

Ethical Standards Commissioner

ANNUAL REPORT

2021/22

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Laid before the Scottish Parliament by the Commissioner for Ethical Standards in Public Life in Scotland in pursuance of section 25(1) of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 as amended.

COMMISSIONER'S STATEMENT

At the time of writing this statement I continue to fulfil the role of Acting Ethical Standards Commissioner for Scotland, following my temporary appointment by the Scottish Parliamentary Corporate Body (SPCB) on 20 April 2021. The Commissioner was on an extended period of leave from early March 2021 and resigned with effect from 30 April 2022.

Public appointments

Melanie Stronach, Acting Public Appointments Manager, and our team of Public Appointments Advisers continued to work alongside the Scottish Government with a view to improving on public appointments practices. That activity has borne fruit. We received an unprecedented number of reports of good practice on the part of the Scottish Government this year. Board diversity figures are improving, likely as a result, as detailed later in this report. The increases are relatively modest, although those for disability rose quite substantially in comparison with others, and I congratulate everyone whose efforts have led to these positive changes.

We were also able to publish a revised Code of Practice prior to our year end, which will come into effect in October 2022. I am grateful to the Scottish Ministers, the Standards, Procedures and Public Appointments Committee, and all of the other stakeholders who we consulted on prospective revisions to the Code for their very constructive comments which were invaluable to us in finalising it.

These achievements were significant given the backdrop. The Commissioner's unavailability has had an adverse impact on our work and in particular our work on public appointments. My post as Public Appointments Manager was backfilled by Melanie Stronach, our Public Appointments Officer. Her substantive post was not backfilled due to uncertainty over the Commissioner's return to the office and this has meant that this section of the office was significantly under-resourced during the year. We leveraged in support, primarily from the Corporate Services section of the office. As a result, both sections were impacted and some key activities, primarily related to gathering applicant views and promoting compliance with the Code of Practice, could not be completed.

In 2022/23 we will focus on producing guidance on application of the Code and training for everyone involved in its implementation.

MSP complaints

Setting aside the "super complaint", which we began investigating in our last financial year, complaint volumes about MSPs remain at an historic high (see figure 12 below). We continue to receive high numbers of complaints about the treatment of others although many of these relate to conduct on social media, which is not covered by the Code unless it is in relation to members fulfilling their parliamentary duties.

The "super complaint" itself has required a significant amount of investigatory work during the year involving the gathering and forensic analysis of a substantial amount of material.

The complexity of the cases that made up the “super complaint” and the various pieces of legislation that were engaged made it necessary to commission extensive legal advice, which will serve us well for the future. We expect to complete investigation of the “super complaint” in the next financial year.

The entire investigatory team has also now been trained on MSP complaint handling, and all were engaged in the investigation of the “super complaint”. This means that the office is now very well placed to handle complaints of this nature and about all MSP complaints more generally.

Councillor and member complaints

The volume of complaints received about councillors and board members continues to be very high. The number of active complaints and complaints received this year are higher than in the two preceding financial years (see figure 2 below).

The number of complaints completed is lower in comparison and is also reflected in the high number of complaints open as at 31 March 2022 compared to preceding financial years. This backlog is attributable to significant staff vacancies and turnover in 2020/21, which meant increasing loss of capacity to handle day to day workload and loss of corporate memory in relation to all aspects of complaints handling. We recruited three new full time Investigating Officers in September 2021, out of a complement of four, and completed their induction in October 2021. These new officers have been actively working their way through the backlog and new complaints received. All new and existing staff, including those in the investigations team, went through an extensive training programme. One element of this was training on presenting at hearings so that this work could, again, be brought in-house.

In March 2021 the Standards Commission for Scotland (“SCS”) issued Directions requiring the Commissioner to investigate all complaints received about Councillors and Members, except in specified circumstances. Live investigation rates are higher than in previous years, largely as a result of the Directions to which we continue to adhere. The number of live investigations per month in 2021/22 into complaints about Councillors shows a pattern of either closely matching, if not exceeding, the highest levels recorded since 2017, and, as can be seen from the data shown in this report, the percentage of complaints (cases) requiring investigation has doubled in comparison to 2020/21 (see figure 6).

At our year end, we concluded that we required to conduct further workforce planning, as it was clear that our investigatory capacity was not sufficient to work through complaints at the pace at which complainers and respondents rightly anticipate.

The vast majority of complaints continue to be from members of the public, and the key concerns continue to be allegations of disrespectful behaviour. This is consistent with the previous year. One other notable trend is the increase in the number of complaints received about board members in comparison to previous years. Further details are available in the ‘Our Performance’ and ‘Performance Analysis’ sections of this report. We also instituted a programme of meaningful stakeholder engagement during the year with a view to restoring trust and faith in the work of the organisation.

Against this backdrop, we also updated and revised all of our investigatory procedures in the form of an Investigations Manual which was at iteration 6 at the year end. We have consulted with the SCS and the Society of Local Authority Lawyers and Administrators in Scotland (“SOLAR”) on the manual and our procedures and will consult more widely with the public and our stakeholders in 2022/23.

Finance and governance

Total funding awarded to the office for the year, including contingency funding, was £1,093,100 and £1,086,200 was drawn down.

We reviewed and completely revised our governance arrangements during the course of the year. Measures included:

- the production of a [revised strategic plan](#) for 2021-24, which now incorporates the values that were missing from the previous version together with clear statements of intent about how the office will fulfil its statutory obligations in accordance with the expectations of the Parliament, public and stakeholders
- a new rolling [biennial business plan](#) covering all office functions and addressing each of the auditor’s recommendations (see next heading below)
- the reintroduction of a performance management framework which ensures that section and staff action plans are all aligned to our business and strategic plans
- the reinstatement of Senior Management Team (SMT) meetings in accordance with previous good governance arrangements and re-engagement with our Advisory Audit Board (AAB), whose members are drawn from the independent members of the SPCB’s AAB
- the reinstatement of appropriate risk management arrangements for the organisation
- tendering for and appointing internal auditors whose initial focus will be on our governance arrangements

In the 2021/22, we planned to embed risk management into our performance framework and at the time of finalising this report, that had been achieved.

Section 22 Report

The Auditor General for Scotland laid a [Section 22 Report](#) with the Scottish Parliament in December 2021 which set out a number of observations about our performance in 2020/21 and recommendations for implementation to address the concerns raised following the wider scope review under the Code of Audit Practice. The [concerns and recommendations](#) covered our governance, our transparency, our risk management, our staffing levels and their level of training and development and performance management more generally. The majority of the recommendations already coincided with work that I had concluded had to be conducted and already had in train, as set out above.

We also commissioned an [independent review](#) into the way in which the Commissioner had handled a complaint about us. A number of the recommendations and findings set out in the resultant report coincided with those in the Section 22 report. Our responses to the recommendations are included in the published report, available on our [website](#).

More information about our responses to the issues raised in the Section 22 report can be found in the Governance Statement and progress against the auditor’s recommendations are reported on [our website](#).

For the financial year 2021/22, the outstanding recommendations that we had under consideration, setting aside the future plans already alluded to, included:

- further engagement with the SPCB about external oversight of our governance
- potentially reviewing the Commissioner's decisions in respect of complaints received and dealt with between August 2020 and her going on leave in March 2021
- a comprehensive workforce planning exercise
- a review of all outstanding policies and our website, alongside our publication scheme.

All of this work was scheduled in our rolling [biennial business plan](#) and we will report on further progress on an ongoing basis.

Our engagement with the SPCB about external oversight of our governance has continued, although we consider that there should be direct engagement between the auditors and the SPCB on recommendations over which we have no real control.

We conducted our full workforce planning exercise over April and May 2022, earlier than scheduled, as it was clear by that point in time that we had insufficient resources to fulfil our statutory functions. That remains the case and it is having an adverse impact on members of the public who bring complaints to us in the expectation that they will be dealt with timeously. It clearly also has an adverse impact for the same reason on councillors, board members and MSPs who are subject to such complaints. In addition, the situation is having an adverse impact on the dedicated staff of a relatively small office which lacks resilience and capacity. There was no prospect of our clearing our investigations backlog and it preyed on all of our minds on a daily basis, which is why workforce planning had to be prioritised.

A comprehensive workforce plan and business case for additional resources was submitted to the SPCB in May and I was able to make the case to them in person in October. Our request for all of the resources that we had asked for was granted shortly thereafter. Recruitment to fill the additional posts will begin in 2022/23.

In June 2022 we sought legal advice in relation to the competence of the recommendation that we should revisit admissibility decisions made by the prior Commissioner. The advice concluded that a Commissioner's decision cannot be revisited. As a result, a review would only be for lessons learned. The SMT discussed and ultimately concluded that there was no value in investigating internally without being able to remedy or seek further evidence. The SMT agreed not to pursue this recommendation on this basis.

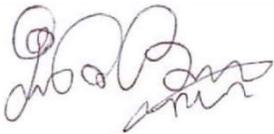
Our policy, website and policy review work continues and has been planned for as a standalone activity.

My thanks are extended to the SPCB for the support that it has provided to the office during my tenure as Acting Commissioner which is longer than, I think, we had anticipated. Given the office's circumstances, their agreement to afford us further resources has been particularly helpful.

This summary of the year does little justice to the challenges we faced as an office and to the extraordinary efforts that the SMT and staff have gone to in order to repair an almost broken organisation and to restore trust in us and in the ethical standards framework in Scotland. We have worked very hard to implement all of the recommendations made by our auditors and have done so alongside acquitting our core statutory functions. At times, it has felt akin to rebuilding a plane in flight.

I recognise that we have much more to do but I feel that we are on the road to recovery and the establishment of an office that earns the trust of the public, the Scottish Parliament, our many stakeholders and every individual and organisation that comes into contact with us. I and the entire team are fully committed to that end and we are already planning recruitment to achieve it and meet everyone's expectations.

I am grateful to each and every one of the staff in the office for their unwavering dedication, their remarkable resilience and their support during this challenging period and remain immensely proud to belong to this team.



Ian Bruce
Acting Ethical Standards Commissioner

31 October 2022

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 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.

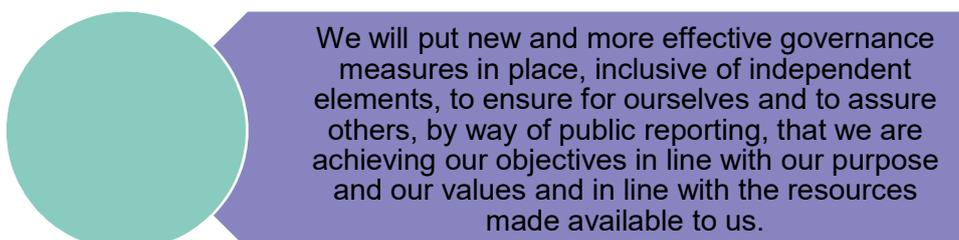
OUR STRUCTURE

Figure 1



OUR OBJECTIVES

Our strategic objectives during 2021/22 are drawn from [the Revised Strategic Plan 2021-2024](#) and summarised here:



Our strategic plan is supported by biennial business plans. These detail the actions we will take over a rolling two-year period to achieve our strategic objectives. Both the [Biennial Business Plan for 2021 - 2023](#) showing the year end position and the current [Biennial Business Plan for 2022 – 2024](#) are available on our website.

SUMMARY OF THE YEAR

Complaints about conduct

The year 2021/22 could be characterised as a year of recovery and rebuild. The effects of a worldwide pandemic in 2020/21 meant the office had to adapt to working remotely. In the last year we successfully transitioned to hybrid working when restrictions eased and in order to accommodate individual staff preferences. The team which handles complaints about conduct (the “Standards Team”) have actively worked, in support of the Acting Commissioner, to rebuild relationships with stakeholders including the SCS, SOLAR, the Society of Local Authority Chief Executives and Senior Managers (“SOLACE”), local authorities, COSLA and public bodies. The office’s approach to its interactions with complainers and respondents has also changed and is now fully aligned with the office’s values. Our approach is now characterised by transparency, empathy, kindness and respect.

During the year, we completed a comprehensive update and improvement of our internal processes, including the creation of revised assessment forms and template correspondence for complaints about Councillors and Members, which we consulted on and agreed with the SCS, and for complaints about MSPs, whilst also producing an investigations manual to codify our procedures.

In terms of rebuilding relationships, the Commissioner and Standards Team have participated in the SCS Monitoring Officers’ workshop, attended SCS events to discuss the new Councillor’s Code of Conduct and the new Model Code, assisted the Scottish Government and SCS with drafting the Codes and the SCS with its guidance and co-presented with the SCS at Scottish Government new board member induction events. The Acting Commissioner and the Senior Investigating Officer engaged with the SCS Members at bi-annual meetings, and the Acting Commissioner has met with representatives from COSLA, SOLAR and SOLACE to consult them on his Strategic Plan and to ensure that our ongoing engagement with them is meaningful and constructive.

The SCS Directions remained in place throughout 2021/22, and the Acting Commissioner and the Standards Team continue to comply with them fully. The Team also takes full cognisance of all SCS decisions, which are considered as precedents, in order to improve on practices and decision making. This includes SCS decisions to direct the Commissioner to further investigate a complaint upon receipt of a report. This type of decision had not occurred in previous years. The SCS had directed further investigation in two cases in 2021/22. Both cases directed for further investigation in 2021/22 resulted in a SCS decision to take no further action.

The staff shortage has meant that a backlog of complaints persisted throughout 2021/22, and this remains an ongoing issue. In the interim, the Standards Team continue to keep stakeholders, complainers and respondents informed about the progress and status of complaints and invite contact if any queries arise. The office has been open and transparent about the cause of delays and the steps taken to address them and to apologise for not being in a position to work through the backlog more quickly. In an effort to proactively work through the backlog, we changed our process to triage complaints and to sift out those which are clearly inadmissible. This is so that complainers do not have to wait a long time in order to hear from us that their complaint will not progress to investigation.

We include an explanation in correspondence about why we can't investigate. These reasons include the complaint being outwith our remit (such as not being about a Councillor or Member, or the conduct is not covered by the applicable Codes) or falling in the exceptions to the SCS Direction dated March 2021.

Early in the next financial year, the Standards Team will implement a plan to preserve as much evidence as possible in complaints awaiting assessment for eligibility, to prevent loss through passage of time as we work through the backlog. The team will also review the updates provided to stakeholders to ensure the same level of openness and transparency in our communications as in the previous year. A workforce planning project was prioritised for early in 2022/23 to ensure there is sufficient staff resources to improve on complaint handling work, expedite our investigations, provide cover, build team resilience and allow for succession planning.

Public appointments

With the appointments process being run online as the norm through 2021/22 and with officials and panels becoming more used to this way of working, appointment activity has returned to a similar level as that in 2019/20. In our last annual report, the number of requests to extend terms of appointment beyond the eight-year maximum permitted by the Code was noted as being at a relatively high level due to a temporary cessation in appointment activity during the early days of the pandemic, when civil servants were relocated to support the Government's response. The knock-on effect of the temporary cessation is still being felt with requests for such extensions remaining at a higher level than would normally be expected. On three occasions during the year, the Commissioner requested that his concerns about a perceived lack of succession planning be highlighted with the appointing minister when agreeing an extension request. Reappointments also seem to be at a higher level than would normally be expected.

It has been positive to note that the applications and appointments for under-reflected groups have increased slightly across almost every group, with targets either being met or close to being met. This has resulted in the demographic profile of all under-reflected demographic groups (other than women) also increasing during the year. This may be as a result of the move to more online application and assessment processes, making the process as a whole more accessible, or more generally to the Scottish Government's gradual and ongoing improvement activity. It is worth noting that we received an unprecedented number of reports of good practice on the part of the Scottish Government this year, at just under 50, and this may well be a factor in the improvement in the diversity of boards. Requests for advice on good practice were also very high.

The figures for sector worked or most recently worked in and household income have been gathered for the second year and do not show very much variance from the previous year. It is to be hoped that, while continuing to improve the figures for under-reflected demographic groups, the Scottish Ministers will also continue to think about and work to improve accessibility for those within a wider definition of 'diversity of thought', including those with private sector backgrounds and those with lower household incomes.

We also published a new and very progressive Code of Practice at our year end which, if properly implemented, should see further positive changes in both the effectiveness and diversity of our boards.

The backdrop to this work was not straightforward. The year 2021/22 has followed on from 2020/21 in being characterised by the effects and challenges presented by the Covid-19 worldwide pandemic. Although some of the restrictions on the movement of individuals were lifted during the summer months of 2021, and the roll out of vaccines provided hope of some return to normality, the spread of different variants of the virus also held up progress. Civil servants supporting the appointments process mainly continued to work from home throughout the year and the appointments process was conducted remotely using ICT.

Through 2021/22, the public appointments section of the office has also faced significant challenges with resourcing due to the Public Appointments Manager fulfilling the role of Acting Commissioner and the Public Appointments Officer acting up as Public Appointments Manager. It proved difficult to source additional resource in the team to support this aspect of the office's work and this has led to some activities not being completed. For example, the work in surveying the views of applicants about the appointments process had to be put on hold for the time being. One of the key aspects of the business plan, however, was revision and publication of the Code of Practice for Ministerial Public Appointments in Scotland, and this was achieved by the year end, despite the significant resource challenges that we faced.

Our workforce planning project was prioritised for early in the next financial year with a view to ensuring that we have the resources in place that we need to acquit this as well as the other statutory functions of the office. Our aim is to ensure that the positive work that is being done to increase board diversity can be fully supported and that our advice and guidance on compliance with the new Code will add significant value to the work of the Scottish Ministers and at the same time provide public assurance that appointments are made fairly, openly and on the basis of merit.

KEY ISSUES AND RISKS

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

Override of governance systems

Risk: The Commissioner or other senior officer overrides governance systems, adversely impacting reputation and credibility, resources and ESC's ability to fulfil its functions.

Mitigating Action: Ensure a range of external and internal oversight processes are in place that cannot be subverted or disengaged.

High levels of staff turnover

Risk: Staff turnover remains high with subsequent impact on staff workload, wellbeing and absence, ultimately impacting ESC's reputation and ability to fulfil its functions.

Mitigating Action: Adherence to robust HR and governance policies, dissemination and demonstration of organisational values and open and full staff engagement.

Loss of stakeholder confidence

Risk: The issues identified in the s22 report for 2020/21 may lead to stakeholders losing confidence in the ability of the organisation to fulfil its functions.

Mitigating Action: A programme of stakeholder engagement to ensure they were aware of the work being undertaken to rebuild the organisation.

Severe disruption to our IT systems

Risk: Unable to carry out functions due to the impact of cyber attack or accidental damage resulting in loss of some or all records/ICT systems.

Mitigating Action: Maintaining and implementing a range of business continuity and information security policies, staff training and external accreditation.

Compliance with 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.

Insufficient workforce

Risk: Workforce capacity is insufficient to adequately fulfil all functions and statutory requirements.

Mitigating Action: Complete workforce planning project and prepare business case for SPCB.

COMPLAINTS ABOUT CONDUCT

COMPLAINTS ABOUT LOCAL AUTHORITY COUNCILLORS AND BOARD MEMBERS OF PUBLIC BODIES

How many complaints were processed?

When we receive several complaints about the same or closely related issues, we investigate them as a single case. We report the number of cases as well as complaints to better reflect our actual workload.

Figure 2

	2021/22		2020/21		2019/20	
	Complaints	Cases	Complaints	Cases	Complaints	Cases
Open at 1 April	24	8	63	35	35	24
Received	330	164	238	130	284	154
Active during year	354	172	301	165	319	178
Completed	208	88	277	157	256	143
Open at 31 March	146	84	24	8	63	35
Completed, hearing to follow ¹	3	3	- ²	- ²	1	1

1. The number of complaints and cases recorded as 'Open at 31 March', include instances where breach or no breach reports have been submitted to the SCS, with the hearing to be held in the following year. These are still shown in the 'Completed' total but also recorded separately to reflect the ongoing work required.

2. The SCS decision in two cases heard on 10 September 2020 was quashed on appeal. Re-scheduled hearings were held on 3 May 2021.

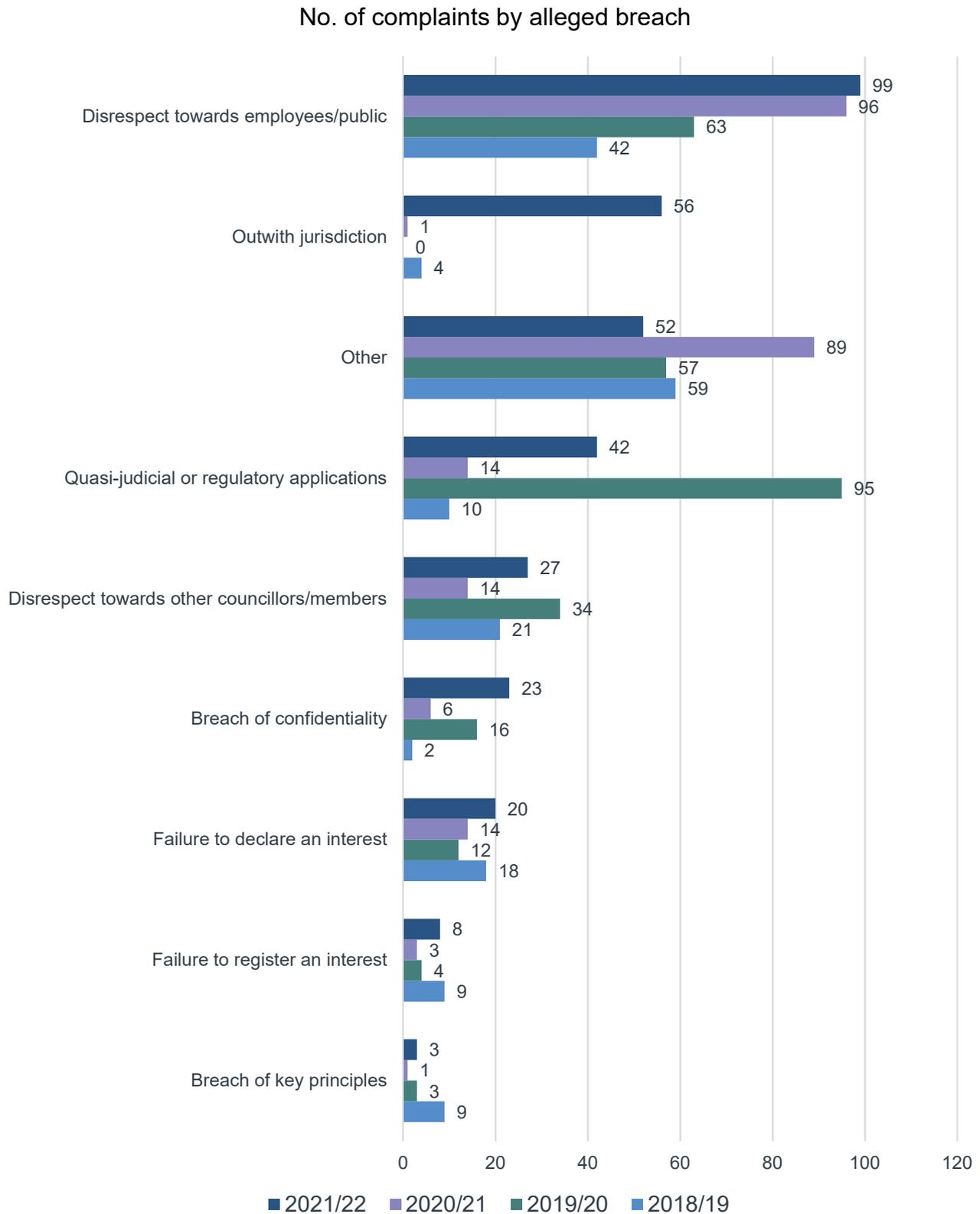
Figure 3

Complaints received	2021/22		2020/21		2019/20	
	Complaints	Cases	Complaints	Cases	Complaints	Cases
Councillors	272	143	225	121	274 ¹	146 ¹
Board members	58	21	13	9	10	8
Totals	330	164	238	130	284	154

¹ In the 2020/21 annual report and accounts, these figures were shown as 273/145 with a separate line for one complaint (one case) recorded as 'Outwith Jurisdiction'. We now report all complaints as either concerning a Councillor or a board member.

What were the complaints about?

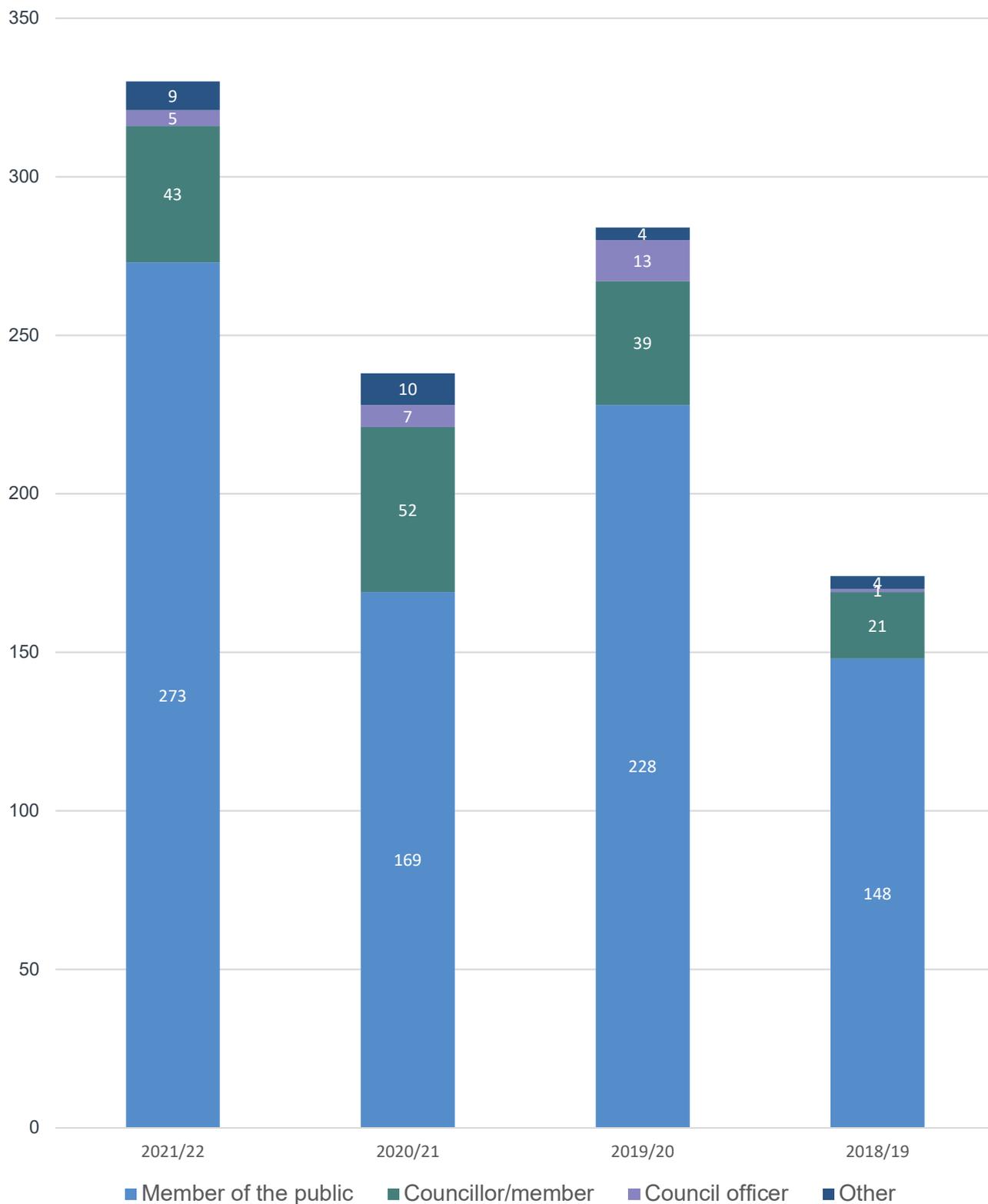
Figure 4



Who made the complaints?

Figure 5

Origin of complaints



What was the outcome of the complaints?

Figure 6

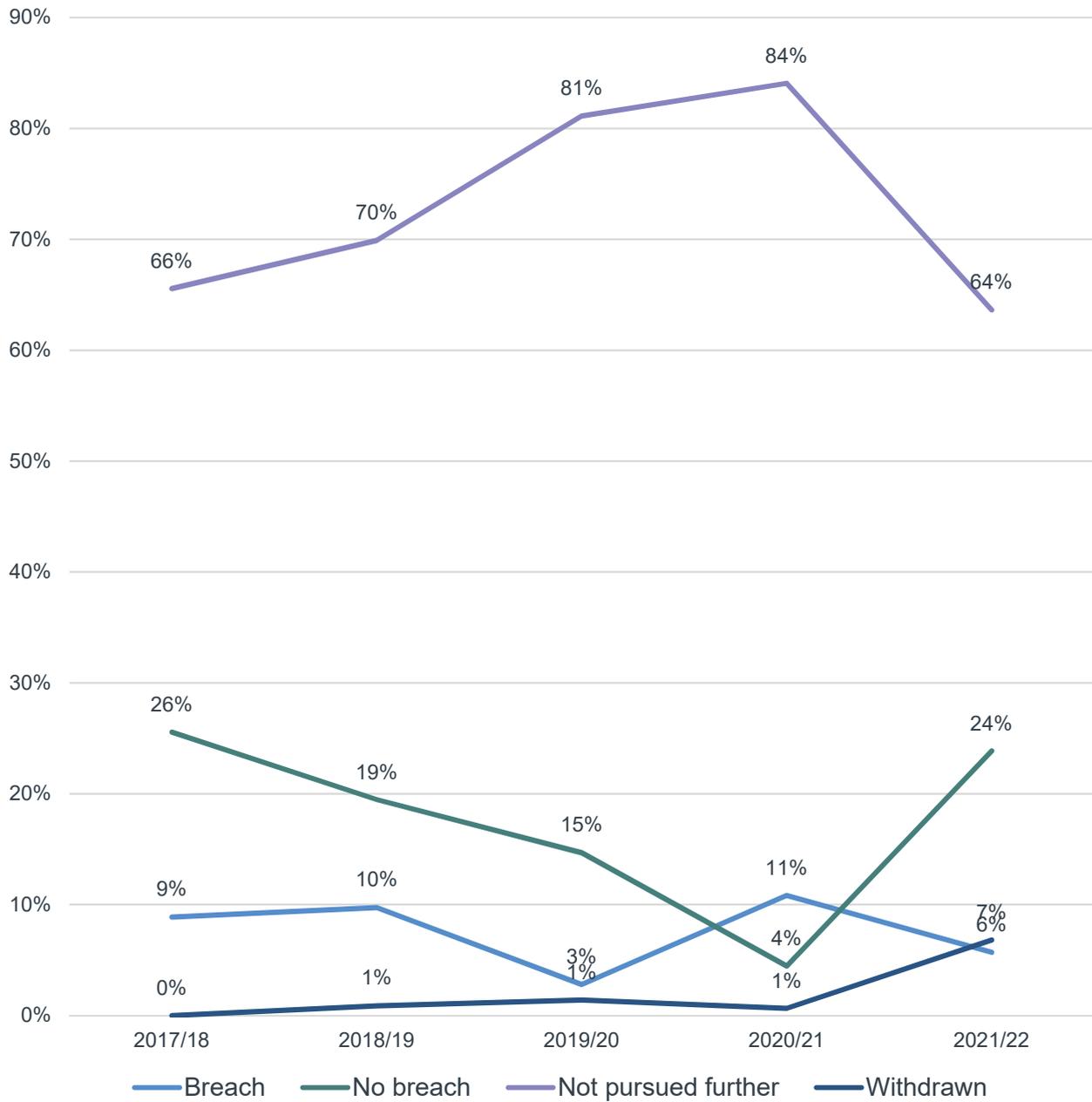
	2021/22				2020/21			
	Complaints		Cases		Complaints		Cases	
Full investigation	75	36%	26	30%	49	18%	24	15%
Breach	6	3%	5	6%	39	14%	17	11%
No breach	69	33%	21	24%	10	4%	7	4%
Initial assessment	125	60%	56	63%	227	82%	132	84%
Withdrawn	8	4%	6	7%	1	-	1	1%
Totals	208		88		277		157	

- The SCS Directions came into effect in July 2020, November 2020 and March 2021. They remain in place.
- The SCS Direction of March 2021 requires the Commissioner to investigate all complaints received about Councillors and Members, except in specified circumstances where the Respondent is incapacitated, the conduct complained of is outwith one year from the date of complaint, or where, on its face, no breach of the applicable Code has taken place.
- A full investigation was carried out in respect of 75 complaints – 26 cases
 - 6 complaints – 5 cases resulted in a report being submitted by the Commissioner to the SCS with a finding that there had been a breach of the Code.
 - Following investigation, 69 complaints which were investigated as 21 cases, were concluded with a finding of no breach of the Code.
- There were 125 complaints– 56 cases which, after initial assessment, were subject to no further action due to there being, on its face, no breach of the applicable Code.
- 8 complaints – 6 cases were withdrawn.

The SCS directed the Commissioner to carry out further investigations on two complaints (two cases) during the year (2020/21: Nil). In both cases, the SCS took no further action.

Figure 7

Trends in outcome of cases completed



This table details the findings in relation to cases completed during the year.

Figure 8

2021/22	Breach	No breach	Not pursued further	Withdrawn	Totals
Introduction/Key Principles					-
Outwith 12 months			4		4
Personal conduct/not acting as Councillor			6		6
Insufficient/no evidence to support allegation*		18	37		55
Code not engaged/no misconduct					-
Not about a Councillor or Member			1		1
Breach	5				5
Not in the public interest					-
Body outside our remit			2		2
Previously investigated			1		1
Withdrawn				6	6
Other		3	5		8
2021/22 Totals	5	21	56	6	88
2020/21 Totals	17	7	132	1	157
2019/20 Totals	4	21	116	2	143

*These are terms used in the Case Management System. Complaints where, on its face, no breach of the applicable Code had taken place are recorded under this heading.

Were there any interim reports issued?

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 2021/22 (2020/21: Nil).

Were there any hearings?

Under current Directions, the Commissioner reports the outcome of all investigations to the SCS. They may hold a hearing, direct the Commissioner to conduct further investigation or do neither. The following table provides further information about reports submitted and hearings held during 2021/22. If the SCS concludes at a hearing that a breach of the Code has occurred, they must impose a sanction. A further 17 reports where the Commissioner found there was no breach were submitted to the SCS. The SCS required further investigation in two instances and no further action in the remaining 15 cases.

Figure 9

Complaint number	Council / Public Body	Nature of Complaint	ESC Decision	Hearing date	Hearing decision	Sanction imposed
Report submitted in 2020/21; hearing held in 2021/22						
LA/R/3262 ¹	Renfrewshire Council	Disrespect towards other Councillors	Breach	03/05/2021	Breach	Disqualification
LA/R/2257 ¹	Renfrewshire Council	Disrespect towards other Councillors	Breach	03/05/2021	Breach	Disqualification
Report submitted and hearing held in 2021/22						
LA/CES/3453	Comhairle nan Eilean Siar	Disrespect towards employees/public	Breach	SCS decision: no further action		
LA/Mo/3469	Moray Council	Other	Breach	SCS decision: no further action		
LA/AC/3495	Aberdeen City Council	Disrespect towards other Councillors	No breach	05/10/2021	Not found in breach	
A/PK/3477	Perth & Kinross Council	Disrespect towards other Councillors	Breach	18/10/2021	Not found in breach	
LA/AC/3497	Aberdeen City Council	Disrespect towards employees/public	Breach	06/12/2021	Not found in breach	
LA/Mo/3516	Moray Council	Disrespect towards employees/public	Breach	16/02/2022	Not found in breach	
Report submitted in 2021/22; hearing to be held in 2022/23						
LA/D/3580	Dundee City Council	Disrespect towards employees/public	No breach	01/06/2022		
LA/AC/3600	Aberdeen City Council	Disrespect towards employees/public	No breach	07/06/2022		
LA/An/3561	Angus Council	Disrespect towards other Councillors	No breach	15/06/2022		

1. The SCS decision in two cases heard on 10 September 2020 was quashed on appeal. Re-scheduled hearings were held on 3 May 2021.

Complaint trends

When we receive several complaints about the same or closely related issues, we investigate them as a single case. We report the number of cases as this better reflects our actual workload. In 2021/22, we received 164 cases and completed 88 (2020/21: 130/157).

Figure 10

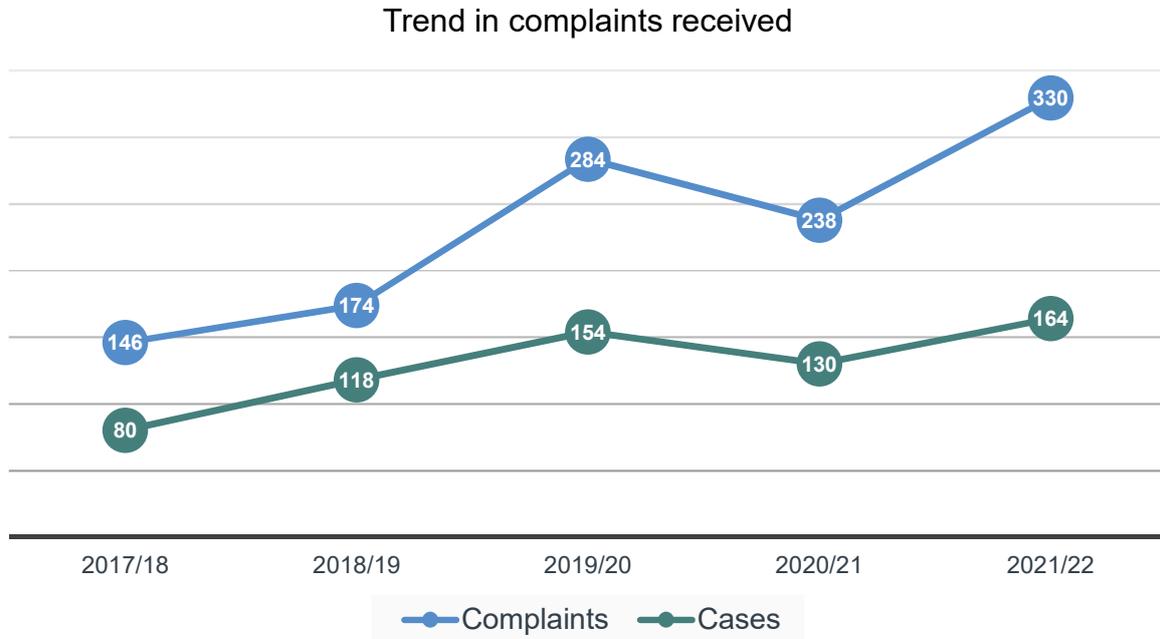
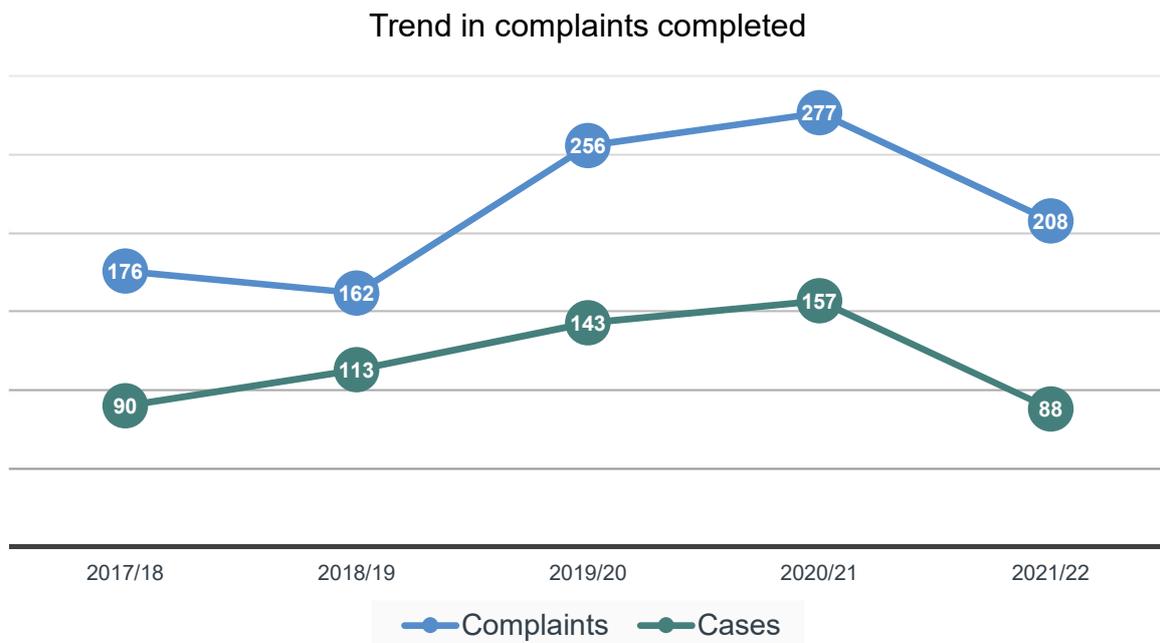


Figure 11



COMPLAINTS ABOUT MSPS

We investigate complaints about the conduct of MSPs.

How many complaints were processed?

Figure 12

		2021/22		2020/21		2019/20	
		Complaints	Cases	Complaints	Cases	Complaints	Cases
Open at 1 April	Stage 1	738 ¹	14	-	-	6	5
	Stage 2	1	1	1	1	-	-
Received		118	54	799 ¹	54	109	39
Active during year		857	69	800¹	55	115	44
Completed		97	50	61	40	114	43
Open at 31 March	Stage 1	760	19	738 ¹	14	-	-
	Stage 2	-	-	1	1	1	1

1. Prior year figures have been amended following an in-year re-assessment of the “super complaint”.

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, it moves to Stage 2 – investigation.

No complaints were withdrawn during the year (2020/21: Nil).

What were the complaints received about?

Figure 13

	2021/22	2020/21	2019/20
Allowances and expenses/Use of Parliamentary facilities	-	-	-
Breach of confidentiality	11	632 ¹	1
Engagement and liaison with constituents	-	-	3
General conduct	-	-	9
Other	98	133 ¹	89
Registration/declaration of interests	3	3	5
Treatment of other MSPs/staff	6	31	2
Totals	118	799¹	109
1. Prior year figures have been amended following an in-year re-assessment of the "super complaint".			

Towards the end of 2020/21 the Commissioner received over 730 complaints relating to a similar issue. The majority of these complaints were grouped together into what we have described as a "super complaint" and are currently being processed. It is anticipated that they will be concluded in the coming year.

What was the outcome of the complaints?

When the Commissioner receives a complaint about the conduct of an MSP, we assess whether it falls within our jurisdiction – ‘admissible’ – in which instance we can investigate further. The following table shows the number of complaints assessed and the outcome.

Figure 14

Reasons for inadmissibility	2021/22	2020/21	2019/20
Dismissed under the first statutory test – the complaint was not ‘relevant’ – for example, it did not concern conduct of an MSP	92	56	41 ¹
Dismissed under the third statutory test – was the complaint of enough substance to justify further investigation – that is, was there sufficient evidence?	-	-	1 ¹
Complaints “outwith” jurisdiction were referred to			
Presiding Officer	1	1	67
First Minister	-	-	3
SPCB	1	3	-
Standards Procedures and Public Appointments Committee	-	-	1
Inadmissible	94	60	113
Admissible	2	1²	2³
Totals	96	61	115

1. These were originally shown as 40 and 2 in the 2019 /20 report giving a total of 113 complaints assessed. Following a review of our records these have been amended to 41 and 1 respectively.
2. One complaint assessed as admissible in 2020/21 with the Stage 2 investigation completed in in 2021/22.
3. Of the two complaints assessed as admissible in 2019/20; one Stage 2 investigation was completed in the same year and one was completed in 2020/21.

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 two such reports in 2021/22 (2020/21: one). There were no admissible cases under investigation as at 31 March 2022 (2020/21: one).

Figure 15

Case Ref.	Nature of Complaint	Commissioner’s Conclusion	Committee date	Committee decision	Sanction imposed by the Scottish Parliament
3291 (2020/21)	Failure to register an interest	Breach	20/01/2022	Not found in breach	-
3485 (2021/22)	Treatment of other MSPs / staff	Breach	16/12/2021	Not found in breach	-

During the year, the Commissioner was not directed by the Scottish Parliament to carry out any further investigations.

Timescales

Stage 1 (Assessment of admissibility)

The Commissioner is required to report to the Standards, Procedures and Public Appointments Committee, and also to the MSP complained about and the complainer, if Stage 1 takes longer than two months. Of the 96 complaints (49 cases) that were assessed for admissibility in 2021/22 (2020/21: 61/40), seven complaints (four cases) (2020/21: 1/1) took over two months.

There were 760 complaints (19 cases) open at Stage 1 at the end of the reporting year (2020/21: 738/14).

Stage 2 (Further investigation)

The Commissioner is also required to report to the Committee, to the MSP complained about, and to the complainer, if Stage 2 takes longer than six months. Three complaints (two cases) proceeded to Stage 2 in 2021/22 (2020/21: 2/2). Two complaints (one case) were completed within the six-month time limit (2020/21: 1/1) and one took over six months (2020/21: Nil).

There were no Stage 2 investigations in progress at the end of the reporting year (2020/21: one).

Complaint trends

When we receive several complaints about the same or closely related issues, we investigate them as a single case. We report the number of cases as this better reflects our actual workload. In 2021/22, we received 54 cases and completed 50 (2020/21: 54/40).

Figure 16

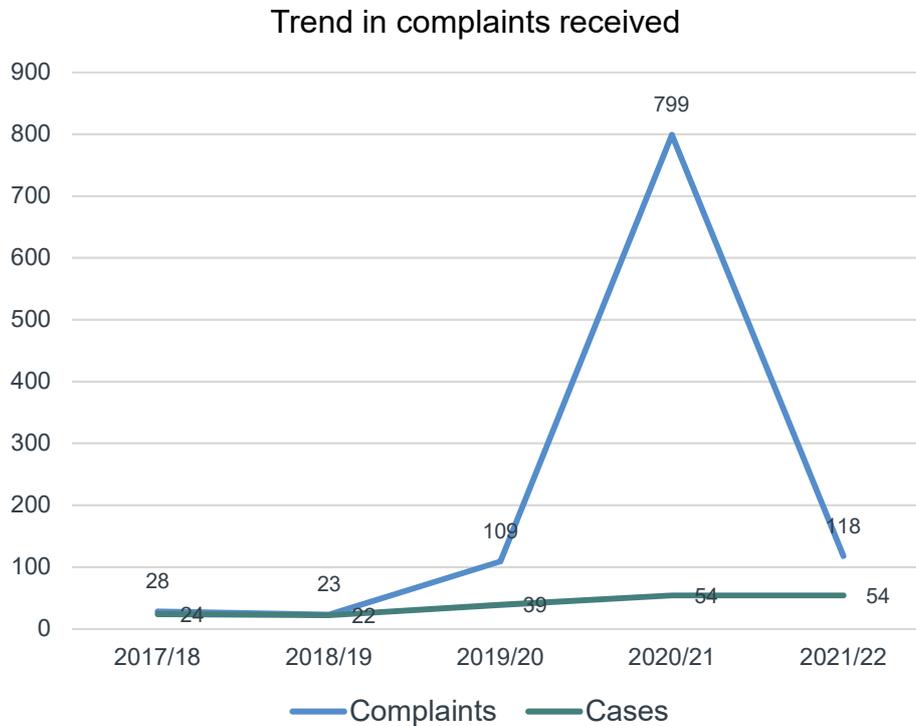
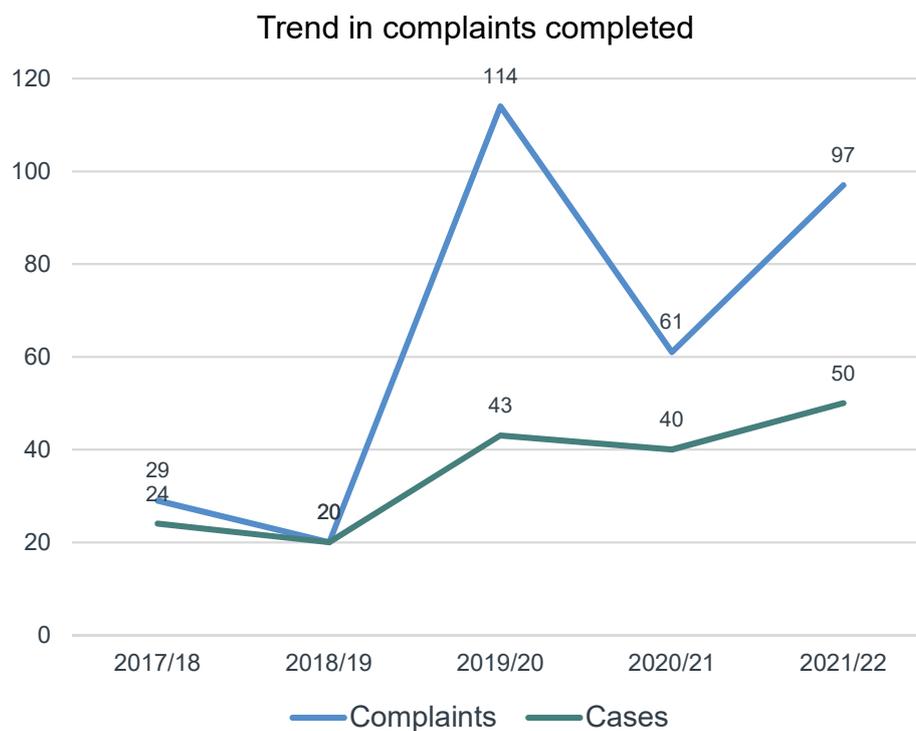


Figure 17



PERFORMANCE AGAINST OUR BUSINESS PLAN

The Commissioner's biennial business plan for 2021-2023 included actions intended to contribute to the achievement of our strategic objectives relating to standards. Progress against the business plan is summarised in the following table:

Figure 18

Standards	Milestones	Achieved
C1 and C2 We will consult all relevant stakeholders on our current complaint handling procedures and revise them and publish them in the form of an investigations manual which takes account of the views received. Parts of the manual will be produced in Easy Read, BSL and other languages to ensure accessibility. We will adapt our procedures to take account of stakeholder views and engender trust in the way that we work.	i. Upgrading and updating of procedural documentation (templates, factsheets, flowcharts, checklists etc) for MSP, councillor and board member complaint handling.	i. ● (procedural documentation upgraded and updated in May 2021 and restarted in August 2022 to account for Manual's consultation results)
	ii. Adopt new procedures for interim period.	ii. ✓
	iii. Map key stakeholders.	iii. ✓
	iv. Make initial informal contact.	iv. ✓
	v. Contact formally by way of introduction to AESC and plans for office.	v. ✓
	vi. Issue manual to key stakeholders for comment.	vi. ✗ (delayed due to lack of capacity, working draft Manual in place for internal use since November 2021, pre-consultation with key stakeholders complete in June 2022 and aim for publication for wider comments at end of August 2022)
	vii. Develop an action plan documenting an appropriate suite of arrangements in anticipation of amending legislation (sexual misconduct plus removal of the time bar) coming into force.	vii. ✓
C3 We will publish our procedures as revised so that everyone knows what to expect	i. Publish revised investigations manual.	i. ✗ (upon completing public consultation, aim for publication in Nov/Dec 2022)
	ii. Have parts of manual that are of interest and relevance to the public translated into BSL, Easy Read and other languages.	ii. ✗ (aim for completion late in financial year of 2022/23)

✓ Achieved ● Partially achieved ✗ Not achieved

We publicly report progress against our Biennial Business Plan which can be found on the website. The most recent published update is here: [Biennial Business Plan 2021-2023 - Progress as at 31 March 2022.](#)

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 no complaints regarding failure to register lobbying activity appropriately (2020/21: Nil).

COMPLAINTS ABOUT US

We are committed to carrying out our duties in an effective, efficient and professional manner. We encourage anyone who has a concern about how we have treated them or carried out our functions to raise the matter with us by making a complaint. The Commissioner values complaints and uses the information obtained from them to improve the way we operate.

When responding to complaints about us, we follow the [Scottish Public Services Ombudsman’s Model Complaints Handling Procedures](#). The procedures require us to report annually on how we have handled complaints about us. The outcomes for 2021/22 are provided below.

Figure 19

Complaints about us	Received	Closed
Stage 1 – Frontline resolution	7	7
Stage 2 – Direct to Stage 2	-	-
Stage 2 – Escalated from S1 to S2	3	1
Totals	10	8
Stage 3 – Independent Review	-	-

We aim to investigate complaints about us within the following timescales:

- Stage 1 – 5 working days
- Stage 2 – 20 working days

Figure 20

	Stage 1		Stage 2	
Average no. of working days to closure	3.9		53	
No. of complaints closed within timescale	6	86%	-	0%
No. of complaints closed outwith timescale	1	14%	1	100%
No. of complaints open at 31 March	-		2	

Figure 21

2021/22	Partially or Fully Upheld		Not Upheld	Total Decisions
Stage 1	6	86%	1	7
Stage 2	1	100%	-	1

The number of complaints about us remains very low in relation to the overall activity we undertake each year. The number of upheld complaints demonstrate that we take these complaints seriously and acknowledge when something goes wrong. The outcomes of all complaints help us to improve our services.

Two Stage 2 complaints were not upheld as they directly related to the Commissioner's decision in a complaint about conduct. We cannot investigate a complaint about us where this is an attempt to have a previously concluded complaint about conduct re-opened or to reconsidered where the Commissioner has already given their final decision.

A number of complaints raised concerns about the length of time taken to investigate complaints of conduct. The Commissioner recognised these as legitimate concerns and factored these complaints into a request to the SPCB for additional staff resources.

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 for these very important roles. 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 [Revised Strategic Plan 2021-2024](#).

The following tables and graphs show the extent to which Scotland’s board members at the end of 2021 reflect the population of the country as a whole and how it has changed over time. More detail is included in our [standalone public appointments report](#) for the year.

Current demographic profile of Scotland’s boards

Figure 22

Target Group	Change in board membership profile	Profile of board members† at 31 December 2021	Profile of board members† at 31 December 2020	Scottish Population (2011 Census)
Female	-0.9%	50.8%	51.7%	51.5%
Disabled	+1.2%	8.6%	7.4%	19.6%
Black and minority ethnic††	+0.1%	3.7%	3.6%	4.0%
Aged 49 and under	+0.6%	18.3%	17.7%	54.3%*
Lesbian, gay and bisexual	+0.1%	5.0%	4.9%	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 23

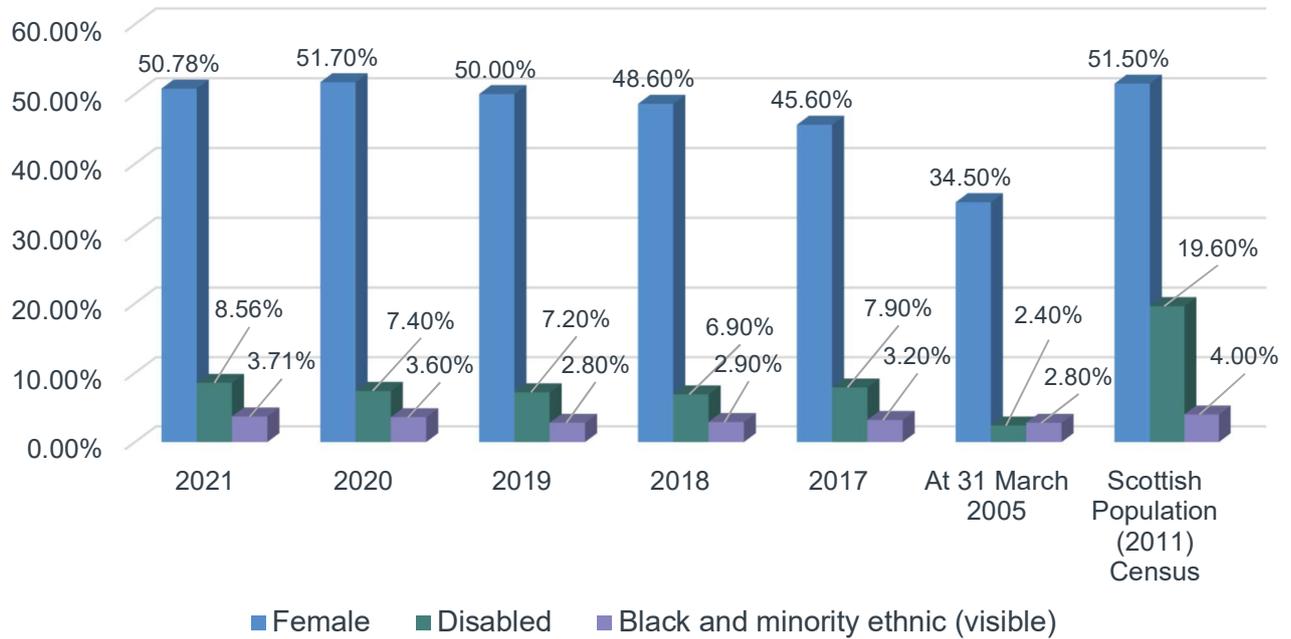
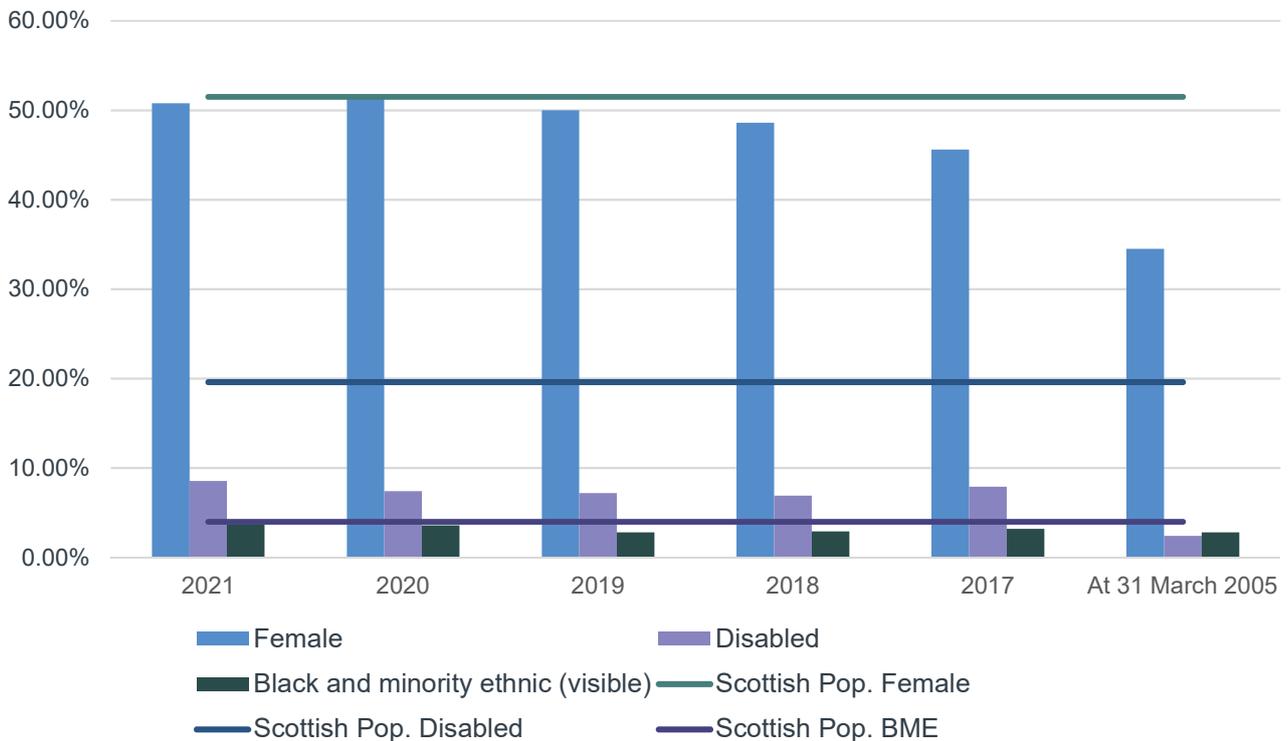
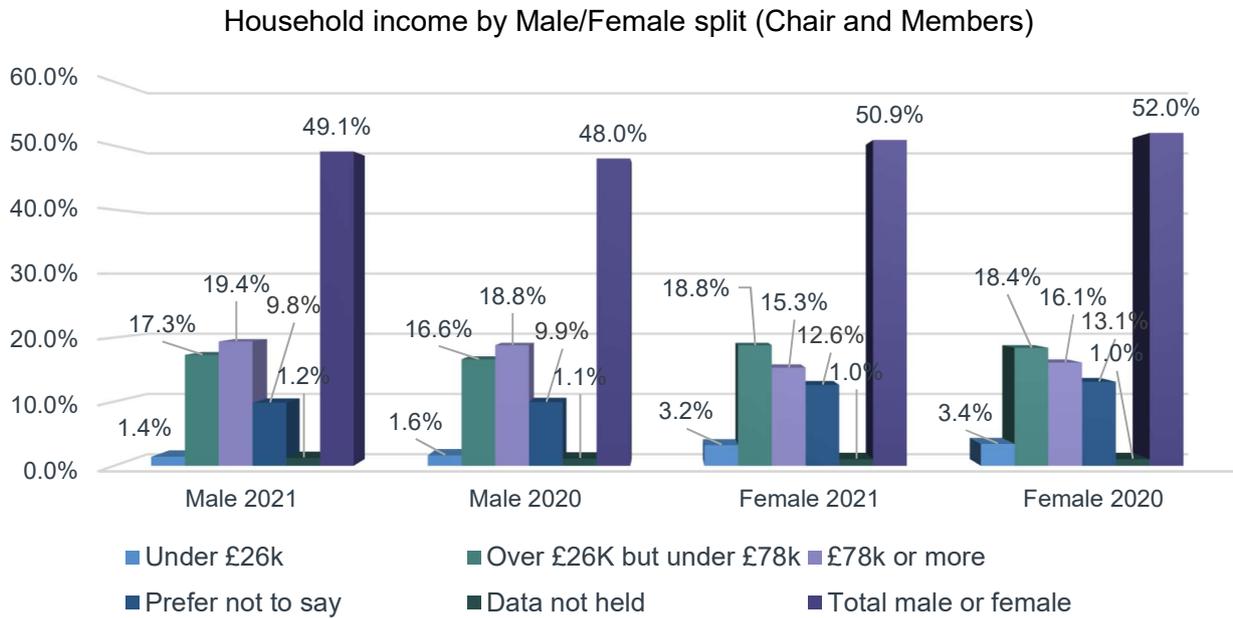


Figure 24



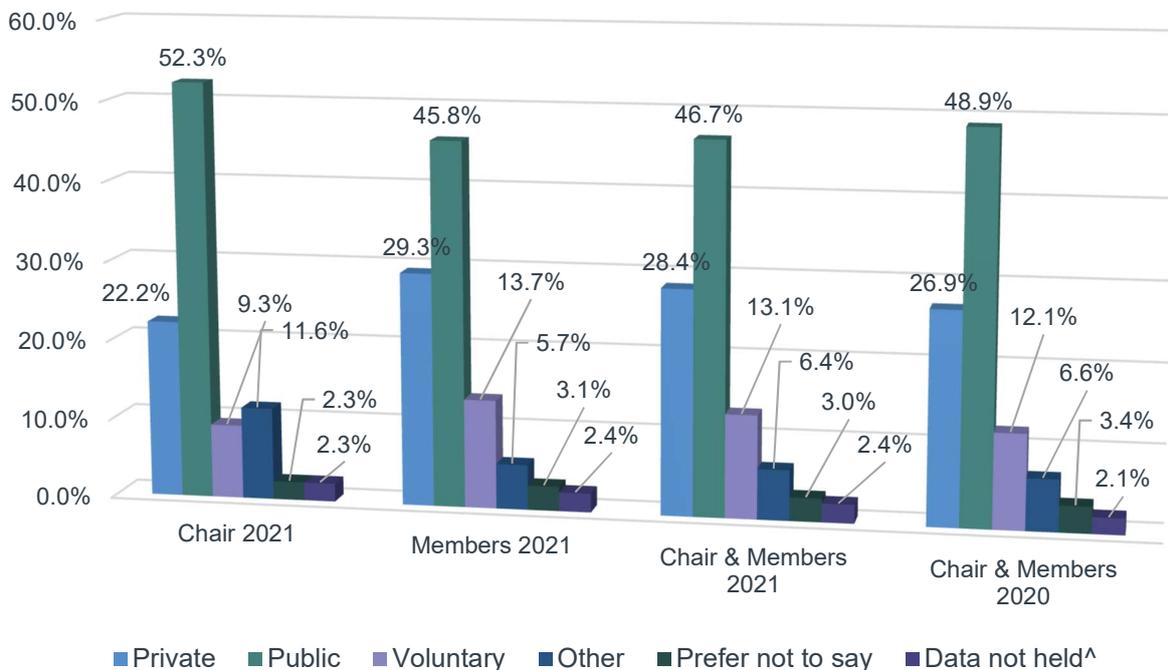
Household income of board chairs and members As at 31 December

Figure 25



Sector worked (or most recently worked) in As at 31 December

Figure 26

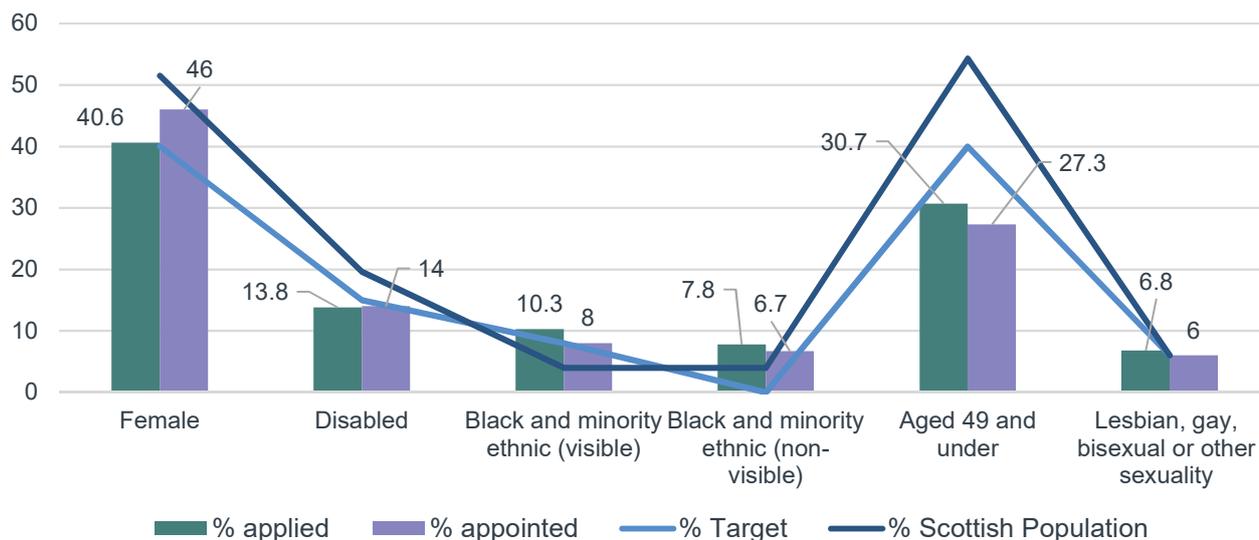


PERFORMANCE AGAINST DIVERSITY DELIVERS TARGETS 2021

The following chart shows the percentage of applications and appointments in 2021 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 1 January – 31 December 2021

Figure 27



The table below shows these figures for the preceding three years.

Applications and appointments by target group 1 January – 31 December 2021

Figure 28

Target Group	Target	2021		2020		2019		Scottish Population*
	●	●	●	●	●	●	●	
	%	%	%	%	%	%	%	
Female	40.0	40.6	46.0	41.4	53.5	42.9	48.1	51.5
Disabled	15.0	13.8	14.0	12.8	12.7	12.9	11.9	19.6
Black and minority ethnic (visible)**	8.0	10.3	8.0	8.5	5.6	8.7	5.9	4.0
Black and minority ethnic (non-visible)	N/A	7.8	6.7	8.9	5.6	6.3	5.9	4.0
Aged 49 and under	N/A	30.7	27.3	28.2	21.2	30.8	27.4	54.3***
Lesbian, gay, bisexual or other sexuality	N/A	6.8	6.0	5.4	5.6	4.9	3.7	6.0****

Key: Applications ● 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 2021-2023 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 29

Public Appointments	Milestones	Achieved
A1 Develop a revised Code of Practice for Public Appointments	<ul style="list-style-type: none"> i. Lay draft and consult Scottish Ministers, Scottish Parliament and key stakeholders on proposals from July - September 2021. ii. Analyse responses by November 2021. 	<ul style="list-style-type: none"> i ✓ ii ✓ (deadline extended for further consultation with SG. Analysis complete February 2022)
A2 We will take account of all stakeholder views in order to finalise the Code.	<ul style="list-style-type: none"> i. Publish results of analysis by December 2021 ii. Publish revised code and provide to Scottish Parliament by January 2022 iii. Have parts of Code that are of interest and relevance to the public translated into BSL, Easy Read and other languages by December 2022 	<ul style="list-style-type: none"> i ✓ ii ✓ (deadline extended for further consultation with SG. Analysis and revised Code published March 2022) iii ✗ (this action was deferred until October 2022 as that is when the Code is due to come into force).
A3 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	<ul style="list-style-type: none"> i. Draft and publish statutory guidance by February 2022 ii. Run training for PAAs, Scottish Government Public Appointments Team (PAT) and panels on new Code's application from February 2022 iii New Code comes into effect from April 2022 iv Continue to feed into lessons learned for the Scottish Government by running applicant surveys on a round by round basis and providing reports of feedback, whenever a request to run a survey is made. 	<ul style="list-style-type: none"> i ✗ (delayed until 2022/23; Code published March 2022, see A2ii above) ii ✗ (delayed until 2022/23; Code published March 2022, see A2ii above) iii ● (published March 2022 and comes into effect in October 2022) iv ● (backlog due to lack of resource)
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 by Sept 2021 ii Issue formal request by Oct 2021 	<ul style="list-style-type: none"> i ✓ ii ✓

✓ Achieved ● Partially achieved ✗ Not achieved

Additional, more detailed information on progress against the business plan and action plan is included in the [standalone public appointments annual report](#).

We publicly report progress against our Biennial Business Plan which can be found on the website. The most recent published update is here: [Biennial Business Plan 2021-2023 - Progress as at 31 March 2022](#).

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. More detail is included in our [standalone public appointments report](#) for the year.

The Commissioner’s remit extended to 733 posts on the boards of 99 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 30

At 31 March	2022	2021	2020
No. of bodies regulated	99	99	97
No. of posts regulated	733	717	755
Avg. no. of regulated positions per board	7.4	7.2	7.8

The National Confidential Forum was removed from the Commissioner’s remit on 23rd April 2021 and Environmental Standards Scotland was brought into our remit in October 2021.

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

How many appointments did we oversee?

During the financial year 2021/22, we were active in overseeing 133 appointment rounds.

Appointments are made through a process called an appointment round. 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 31

Allocations made	2021/22	2020/21	2019/20
Brought forward from previous year	52 ¹	40 ²	58
Started in year	81	58	70
Active during year	133	98	128
Completed	79	45	83
Open at end of year	54	53	45

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

¹ One round was reported as live at the end of 2020/21 which was subsequently closed with a closing date at the end of March 2021 and therefore should have been included in the “completed in year” category.

² Five rounds were reported as live at the end of 2019/20 which were subsequently closed with a closing date at the end of March 2020 and therefore should have been included in the “completed in year” category.

How many people apply for a public appointment?

From the information provided by the Scottish Government, during the calendar year 2021, 150 appointments were made to 53 public bodies following 1,868 applications made by 1,526 applicants (2020: 71 appointments to 30 public bodies; 1,307 applications and 1,117 applicants).

Number of applications and appointments During the year to 31 December

Figure 32

Number of	2021	2020	2019
Applications	1,868	1,307	2,088
Appointments	150	71	135
Average applications per appointment	12.5	18.4	15.5

Breakdown of applications During the year to 31 December

Figure 33

Number of applications	2021	2020	2019
Applied	1,868	1,307	2,088
Reached shortlist	1,868	1,299	2,079
Invited to interview	480	242	442
Recommended for appointment	159	87	151
Appointed	150	71	135

Number of reappointments and extensions During the year to 31 December

Figure 34

Number of	2021	2020	2019
Reappointments	111	65	50
Extensions	18	21	N/A

Satisfaction with the appointment process

Figure 35

Average satisfaction level	2021/22	2020/21	2019/20
PAA's contribution	4.67	4.46	4.51
Appointments process	4.15	3.85	4.05

Satisfaction levels are measured on a scale of 1 to 5 with 1 being very dissatisfied and 5 very satisfied. 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 PAT and/or 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. More detail is included in our [standalone public appointments report](#) for the year.

Figure 36

Issues raised	2021/22	2020/21	2019/20
Enquiry - Asked for advice on the Code of Practice	150	177	166
Enquiry - Asked for advice on good practice	32	14	8
Enquiry – Asked for exceptions to the Code, or term extensions or to discuss options not covered by the Code	39	46	46
Diversity research enquiry	-	-	5
Enquiry - General enquiry on the work of the office	10	42	30
Enquiries and Reports - Miscellaneous or “Other” enquiries or reports	206	346	315
Enquiry - Freedom of information requests	-	-	-
Report a complaint about an appointment round	-	4	1
Report a concern about an appointment round or a failure in administration	71	100	91
Report about good practice	49	20	10
Report an update on round activity	41	-	-
Report about non-compliance with the Code of Practice	4	7	8
Totals	602	756	680

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.

No new Statutory guidance was provided during the course of 2021/22.

CORPORATE AND FINANCIAL PERFORMANCE

PERFORMANCE AGAINST OUR BUSINESS PLAN

The [biennial business plan covering the period April 2021 to March 2023](#) set a range of corporate and financial goals. Progress is summarised below.

Figure 37

Corporate Goals for 2021/22	Achieved
Prepare business case for SPCB to increase staff complement. Contribute to recruitment and induction.	✓
Reassess corporate needs to produce a final workforce plan	●
All HR related policies revised or updated to take account of our current operational context and to secure staff wellbeing	✓
Full review of governance arrangements	●
Appointment of internal auditor	✓
Re-engage with AAB and ensure engagement on a regular basis	✓
Review of AAB remit and membership	●
Review of whistle-blowing policy	●
Re-establish SMT meetings	✓
Revert to prior arrangements for risk assessment	✓
Review current schemes of delegation	●
Review and formalise the budget process	✓
Ensure complaints handling statistics for previous two years are accurate and comparable with those produced previously	✓
Develop and implement plan for exit of Covid-19 lockdown restrictions	✓
Risk assessment of EU exit on current and future activities	●
Review of records management arrangements in preparation for resubmission of Records Management Plan to the National Records of Scotland	✓
Review and revise all outstanding policies that are currently beyond their published review date	●
Review entire website to ensure up to date Project begun in March 2022 for completion in 2022/23	✗
Review all privacy notices	✓

✓ Achieved
● Partially achieved
✗ Not achieved

We publicly report progress against our Biennial Business Plan which can be found on the website. The most recent published update is here: [Biennial Business Plan 2021-2023 - Progress as at 31 March 2022.](#)

FINANCIAL POSITION

The figures provided in this section are unaudited.

Funding

The Scottish Parliament allocated a budget of £946,000 to the Commissioner for financial year 2021/22 (2020/21: £937,000). In addition, four contingency funding awards were made:

- £8,000 for internal audit services
- £24,000 for costs associated with an expansion in remit
- £72,900 for additional staffing
- £42,200 to cover payment of previously accrued pension contributions

The Commissioner earned no income in 2021/22 (2020/21: £Nil).

Total funding awarded for the year, including contingency funding, was £1,093,100 (2020/21: £1,029,500). Of the funds awarded £1,086,200 was drawn down (2020/21: £914,600).

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 £995,000 (2020/21: £1,026,000).

Expenditure against budget

Figure 38

Expenditure	Actual	Budget	Variance	
	£'000s	£'000s	£'000s	%
Staff costs	662	651	11	2%
Staff related costs	6	13	(7)	(54%)
Property	92	90	2	2%
Professional fees*	158	140	18	13%
Running costs	46	50	(4)	(8%)
Depreciation	31	-	31	-
Revenue expenditure	995	944	51	5%
Less depreciation	(31)	-	(31)	-
Capital expenditure	10	2	8	400%
Cash expenditure	974	946	28	3%

* 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 original budget was overspent by £28,000 (2020/21: £67,000). Contingency funding of £147,100 was awarded (2020/21: £92,500), but the full amount was not required. An analysis of spend in key areas is given below.

Professional fees were over budget by £17,700. Three issues affected expenditure:

- An additional £37,400 was required for legal advice in relation to the MSP “super complaint”.
- £3,700 was required to carry out an independent review of a significant complaint about us. The resulting report – [Investigation report on a complaint about the ESC – July 2021](#) - is available on our website.
- External audit fees will be £3,700 above budget. This covers both a general increase in fees and follow-up work relating to the recommendations set out in the [External Auditor’s Report for 2020-21](#).
- These additional costs were offset by savings of £27,100 in the PAA budget, predominantly related to a steep reduction in travel costs.

Depreciation was significant this year, applying to the case management system introduced in August 2019, a full refresh of IT hardware in October 2019 and the purchase of additional equipment in 2020 and 2021 to allow all staff to work remotely and to prepare the office for hybrid working.

Covid-19 had an impact across a range of budget headings as summarised below:

Figure 39

	2021/22 £'000s	2020/21 £'000s
Savings	21.5	31.6
Costs	(12.5)	(5.5)
Total savings	9.0	26.1

Much of the underspend related to the significant reduction in travel imposed by Covid-19 and remote working and holds lessons for the future.

CORPORATE RESPONSIBILITY

Environmental matters

We recognise that our activities may have both positive and negative impacts in Scotland and further afield. As a result of Covid-19, the Commissioner, along with a large proportion of the working population, moved all staff to offsite, remote working. This has reduced the level of commuting to and from the office and physical attendance at external events, such as witness interviews and training events to almost nil. It has also accelerated the use of electronic communications and 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. Maintaining any environmental benefits will be a key factor in developing a post Covid-19 hybrid working method.

Social, community and human rights issues

The Code of Practice for Ministerial Appointments to Public Bodies adopted in October 2013 includes a principle of "Diversity and Equality", which along with other code revisions is intended to make the appointment process more attractive and accessible to groups who are under-reflected on the boards of public bodies. The revised Code, published in March 2022 now includes an enhanced 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 now 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.

All of our activities are intended to ensure the application of high levels of ethical standards to the conduct of elected members and those appointed to public office by Ministers and to ensure fairness, transparency and equality of opportunity in the appointment process. Our revised strategic plan for 2021-2024 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 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.

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