilities they have.

The ESC maintains a register of interests. All staff members, members of the Advisory Audit Board and key contractors must complete a declaration of interests form. No significant company directorships or other interests were held which may have conflicted with their responsibilities.

The ESC operates a whistle-blowing policy. The Commissioner recognises that the underlying structure of the organisation, with power concentrated in a single individual, may make it difficult for staff to report concerns. The policy requires staff to first report internally but with the additional option of reporting issues directly to the Chair of the Advisory Audit Board (AAB).

The Commissioner has developed and published a set of core organisational values. These are incorporated into strategic and business plans and into all policy development. Staff members are actively encouraged to consider them when interacting with colleagues and stakeholders. Staff members are encouraged both formally through the performance management system and informally to build strong internal and external networks. The whole team meets on a monthly basis where organisational decisions, challenges and successes are shared. Organisational information and plans are widely shared and staff are encouraged to contribute to them.

Following the approval of our business case for an increased staff complement, work to recruit and induct these additional posts was undertaken throughout the year. The ESC now has a full staff complement, other than one vacancy which the Commissioner has decided not to fill in order to save public money in the medium to long term. The work to be completed by that post will instead be done by a contractor by way of a fixed term contract over the next one to two years.

Managing risk

We operate a full risk management system. The [Risk Management Policy](#) is available on our website. Its key principles are:

- ESC will foster a culture that embeds risk management into all aspects of its business.
- Risk management should be a key feature of corporate decision-making processes to ensure that the impact of policy decisions on risk is considered each time a strategic decision is taken or a policy is approved.
- Risk management should be embedded in strategic, financial and business planning.
- Risk management policies will be clearly communicated to all staff.
- All processes and procedures should be designed to take account of, manage, treat or tolerate risk and the impact of risk, in a manner that is proportionate and affordable.
- ESC will maintain, review and update the risk register regularly.
- ESC's risk management policy and procedures will operate without prejudice to the statutory functions of the Commissioner.

All staff members are encouraged to identify risks on an ongoing basis and at key points in the business cycle. These are documented in our risk register along with any mitigating actions. The risk register is reviewed on a quarterly basis by the SMT, at each AAB meeting and by internal audit.

The key risks to the organisation are detailed in the Key Issues and Risks section of this report. In summary, the most significant risks to the organisation were identified as being:

1. Complete disruption to our IT systems
2. Compliance with SCS directions
3. Lengthy waiting times impacts complainer confidence
4. Worsening economic climate leads to reduction in funding
5. Migration to cloud-based system (M365) fails or is significantly delayed or requires additional resources.

External scrutiny

Our AAB provides advice on governance and financial issues. Members of the AAB are drawn from the independent members of the SPCB's Advisory Audit Board. The AAB met formally on four occasions during 2023/24 and otherwise provided advice and support.

The ESC contracts for the services of an internal auditor. Work undertaken during the year comprised a review of our data protection, workforce planning and cyber security arrangements. The systems of control in respect of the first two was considered strong and in respect of the last it was given a rating of substantial.

External oversight of our work is provided by the Auditor General for Scotland, the SCS, the SPCB and Committees of the Scottish Parliament. Extensive work has been undertaken to build relationships with these bodies and a range of other stakeholders.

We actively seek further external oversight of our working arrangements. For example, we retained our Cyber Essentials Plus accreditation in August 2023.

FRAUD, BRIBERY AND CORRUPTION

The ESC requires all staff at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. I will not accept any level of fraud, bribery or corruption; consequently, any case will be thoroughly investigated and dealt with appropriately. The ESC is committed to ensuring that opportunities for fraud, bribery and corruption are reduced to the lowest possible level of risk.

The ESC's policies and procedures on fraud, corruption and bribery include the anti-fraud policy, code of conduct, terms and conditions for the supply of goods and services and broader financial governance arrangements.

The ESC's standard procedure is to declare any fraud, whistleblowing or control failure incidents to the AAB and this forms part of the annual assurance process.

In 2023/24 and 2022/23 there were no instances of fraud or bribery identified or detected.

INFORMATION SECURITY

Sound management of the information we hold is essential to our business.

The ESC operates a programme to maintain its Cyber Essentials Plus accreditation ensuring that cyber security arrangements are assessed externally. The ESC also subscribes to the National Cyber Security Centre's early warning systems which flags security gaps and potential threats.

During the year the ESC reported one minor data breach to the Information Commissioner (2022/23: One; no further action). The Information Commissioner decided no further action was required.

EFFECTIVENESS OF GOVERNANCE ARRANGEMENTS

The system of internal control is designed to manage rather than eliminate the risk of failure to implement policies and achieve aims, and objectives; therefore, it can only provide reasonable and not absolute assurance of effectiveness.

I am satisfied that an effective system of internal control for ensuring that finances are managed appropriately was in place during 2023/24. I am satisfied that overall an effective system for ensuring appropriate governance of the organisation was in place during the year.

Authorisation



Ian Bruce
Accountable Officer

Date: 03 October 2024

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REMUNERATION AND STAFF REPORTS

The sections marked (Audited) in this Remuneration and Staff Report are subject to external audit. The other sections of the Remuneration and Staff Report were reviewed by the external auditors to ensure they were consistent with the financial statements.

REMUNERATION REPORT

The Commissioner for Ethical Standards in Public Life in Scotland is appointed by the SPCB with the agreement of the Scottish Parliament. The Commissioner's remuneration is set by the SPCB.

Members of the Senior Management Team are employees. Their terms of employment are set by the Commissioner, are analogous with those of Scottish Parliamentary staff and, in line with the Scottish Parliamentary Commissions and Commissioners etc. Act 2010, are approved by the SPCB.

Single total figure of remuneration (Audited)

Figure 19

Remuneration	2023/24	2022/23
	£'000	£'000
Commissioner³		
Ian Bruce Acting Commissioner from 10 April 2021 to 28 February 2023 Commissioner from 1 March 2023		
Salary ¹	95-99	80-84
Pension benefits ²	193	22
Total	285-289	90-94
Head of Corporate Services⁴		
Karen Elder Accountable Officer from 10 April 2021 to 28 February 2023		
Salary ¹	60-64	65-69
Pension benefits ²	30	29
Total	90-94	95-99
Senior Investigating Officer		
Angela Glen		
Salary ¹	60-64	55-59
Pension benefits ²	24	22
Total	85-89	70-74
Public Appointments Manager		
Melanie Stronach		
Salary ¹	60-64	50-54
Pension benefits ²	18	21
Total	75-79	70-74

Remuneration	2023/24	2022/23
	£'000	£'000
Hearings and Investigations Officer⁵		
Sarah Pollock From 8 May 2023		
Salary ¹	45-49	-
Pension benefits ²	18	-
Total	65-69	-

Notes

1. Salary covers both pensionable and non-pensionable amounts. It includes gross salary and, if awarded, overtime, recruitment and retention allowances, taxable allowances and any ex-gratia payments. It does not include employer's national insurance or pension contributions.

The SPCB does not award performance pay or bonuses to office-holders, nor does the Commissioner operate a performance pay or bonus scheme for staff members. No benefits in kind were awarded to the Commissioner or members of the SMT.

2. The value of pension benefits accrued during the year is calculated as the real increase in pensions and applying the HMRC methodology multiplier of 20 plus the real increase in any lump sum. The real increases exclude increases due to inflation (6.7%) and are net of contributions made by the individual.

Pension benefit figures in 2023/24 are affected by the 'rollback' into legacy schemes for members affected by the 2015 Remedy. See note 2 under the Pension Benefits (Audited) table below for full details.

3. Ian Bruce fulfilled the role of Acting Commissioner until 28 February 2022 and was appointed as Commissioner as of 1 March 2023.

Salary for 2023/24 includes an element of backpay relating to the Acting Commissioner role due to a change in grading policy implemented in April but backdated to the prior financial year. Actual salary as Commissioner only in 2023/24 sits in the salary band £90 - £94k. This salary is used in Figures 21 and 24.

The salary details for 2022/23 reflect the full year equivalent salary and non-pensionable allowance for his role as Acting Commissioner rather than full year equivalent salary for his role as Commissioner, which would sit in the band £90k - £94k. Full details of 2022/23 salary arrangements can be found in the prior year annual report and accounts.

4. The Head of Corporate Services (and Accountable Officer until 28 February 2023) received a salary in the band £60-£64k and a non-pensionable allowance in the range £0k - £4k for undertaking their additional responsibilities in the year 2022/23. These allowances are included in the 2022/23 comparison figures in the table above.
5. The Hearing and Investigations Officer was appointed in May 2023. The salary and pension details above reflect the actual period of employment from May 2023 onwards. The full year equivalent salary is in the band £50k - £54k.

Pension benefits (Audited)

Figure 20

Pensions benefits	Accrued pension at pension age as at 31/03/2024	Real increase in pension at pension age	CETV at 31 March 2024	CETV at 31 March 2023	Real increase in CETV funded by the employer
	£'000s	£'000s	£'000s	£'000s	£'000s
Commissioner Ian Bruce	25 - 30	7.5 - 10	633	393	199
Head of Corporate Services Karen Elder	20 - 25	0 - 2.5	442	380	24
Senior Investigating Officer Angela Glen	5 - 10	0 - 2.5	60	40	11
Public Appointments Manager Melanie Stronach	5 - 10	0 - 2.5	121	95	11
Hearing and Investigation Officer Sarah Pollock From 8 May 2023	0 - 5	0 - 2.5	15	0	12

Notes

1. A CETV is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued because of their total membership of the scheme including any benefit transferred from another scheme and not just their service in a senior capacity to which the disclosure applies. The real increase in CETV reflects the increase in CETV effectively funded by the employer. It does not include the increase in accrued pension benefits due to inflation, contributions paid by the employee and uses common market valuation factors for the start and end of the period.
2. All the above are members of the Civil Service and Others Pension Scheme (CSOPS) and/or the Principal Civil Service Pension Scheme (PCSPS). Under these Schemes there is no automatic lump sum on retirement.
3. When the UK Government introduced new public service pension schemes in 2015, there were transitional arrangements which treated existing scheme members differently based on their age. Older members of the PCSPS remained in that scheme, rather than moving to alpha. In 2018, the Court of Appeal found that the transitional arrangements in the public service pension schemes unlawfully discriminated against younger members. As a result, steps are being taken to remedy those 2015 reforms, making the pension scheme provisions fair to all members. The public service pensions remedy is made up of two parts. The first part closed the PCSPS on 31 March 2022, with all active members becoming members of alpha from 1 April 2022.

The second part removes the age discrimination for the remedy period, between 1 April 2015 and 31 March 2022, by moving the membership of eligible members during this period back into the PCSPS on 1 October 2023. This is known as “rollback”.

For members who are in scope of the public service pension remedy, the calculation of their benefits for the purpose of calculating their Cash Equivalent Transfer Value and their single total figure of remuneration, as of 31 March 2023 and 31 March 2024, reflects the fact that membership between 1 April 2015 and 31 March 2022 has been rolled back into the PCSPS. Although members will in due course get an option to decide whether that period should count towards PCSPS or alpha benefits, the figures show the rolled back position i.e., PCSPS benefits for that period

Fair Pay Disclosure (Audited)

Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid director in their organisation, that being the Commissioner, and the lower quartile, median and upper quartile remuneration of the organisation’s workforce.

Total remuneration includes salary, non-consolidated performance related pay and benefits-in-kind. It does not include severance payments, employer pension contributions or the cash equivalent transfer value (CETV) of pensions. It is based on annualised, full-time equivalent remuneration as at the reporting period date.

Figure 21

As at 31 March	2023/24	2022/23
Remuneration banding for highest paid individual	£90,000 - £95,000	£90,000 - £95,000
Percentage change from previous financial year for highest paid individual	+3.93%	+18.4%
Average percentage change from previous financial year for employees	+0.3%	+9.1%
Lower quartile remuneration	£32,884	£32,884
Lower quartile ratio	2.8	2.8
Median remuneration	£42,000	£44,046
Median ratio	2.2	2.1
Upper quartile remuneration	£50,079	£50,079
Upper quartile ratio	1.8	1.8
Remuneration range	£25,000 - £90,000 to £95,000	£25,000 - £90,000 to £95,000

As explained under the remuneration report, ESC applies the SCPB grading structure and payscales to its own staff. There were significant changes to both in February 2023 but no further changes before the end of March 2024. There is therefore little variation in the year on year comparison between the snapshot dates of 31 March 2023 and 31 March 2024.

Minor variations can be attributed to:

- the number of employees at year end increasing by 36% or five staff members
- staff members, including the Commissioner, moving up through their payscales.

During the 2023/24 accounting period, the Commissioner maintained Living Wage Accreditation status. In addition, all employees hold permanent appointments which are open-ended until they retire. Early termination, other than through misconduct, would result in the individual receiving compensation.

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STAFF REPORT

Staff numbers

The number of full time equivalent (FTE) persons employed by the Commissioner at the end of the reporting year was as follows:

Figure 22

	2023/24 FTE	2022/23 FTE
Commissioner	1.0	1.0
Senior Management Team	4.0	3.0
Employees	14.0	10.0
Totals	19.0	14.0

The number of persons employed by the Commissioner at the end of the reporting year, disaggregated by sex, was as follows:

Figure 23

	2023/24		2022/23	
	Female	Male	Female	Male
Commissioner	-	1	-	1
Senior Management Team	4	-	3	-
Employees	12	3	9	2
Totals	16	4	12	3

As at the end of the reporting period, all staff members were employed on a permanent contract (2022/23: all permanent contracts). At 31 March 2024, the organisation was carrying forward one vacancy.

Funding for an additional 7.4 (FTE) roles was approved by the SPCB in October 2022 following a workforce planning exercise. Five of these roles were recruited in 2022/23, with four of these new employees taking up their posts in 2023/24. Two further roles (1.5 FTE) were recruited and started before the end of the reporting year, leaving one full-time vacancy carried forward at 31 March 2024. The Commissioner has concluded that the work to be completed by that post will instead be done by a contractor by way of a fixed term contract over the next one to two years. This is intended to save public money in the medium to longer term.

Staff costs (Audited)

Figure 24

	2023/24			2022/23		
	Total £'000s	Commissioner ¹ £'000s	Employees £'000s	Total £'000s	Commissioner ¹ £'000s	Employees £'000s
Salaries	839	92	747	515	72	443
Social security costs	92	12	80	62	10	52
Pension costs	234	29	205	137	17	120
Sub totals	1,165	133	1,032	714	99	615
Temporary staff	-	-	-	1	-	1
Severance costs	-	-	-	-	-	-
Totals	1,165	133	1,032	715	99	616

1. Figures for 2022/23 include the combined costs for permanent and acting Commissioners. There were no acting Commissioner costs in 2023/24.

Salaries include a provision covering the value of outstanding leave (the leave accrual). Staff costs, excluding severance costs and temporary staff, increased by 63.2%. This was due to the filling of pre-existing vacancies and the recruitment of new staff following a workforce planning exercise in October 2022.

Severance payments

No exit packages were required in 2023/24 (2022/23: None).

Staff pension arrangements

Employee pension benefits are provided through the Civil Service pension arrangements.

The Civil Service pension arrangements are unfunded multi-employer defined benefit schemes in which the Commissioner's office is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the Civil Service pension arrangements as at 31 March 2020. You can find details on the [Scheme Valuations page of the Civil Service Pensions website](#).

During 2023/24, the Commissioner paid employer's contributions of £233,500 to the Civil Service Pension arrangements (2022/23: £136,700) at one of three rates in the range 27.1% to 30.3% (2022/23: 27.1% to 30.3%) of pensionable earnings, based on salary bands.

The Scheme Actuary reviews employer contributions usually every four years following a full scheme valuation.

The contribution rates are set to meet the cost of the benefits accruing during 2023/24 to be paid when the member retires and not the benefits paid during this period to existing pensioners.

Outstanding scheme contributions at 31 March 2024 amounted to £22,562 (2022/23: £13,397). The uplift is due to an increase in staffing levels in the reporting year. Employer contributions for 2024/25 for the Commissioner and employees is budgeted to be £298,000

(2023/24: £215,000). The increase in budget is primarily due to the introduction of a new flat rate of 28.97% for employer contributions across all salary bands that applies from 1 April 2024.

No persons (2022/23: No persons) retired early on ill-health grounds; the total additional accrued pension liabilities in the year amounted to nil (2022/23: Nil).

Average sickness absence

The average sickness absence per person was as follows:

Figure 25

	2023/24	2022/23
	Days	Days
Commissioner and employees	2.5	3.6

The average sickness absence decreased again during the year as a result of an extended period of leave in the previous year coming to an end. The underlying trend continues to show a gradual decrease and falls well below the organisation’s ten-year average of 4.2 days.

Staff turnover

The figures include any agency staff and employees on fixed term contracts.

Figure 26

	2023/24	2022/23 ¹	2021/22	2020/21
Employees at the beginning of the period	14	12	9	11
Employees at the end of the period	19	14	12	9
Average employees during the period	17	13	11	10
Leavers	1	1	1	6
Staff turnover	6%	8%	9%	60%

1. There was an error in the 2022/23 figures, showing employees at the end of the period as 15 and the turnover as 7%. This has been corrected in the above table.

Staff turnover, that had been high for a number of years, reduced during 2021/22 and has stabilised.

Diversity, equality and inclusion

The Commissioner supports the principle of equal opportunities in employment and operating practices.

It is the Commissioner's policy to treat all job applicants and employees equitably regardless of age, disability, sex, gender reassignment status, marriage or civil partnership status, maternity or pregnancy, race, religion or belief or sexual orientation. As part of standard recruitment practice, applications are encouraged from all people who share protected characteristics that are currently not reflected in our workforce.

The Commissioner is committed to recognising and valuing what everyone has to offer. We are aware of our equality duties under the Equality Act 2010. In our policy development and our decision making we consider the implications for all staff in line with the Equality Act.

Employee participation

The Strategic Plan which concluded in March 2024, incorporated a range of actions designed to improve and develop employee relations. The new Strategic Plan for the period 2024 to 2028 has a specific objective stating:

"We value people and recognise that unless we have staff who are valued and supported to maintain their wellbeing, feel happy in and proud of our work and the way in which we do it, we will have failed."

A suite of HR and operating policies and procedures are developed and maintained with staff input and consultation. Formal staff surveys on key topics are regularly undertaken.

Organisation wide staff meetings are held on a monthly basis, to supplement those for individual teams. The minutes of all Senior Management Team meetings are published, with updates provided to staff at their monthly meetings. Longer, quarterly meetings allowing for in depth training and consultation sessions began in 2024.

The Commissioner is introducing a range of cross-functional working groups to all staff to participate and have a stake in the development of policy and procedures. The first of these, an FOI Panel, was launched in January 2024.

Learning and development

Over the years, the organisation has developed a comprehensive annual performance review process, where individuals are encouraged and supported to plan for their own development needs and career plans. This performance management system ensures that staff members receive informal and formal external and internal training. During 2023/24, as well as attending a range of internal training sessions and webinars and conferences, staff were given the opportunity to attend 20 external training sessions. Topics ranged from writing in Easy Read to managing sexual misconduct investigations.

Health, safety and wellbeing

The Commissioner is committed to promoting the health, safety and wellbeing of all staff, and to ensuring that our working environment supports this. The Commissioner has moved to a fully hybrid working environment. Appropriate equipment and furniture has been provided to staff. All staff must complete Health and Safety risk assessments of their remote working arrangements. The Commissioner operates a confidential counselling support service for all staff that wish to access it.

Authorisation



Ian Bruce
Accountable Officer

Date: 03 October 2024

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PARLIAMENTARY ACCOUNTABILITY AND AUDIT REPORT

THE AUDIT PROCESS

Auditor

The accounts are audited by the Auditor General for Scotland in accordance with section 22(1) of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. The Auditor General appointed Audit Scotland as external auditors for a period of five years starting with the year to March 2023.

Auditor's Fees

The external auditor's remuneration for the year was £18,890 (2022/23: £17,820). External audit received no fees in relation to non-audit work.

Statement of losses and special payments

We are required to disclose any losses or special payments where the amounts incurred are over £300,000. These include such items as losses due to fraud or overpayment or extra-contractual payments made to contractors. The ESC incurred no such losses and made no such payments above or below the limit in 2023/24 (2022/23: None).

Gifts made and received

We are required to disclose any gifts made with a value over £300,000 and gifts received or any value where there is a special need to report them. The ESC neither made nor received such gifts either above or below the limit in 2023/24 (2022/23: None).

I authorised these financial statements for issue on 2 October 2024.

Authorisation



Ian Bruce
Accountable Officer

Date: 03 October 2024

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INDEPENDENT AUDITOR'S REPORT

to the Commissioner for Ethical Standards in Public Life in Scotland, the Auditor General for Scotland and the Scottish Parliament

Reporting on the audit of the financial statements

Opinion on financial statements

I have audited the financial statements in the annual report and accounts of the Commissioner for Ethical Standards in Public Life in Scotland (Ethical Standards Commissioner) for the year ended 31 March 2024 under the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. The financial statements comprise the Statement of Comprehensive Net Expenditure, the Statement of Financial Position, the Statement of Cash Flow, the Statement of Changes in Taxpayers' Equity and notes to the financial statements, including material accounting policy information. The financial reporting framework that has been applied in their preparation is applicable law and UK adopted international accounting standards, as interpreted and adapted by the 2023/24 Government Financial Reporting Manual (the 2023/24 FReM).

In my opinion the accompanying financial statements:

- give a true and fair view of the state of the body's affairs as at 31 March 2024 and of its net expenditure for the year then ended;
- have been properly prepared in accordance with UK adopted international accounting standards, as interpreted and adapted by the 2023/24 FReM; and
- have been prepared in accordance with the requirements of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 and directions made thereunder by the Scottish Ministers.

Basis for opinion

I conducted my audit in accordance with applicable law and International Standards on Auditing (UK) (ISAs (UK)), as required by the Code of Audit Practice approved by the Auditor General for Scotland. My responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of my report. I was appointed by the Auditor General on 3 April 2023. My period of appointment is five years, covering 2022/23 to 2026/27. I am independent of the body in accordance with the ethical requirements that are relevant to my audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and I have fulfilled my other ethical responsibilities in accordance with these requirements. Non-audit services prohibited by the Ethical Standard were not provided to the body. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Conclusions relating to going concern basis of accounting

I have concluded that the use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work I have performed, I have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the body's ability to continue to adopt the going concern basis of accounting

for a period of at least twelve months from when the financial statements are authorised for issue.

These conclusions are not intended to, nor do they, provide assurance on the body's current or future financial sustainability. However, I report on the body's arrangements for financial sustainability in a separate Annual Audit Report available from the [Audit Scotland website](#).

Risks of material misstatement

I report in my separate Annual Audit Report the most significant assessed risks of material misstatement that I identified and my judgements thereon.

Responsibilities of the Accountable Officer for the financial statements

As explained more fully in the Statement of Accountable Officer's Responsibilities, the Accountable Officer is responsible for the preparation of financial statements that give a true and fair view in accordance with the financial reporting framework, and for such internal control as the Accountable Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Accountable Officer is responsible for assessing the body's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there is an intention to discontinue the body's operations.

Auditor's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of users taken on the basis of these financial statements.

Irregularities, including fraud, are instances of non-compliance with laws and regulations. I design procedures in line with my responsibilities outlined above to detect material misstatements in respect of irregularities, including fraud. Procedures include:

- using my understanding of the central government sector to identify that the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 and directions made thereunder by the Scottish Ministers are significant in the context of the body;
- inquiring of the Accountable Officer as to other laws or regulations that may be expected to have a fundamental effect on the operations of the body;
- inquiring of the Accountable Officer concerning the body's policies and procedures regarding compliance with the applicable legal and regulatory framework;
- discussions among my audit team on the susceptibility of the financial statements to material misstatement, including how fraud might occur; and

- considering whether the audit team collectively has the appropriate competence and capabilities to identify or recognise non-compliance with laws and regulations.

The extent to which my procedures are capable of detecting irregularities, including fraud, is affected by the inherent difficulty in detecting irregularities, the effectiveness of the body's controls, and the nature, timing and extent of the audit procedures performed.

Irregularities that result from fraud are inherently more difficult to detect than irregularities that result from error as fraud may involve collusion, intentional omissions, misrepresentations, or the override of internal control. The capability of the audit to detect fraud and other irregularities depends on factors such as the skilfulness of the perpetrator, the frequency and extent of manipulation, the degree of collusion involved, the relative size of individual amounts manipulated, and the seniority of those individuals involved.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website www.frc.org.uk/auditorsresponsibilities. This description forms part of my auditor's report.

Reporting on regularity of expenditure and income

Opinion on regularity

In my opinion in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

Responsibilities for regularity

The Accountable Officer is responsible for ensuring the regularity of expenditure and income. In addition to my responsibilities in respect of irregularities explained in the audit of the financial statements section of my report, I am responsible for expressing an opinion on the regularity of expenditure and income in accordance with the Public Finance and Accountability (Scotland) Act 2000.

Reporting on other requirements

Opinion prescribed by the Auditor General for Scotland on audited parts of the Remuneration and Staff Report

I have audited the parts of the Remuneration and Staff Report described as audited. In my opinion, the audited parts of the Remuneration and Staff Report have been properly prepared in accordance with the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 and directions made thereunder by the Scottish Ministers.

Other information

The Accountable Officer is responsible for the other information in the annual report and accounts. The other information comprises the Performance Report and the

Accountability Report excluding the audited parts of the Remuneration and Staff Report.

My responsibility is to read all the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the course of the audit or otherwise appears to be materially misstated. If I identify such material inconsistencies or apparent material misstatements, I am required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon except on the Performance Report and Governance Statement to the extent explicitly stated in the following opinions prescribed by the Auditor General for Scotland.

Opinions prescribed by the Auditor General for Scotland on Performance Report and Governance Statement

In my opinion, based on the work undertaken in the course of the audit:

- the information given in the Performance Report for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 and directions made thereunder by the Scottish Ministers; and
- the information given in the Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 and directions made thereunder by the Scottish Ministers.

Matters on which I am required to report by exception

I am required by the Auditor General for Scotland to report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements and the audited parts of the Remuneration and Staff Report are not in agreement with the accounting records; or
- I have not received all the information and explanations I require for my audit.

I have nothing to report in respect of these matters.

Conclusions on wider scope responsibilities

In addition to my responsibilities for the annual report and accounts, my conclusions on the wider scope responsibilities specified in the Code of Audit Practice are set out in my Annual Audit Report.

Use of my report

This report is made solely to the parties to whom it is addressed in accordance with the Public Finance and Accountability (Scotland) Act 2000 and for no other purpose. In accordance with paragraph 108 of the Code of Audit Practice, I do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.

Anne Macdonald

Anne MacDonald
Senior Audit Manager
Audit Scotland
Woodhill House Annexe
Westburn Road
Aberdeen
AB16 5GB

03 October 2024

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FINANCIAL STATEMENTS

STATEMENT OF COMPREHENSIVE NET EXPENDITURE for the year ended 31 March 2024

	Notes	2024 £'000	2023 £'000
Staff costs	6	1,165	715
Other administration costs	6	362	281
Depreciation	6	13	18
Net administration costs		1,540	1,014
Comprehensive net expenditure		1,540	1,014

All amounts relate to continuing activities. There have been no gains or losses other than those recognised in the Statement of Comprehensive Net Expenditure.

The accompanying notes on pages 82 to 90 form an integral part of these financial statements.

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STATEMENT OF FINANCIAL POSITION
as at 31 March 2024

	Notes	2024 £'000	2023 £'000
Non-current Assets			
Tangible assets	2.1	26	34
Intangible assets	2.2	0	0
Total non-current Assets		26	34
Current assets			
Trade and other receivables	3	17	19
Cash and cash equivalents	4	146	118
Total current assets		163	137
TOTAL ASSETS		189	171
Current liabilities			
Trade and other payables	5	(137)	(133)
Total current liabilities		(137)	(133)
TOTAL ASSETS LESS CURRENT LIABILITIES		52	38
Taxpayers' Equity			
General Fund		52	38
Total taxpayers' equity		52	38

The accompanying notes on pages 82 to 90 form an integral part of these financial statements.

As Accountable Officer, I authorised these financial statements for issue on 2 October 2024.

Authorisation



Ian Bruce
Accountable Officer

Date: 03 October 2024

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STATEMENT OF CASH FLOW
for Year Ended 31 March 2024

	Notes	2024 £'000	2023 £'000
Cash flows from operating activities			
Net administration costs		(1,540)	(1,014)
Adjustment for non-cash items:			
Depreciation	6	13	18
Decrease/(Increase) in Trade and Other Receivables	3	2	(5)
(Decrease)/Increase in Trade and Other Payables	5	4	14
Net cash outflow from operating activities		(1,521)	(987)
Cash flows from investing activities			
Purchase of Tangible Assets	2.1	(5)	(14)
Purchase of Intangible Assets	2.2	-	-
Net cash outflow from investing activities		(5)	(14)
Cash flows from financing activities			
From the Scottish Parliamentary Corporate Body (SPCB)		1,554	971
Net financing		1,554	971
Net increase in cash and cash equivalents in the period		28	(30)
Cash and cash equivalents at the beginning of the period	4	118	148
Cash and cash equivalents at end of the period	4	146	118

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STATEMENT OF CHANGES IN TAXPAYERS' EQUITY
For Year Ended 31 March 2024

	General Fund 2024 £'000	General Fund 2023 £'000
Balance at 1 April	38	81
Comprehensive net expenditure for the year	(1,540)	(1,014)
Funding from the SPCB	1,554	971
Balance at 31 March	52	38

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NOTES TO THE FINANCIAL STATEMENTS

1 ACCOUNTING POLICIES

These financial statements have been prepared in accordance with the *Government Financial Reporting Manual (FReM)* in compliance with the Accounts Direction issued by Scottish Ministers. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Commissioner for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Commissioner are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

1.1 Accounting Convention

These accounts have been prepared under the historical cost convention. The accounts are prepared on an accruals basis meaning that expenses are recognised in the year in which they were incurred, rather than when the cash payment is made.

1.2 Critical Judgements in Applying Accounting Policies

In applying the accounting policies set out in these Notes, the Commissioner has had to make judgements about financial transactions or those involving uncertainty about future events. The critical judgement made in the financial statements is that the organisation will continue as a going concern and will be appropriately funded by the SPCB.

Pension benefits are provided through the Civil Service pension arrangements. The Civil Service pension arrangements are unfunded multi-employer defined benefit schemes with benefits underwritten by the Government. As a result, the Commissioner's office is unable to identify its share of the underlying assets and liabilities and it is, therefore, accounted for as a defined contribution scheme. No liability is shown in the Statement of Financial Position.

1.3 Key Sources of Estimation Uncertainty

The financial statements contain estimated figures that are based on assumptions about the future or that are otherwise uncertain. These estimates relate to the value of tangible and intangible assets, accruals and property leases. Estimates are made taking account of historical experience, current trends and other relevant factors but cannot be determined with certainty. Actual results could be different from the assumptions and estimates but are unlikely to be material. The estimation techniques used for Tangible Assets and Intangible Assets are given in notes 1.4 and 1.5 respectively. Estimates for accruals are made based on committed operational expenditure using invoices or purchase orders.

Current accommodation arrangements are governed by a Memorandum of Terms of Occupation. This allows for termination with six months' written notice. Therefore, a lease does not exist and capitalisation is not required.

1.4 Tangible Assets

1.4.1 Capitalisation

Purchases of assets, including grouped IT equipment, for a value exceeding £1,000 inclusive of irrecoverable VAT are treated as capital with the exception of land and buildings where the threshold is set at £10,000.

1.4.2 Valuation

As appropriate, non-current assets are valued at depreciated historical cost (DHC) as a proxy for fair value.

1.4.3 Depreciation

Depreciation is provided on all tangible non-current assets at rates calculated to write off the cost or valuation in equal instalments over the remaining estimated useful life of the asset.

1.4.4 Estimated useful life of assets

The estimated useful life of assets are as follows:

Fixtures, Fittings & Equipment	5 years
IT Equipment	5 years

1.5 Intangible Assets

Software and licences are capitalised as intangible non-current assets and amortised on a straight-line basis over the expected life of the asset (3 years).

1.6 Funding

Funding received from the SPCB is credited directly to the general fund in the year to which it relates.

1.7 Cash and cash equivalents

Cash and cash equivalents includes cash in hand and deposits held at call in a single bank account.

1.8 Leases

The Commissioner holds no finance leases. Costs in respect of operating leases are charged to the Statement of Comprehensive Net Expenditure on a straight-line basis over the life of the lease. Details of operating leases are given in note 7.

1.9 Value Added Tax

The Commissioner is not VAT registered. All amounts are recorded inclusive of VAT.

1.10 Adoption of New and Revised Standards

The Commissioner discloses accounting standards not yet applied and assesses the possible impact that initial application would have on the financial statements. There are no new standards not yet effective that will have an impact on the Commissioner's accounts.

2 NON CURRENT ASSETS

2.1 Tangible Assets

2023/24	Fixtures, Fittings & Equipment	IT Equipment	Total
	£'000	£'000	£'000
Cost			
<i>At 1 April 2022</i>	3	63	66
<i>Additions</i>	4	10	14
<i>Disposals</i>	-	(3)	(3)
At 1 April 2023	7	70	77
<i>Additions</i>	-	4	4
<i>Disposals</i>	-	(6)	(6)
At 31 March 2024	7	68	75
Depreciation			
<i>At 1 April 2022</i>	3	31	34
<i>Charge for Year</i>	-	11	11
<i>Disposals</i>	-	(3)	(3)
At 1 April 2023	3	39	42
<i>Charge for Year</i>	1	12	13
<i>Disposals</i>	-	(6)	(6)
At 31 March 2024	4	45	49
Net Book Value at 31 March 2024	3	23	26
Net Book Value at 31 March 2023	4	31	35
Net Book Value at 31 March 2022	-	32	32

The Commissioner purchased £4,594 of additional assets in 2023/24 (2022/23: £14,423), consisting primarily of laptops. This has been rounded to £4,000 in the above table to enable the net book value to round correctly.

2.2 Intangible Assets

2023/24	Software £'000	Total £'000
Cost		
<i>At 1 April 2022</i>	62	62
<i>At 1 April 2023</i>	62	62
<i>At 31 March 2024</i>	62	62
Amortisation		
<i>At 1 April 2022</i>	55	55
<i>Charge for Year</i>	7	7
<i>At 1 April 2023</i>	62	62
<i>Charge for Year</i>	0	0
<i>At 31 March 2024</i>	62	62
Net Book Value at 31 March 2024	0	0
Net Book Value at 31 March 2023	0	0
Net Book Value at 31 March 2022	7	7

The Commissioner did not purchase any intangible assets in 2023/24 (2022/23: Nil).

3 TRADE AND OTHER RECEIVABLES

	2023/24 £'000	2022/23 £'000
Prepayments	17	19
	17	19

4 CASH AND CASH EQUIVALENTS

	2023/24 £'000	2022/23 £'000
Balance at 1 April	118	148
Net Change in cash and cash equivalent balances	28	30
Balance at 31 March	146	118
Cash Held at Commercial Banks	146	118

5 TRADE AND OTHER PAYABLES

	2023/24 £'000	2022/23 £'000
Trade and other payables	61	55
PAYE and National Insurance	22	18
Pension Contributions	23	13
Accruals	31	48
	137	134

6 EXPENDITURE BREAKDOWN

	2023/24	2022/23
	£'000	£'000
Staff Costs		
Commissioner/Acting Commissioner	133	96
Senior Management Team	324	239
Other Staff	708	380
	1,165	715
Other Administration Costs		
Audit	28	27
Hospitality	1	-
IT	74	32
Legal advisers	16	20
Office costs	14	10
PAA costs	113	83
Property	102	96
Training & recruitment	13	13
Travel & expenses	1	-
	362	281
Depreciation	13	18
	1,540	1,014

Staff costs include salary as well as employers' national insurance and pension contributions.

Further analysis of staff costs is located in the Staff Report on page 66.

The £28,387 for Audit includes £18,787 for external auditor's remuneration and £9,600 for internal audit. During the year the Commissioner did not purchase any non-audit services from its auditor.

During the financial year, £4,600 was used to purchase non-current assets as detailed in note 2 to the financial statements (2022/23: £14,000). These assets consisted of laptops.

7 LEASING COMMITMENTS

The Scottish Legal Aid Board (SLAB) provides the Commissioner with office accommodation and associated services under a Memorandum of Terms of Occupation (MoTO).

	Land & Buildings	
	<u>As at 31</u> <u>March 2024</u> £'000	<u>As at 31</u> <u>March 2023</u> £'000
Operating leases which expire:		
Within one year	108	99
One to five years	-	-
	108	99

Accommodation fees are recharged at cost as agreed each year. The actual cost in 2023/24 was £101,800 (2022/23: £96,500). The increase reflects a rise in utility costs.

From 31 March 2022, the MoTO may be extended from year to year until ended by either party giving six months' notice. It is anticipated this arrangement will continue until 31 March 2025.

The MoTO has been extended until 31 March 2025 at an estimated cost of £108,000.

8 CAPITAL COMMITMENTS

There were no contracted capital commitments as at 31 March 2024 (2023: Nil).

9 CONTINGENT LIABILITIES

The Commissioner had no contingent liabilities as at 31 March 2024 (2023: Nil).

10 RELATED PARTY TRANSACTIONS

The Commissioner's role was constituted by legislation enacted by the Scottish Parliament which provides funding via the SPCB. The SPCB is regarded as a related body. The SPCB provided funding of £1,554,000 during the year (2022/23: £971,000).

Neither the Commissioner, nor employees or related parties has undertaken material transactions with SPCB during the year.

11 POST STATEMENT OF FINANCIAL POSITION EVENTS

No events have occurred since the date of the balance sheet which materially affect the financial statements.

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APPENDICES

APPENDIX 1: ACCOUNTS DIRECTION



COMMISSION FOR ETHICAL STANDARDS IN PUBLIC LIFE IN SCOTLAND

DIRECTION BY THE SCOTTISH MINISTERS

1. The Scottish Ministers, in pursuance of section 22 of the Scottish Parliamentary Commissions and Commissioners etc Act 2010, hereby give the following direction.
2. The Commission is required to prepare annual accounts.
3. The Statement of accounts for the financial year ended 31 March 2012, and subsequent years, shall comply with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (FRoM) which is in force for the year for which the statement of accounts are prepared.
4. The accounts shall be prepared so as to give a true and fair view of the income and expenditure and cash flows for the financial year, and of the state of affairs as at the end of the financial year.
5. This direction shall be reproduced as an appendix to the statement of accounts.



Signed by the authority of the Scottish Ministers

Dated 22 May 2012

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