

Commissioner for Ethical Standards in Public Life in Scotland

2022/23 Annual Audit Report



 AUDIT SCOTLAND

Prepared for the Commissioner for Ethical Standards in Public Life in Scotland
and the Auditor General for Scotland

October 2023

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Key messages

2022/23 annual report and accounts

- 1** Our audit opinions on the annual report and accounts are unmodified.
- 2** Expenditure and income are regular and in accordance with applicable enactments and guidance.

Wider scope responsibilities and Best Value

- 3** The Ethical Standards Commissioner's office operated within its approved budget for 2022/23.
- 4** Appropriate medium term financial planning arrangements are in place which demonstrate how services will continue to be delivered.
- 5** While more work is required to demonstrate impact, appropriate arrangements have been made to secure Best Value.

Introduction

1. This report summarises the findings from the 2022/23 annual audit of the Commissioner for Ethical Standards in Public Life in Scotland (the Commissioner). The scope of the audit was set out in our annual audit plan which was considered by the Advisory Audit Board in April 2023. This Annual Audit Report comprises:

- significant matters arising from the audit of the Commissioner's annual report and accounts
- conclusions on the wider scope areas that frame public audit as set out in the [Code of Audit Practice 2021](#). For less complex bodies, this includes conclusions on financial sustainability.

2. This report will be published on Audit Scotland's website www.audit-scotland.gov.uk in due course.

Responsibilities and reporting

3. The Commissioner has primary responsibility for ensuring the proper financial stewardship of public funds. This includes preparing the annual report and accounts that are in accordance with the accounts direction from Scottish Ministers. The Commissioner is also responsible for compliance with legislation, and putting arrangements in place for governance, propriety and regularity.

4. The responsibilities of the independent auditor are established by the Public Finance and Accountability (Scotland) Act 2000 and the [Code of Audit Practice 2021](#), and supplementary guidance and International Standards on Auditing in the UK.

5. Weaknesses or risks identified are only those which have come to our attention during our normal audit work and may not be all that exist. Communicating these does not absolve management of the administering authority from its responsibility to address the issues we raise and to maintain adequate systems of control.

Auditor independence

6. We can confirm that we comply with the Financial Reporting Council's Ethical Standard. We can also confirm that we have not undertaken any non-audit related services and therefore the 2022/23 audit fee of £17,820 as set out in our 2022/23 Annual Audit Plan remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.

7. We would like to thank the Commissioner, Advisory Audit Board members and all staff for their cooperation and assistance during the year. We look forward to continuing to work together constructively over the remainder of the audit appointment.

1. Audit of 2022/23 annual report and accounts

Public bodies are required to prepare annual reports and accounts comprising financial statements and other related reports. These are the principal means of accounting for the stewardship of public funds.

Main judgements

Our audit opinions on the annual report and accounts are unmodified.

Expenditure and income are regular and in accordance with applicable enactments and guidance.

Audit opinions on the annual report and accounts are unmodified

8. The Commissioner approved the 2022/23 annual report and accounts on 24 October 2023. As reported in the independent auditor's report:

- the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework
- expenditure and income are regular and in accordance with applicable enactments and guidance
- the audited part of the remuneration and staff report, the performance report and governance statement were consistent with the financial statements and properly prepared in accordance with the relevant legislation and directions made by Scottish Ministers.

Overall materiality was assessed as £19,900

9. Broadly, the concept of materiality is applied by auditors to determine whether misstatements identified during the audit could reasonably be expected to influence the economic decisions of users of the financial statements, and hence impact their opinion set out in the independent auditor's report.

10. Our initial assessment of materiality was carried out during the risk assessment and planning phase of the audit. This was reviewed on receipt of the unaudited annual report and accounts and is summarised in [Exhibit 1](#).

Exhibit 1

Materiality values

Materiality level	Amount
<p>Overall materiality – This is the figure we calculate to assess the overall impact of audit adjustments on the financial statements. Materiality has been set based on our assessment of the needs of the users of the financial statements and the nature of the Ethical Standards Commissioner’s operations. For the year ended 31 March 2023, our materiality was set at 2% of gross expenditure.</p>	£19,900
<p>Performance materiality – This acts as a trigger point. If the aggregate of errors identified during the financial statements audit exceeds performance materiality, this could indicate that further audit procedures should be considered. Using our professional judgement, we assessed performance materiality at 65% of overall materiality.</p>	£12,935
<p>Reporting threshold– We are required to report to those charged with governance on all unadjusted misstatements more than the ‘reporting threshold’ amount.</p>	£1,000

Significant findings and key audit matters

11. Under International Standard on Auditing (UK) 260, we communicate significant findings from the audit to those charged with governance, including our view about the qualitative aspects of the body’s accounting practices.

12. The Code of Audit Practice also requires auditors to communicate key audit matters within the annual audit report under International Standard on Auditing (UK) 701. These are matters that we judged to be of most significance in our audit of the financial statements.

13. There are no significant issues to report from the audit of the annual report and accounts. The unaudited annual report and accounts were received in line with the agreed timetable. Working papers were of a good standard and enabled the audit to progress smoothly.

Our audit work responded to the risks of material misstatement we identified in the annual accounts

14. [Exhibit 2](#) sets out the significant risk of material misstatement we identified in our 2022/23 Annual Audit Plan. We have obtained audit assurances over this risk through the audit procedures we performed and the conclusions we reached having completed this work.

Exhibit 2**Risk of material misstatement in the annual accounts**

Significant risks	Assurance procedure	Results and conclusions
<p>1. Risk of material misstatement due to fraud caused by the management override of controls</p> <p>As stated in International Standard on Auditing (UK) 240, management is in a unique position to perpetrate fraud because of management's ability to override controls that otherwise appear to be operating effectively.</p>	<ul style="list-style-type: none"> • Assessed the use of journal entries, made inquiries of relevant officers about inappropriate or unusual activity relating to the processing of journal entries and considered the need and extent of detailed journal entry testing. • Assessed any changes to the methods and underlying assumptions used to prepare accounting estimates compared to the prior year. • Substantive testing of income and expenditure transactions around the year-end to confirm they are accounted for in the correct financial year. • Focused testing of accounting accruals and prepayments. 	<p>Based on the audit work undertaken, there was no evidence of management override of control.</p>

2. Wider scope responsibilities and Best Value

For less complex bodies, wider-scope audit work considers the financial sustainability of the body and the services that it delivers over the medium to longer term.

Conclusions

The Commissioner's office operated within its approved budget for 2022/23.

Appropriate medium term financial planning arrangements are in place which demonstrate how services will continue to be delivered.

While more work is required to demonstrate impact, appropriate arrangements have been made to secure Best Value.

Performance against budget

15. The Ethical Standards Commissioner operated within his budget for 2022/23. Funding is received on a cash basis from the overall budget of the Scottish Parliamentary Corporate Body (SPCB) and this is the only source of income. Section 20 of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 requires the Commissioner to ensure that his resources will be used economically, efficiently, and effectively.

16. The Commissioner's budget for 2022/23 was £1.143 million. Expenditure of £1.014 million was incurred and funding of £0.971 million was drawn down. Reserves of £43,000 were used during the year, leaving a balance of £38,000 on the General Fund at 31 March 2023.

Wider scope risks

17. We identified wider scope audit risks in the areas set out in [Exhibit 3](#). This exhibit sets out the audit procedures we performed to gain assurances over the risks.

Exhibit 3**Risks identified from the auditor's wider responsibility under the Code of Audit Practice**

Areas identified for review	Audit findings and conclusions
<p>Substantial governance weaknesses were reported in 2021 resulting in Section 22 reports from the Auditor General</p> <p>The Commissioner undertook significant work during 2022 which put governance arrangements on a firmer footing. The Auditor General reported in January 2023 that significant challenges remained in the following areas:</p> <ul style="list-style-type: none"> • there is a significant backlog of outstanding complaints • there has been a change in structure and additional staffing have been recruited to increase capacity. These arrangements need to be sustainable. Recruitment and training require time to be properly embedded • there is an absence of medium term financial planning. 	<p>Complaints handling</p> <p>Significant work has been undertaken to reduce the complaints backlog. At 31 March 2023, there were 88 local authority and board complaints waiting to be investigated which represents a 40% reduction since the previous year. Similarly, there was a 20% reduction in the number of cases to be addressed.</p> <p>There were a large number of related MSP complaints in 2021/22 which were handled together. This is referred to as a 'super complaint' in the Commissioner's Performance Report. These complaints were addressed during the year leaving five complaints and three cases outstanding at 31 March 2023.</p> <p>The website now provides the number of complaints from the last four months which remain in the queue for assessment. At September 2023, 46 new complaints were awaiting allocation.</p> <p>Staffing</p> <p>The Scottish Parliamentary Corporate Body provided additional funding to enable the Commissioner to expand the size of his team. Between March and May 2023, approx. 8 staff were appointed. Due to the appointments being made late in the financial year, there was little opportunity for the additional resource to make an impact on financial year 2022/23. It is however providing the Commissioner's office with the needed capacity to clear the remaining backlog and ensure the arrangements set out in the new Investigation Manual become embedded.</p> <p>A revised suite of key performance indicators have been agreed to track and report on performance of key business functions. The Commissioner will report on these from 2023/24.</p> <p>Financial planning</p> <p>The Strategic Plan 2021-24 sets out the initial year budget and the indicative budget for the subsequent two years. This is supported by a biennial business plan. The Strategic Plan for 2024-28 is in draft form and includes a four-year medium term financial plan.</p> <p>The Commissioner submits a budget bid to the Scottish Parliamentary Corporate Body each year which includes the budget and an indicative bid for the</p>

Areas identified for review	Audit findings and conclusions
	<p>following financial year. In addition, the Commissioner meets with the Corporate Body to discuss the bids in the context of the Strategic Plan and Workforce Plan.</p> <p>Monthly meetings of the senior management team are held at which finance and risk management are discussed. A remit for the senior management team and minutes of meetings are available on the Commissioner's website. This provides good evidence that the Commissioner is acting transparently and demonstrating his funding requirements to continue to deliver services in the medium term (two to five years).</p> <p>Conclusions</p> <p>The Commissioner has put arrangements in place to address all the recommendations in the Section 22 report.</p> <p>While good progress continues to be made in developing and embedding governance arrangements, it will take financial year 2023/24 to see the impact of recent changes.</p>
<p>Cyber security arrangements</p> <p>There continues to be a significant risk of cyber-attacks to public bodies and it is important that they have appropriate cyber security arrangements in place.</p>	<p>Work has been ongoing in the Commissioner's office to achieve its Cyber Essentials Plus accreditation which was awarded in August 2023. In addition, work is being undertaken to update the website and ensure that software is refreshed. These good practices will minimise the risk of a cyber-attack.</p>

Effective governance arrangements

18. In response to the Section 22 report, the Commissioner's office reinstated arrangements for good governance during 2021/22. Work continued during 2022/23 to build on these foundations and this included:

- Internal audit conducted three reviews during the year covering corporate governance (substantial assurance), investigation processes (substantial assurance) and risk management (strong assurance). The head of internal audit's opinion in respect of 2022/23 stated that the Commissioner had adequate and effective risk management, control and governance processes to manage its achievement of the organisation's objectives.
- There has been good engagement with the Advisory Audit Board. A revised terms of reference for the board was agreed and quarterly meetings are being held.
- The Investigation Manual has been published and is available on the Commissioner's website.

- Standing Orders and a range of policies have been revised. In particular, the Code of Conduct and Whistleblowing Policy have been refreshed and these now clearly provide staff with reporting channels should any concerns arise.
- A new draft Strategic Plan (2024-28) has been prepared, a business plan is in place against which progress is monitored.
- The Performance Management Framework has been updated and is being implemented. This sets out the arrangements for annual staff appraisals and the preparation of associated development plans taking strategic and business planning objectives into consideration.

19. Based on our review of the governance arrangements in place, there is good evidence that the Commissioner's arrangements have been made to demonstrate Best Value as required by the [Ministerial Guidance to Accountable Officers](#) for public bodies and the [Scottish Public Finance Manual](#) (SPFM).

Commissioner for Ethical Standards in Public Life in Scotland

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