



# Commissioner for Ethical Standards in Public Life in Scotland

## Guidance on making a complaint

### Who we are

This leaflet is about the work of the Commissioner for Ethical Standards in Public Life in Scotland as it applies to ministerial public appointments. The Commissioner regulates appointments to the boards of many of Scotland's public bodies. The Commissioner is independent of the Scottish Parliament and the Scottish Government.

The Commissioner has several distinct complaint handling functions and therefore different and appropriate procedures for handling each of these. In this leaflet we explain how he handles complaints about public appointments. Other leaflets explain how we deal with complaints about the conduct of councillors, board members and MSPs or complaints about the Commissioner's staff and our office's activities.

Responding to complaints about public appointments is one of the ways in which we can improve Scotland's public appointments process. Every complaint upheld will lead to a review of practice, policy or process, and usually to recommendations for change aimed at preventing a similar complaint arising in the future. We therefore welcome complaints as they help us to make improvements.

### What we do when we receive a complaint

On receipt of the complaint (which must be in writing), the complaint is acknowledged and advice, appropriate to that complaint, is offered within three working days. Complaints and enquiries will be handled confidentially, efficiently and with tact and understanding. Where an investigation must be instigated, and any legitimate complaint will warrant investigation, we will ensure that no conflict of interest arises with respect to the investigating party or parties.

### Our job

Our job is to monitor chair and member appointments to the boards of public bodies, sometimes known as non-executive directors, to help ensure that they are appointed on merit, using methods that are fair and open. Whilst we regulate the process used to make appointments, it is run by civil servants on behalf of the Scottish Government. A representative of the Commissioner, known as a Public Appointments Adviser, scrutinises appointment rounds on behalf of the Commissioner.

The Commissioner has published a code of practice that sets out what the Scottish Government must do when making public appointments. The Commissioner's code, and a list of the bodies that the Commissioner regulates, can be found on our website.

### Making a complaint about a public appointment

Anyone who believes that an appointment has not been made appropriately or who has concerns about the appointment process itself can make a complaint. If you have a complaint about a public appointment you first have to complain to the Scottish Government and give the people there a chance to respond. If you are unhappy with the Scottish Government's response to your complaint you can then ask the Commissioner to investigate the matter for you. The Commissioner can only investigate complaints about appointments to bodies that are regulated.



## Investigating public appointments complaints

The Commissioner will acknowledge your complaint within three working days. Within twenty working days, the Commissioner will either

- let you know that it is not possible to take action and explain why, or
- send a statement of complaint to you that will
  - set out the issues that fall within the Commissioner's remit and make it clear that these are the only features of the complaint that will be dealt with
  - explain what the Commissioner can do in the event that the complaint is upheld.

In some cases the Commissioner may not be able to investigate your complaint because, for example, it is not a regulated appointment or because the issue you are complaining about happened too long ago. For valid complaints, the Commissioner will investigate to see if the Scottish Government conducted the public appointments process in line with the code of practice.

Once an investigation has started, the Commissioner aims to complete it and to report on findings within 20 working days. For complex complaints this is sometimes not possible. In such cases the Commissioner will keep you up to date with the progress of the investigation at least every twenty working days until the investigation is complete.

## The results of investigations

The Commissioner always writes a report at the end of the investigation. This is provided to the complainant and to the Scottish Government. Depending on the results of the investigation, the Commissioner can issue guidance to the Scottish Government about complying with the code in future. This means that complaints can help to improve the way that public appointments are managed. In cases of serious non-compliance with the code, the Commissioner also reports the case to the Scottish Parliament.

## What if I am unhappy with the results of the investigation?

It is possible that you may not be content with the results and/or the way that the investigation was handled. These two areas are entirely separate and, accordingly, are treated differently. The Commissioner will not

- enter into protracted discussion with you about the outcome of the investigation
- reopen the investigation unless relevant new evidence comes to light.

The Commissioner will

- clarify points raised in relation to the report
- respond to questions raised about the way the complaint has been handled.

If you remain dissatisfied, a final letter will be sent to you setting out the course of action open to you. This will make it clear that you can complain about the way in which your complaint was administered, or about the way the Commissioner or the Commissioner's staff dealt with you, but not about the outcome of the investigation.

The work of the Commissioner's office is overseen by the Scottish Public Services Ombudsman. You can find out more about how to complain about us in our leaflet on the subject.

We welcome all enquiries about our work.

### Contact details

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