

# Ethical Standards Commissioner

ANNUAL REPORT AND ACCOUNTS

2018-19

ESC

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## PERFORMANCE REPORT

for the Commissioner for Ethical Standards in Public Life in Scotland known as the Ethical Standards Commissioner

### OVERVIEW

#### COMMISSIONER'S STATEMENT

Some five months have now elapsed since I commenced my term as Commissioner on 1 April 2019 and in this statement, I reflect on what has been a period of significant progress and change.

As Office holder, I perform a dual role which is mandated by statute; firstly, as regulator of ministerial appointments to the boards of 96 public bodies; and secondly, as complaint handling service for Code of Conduct complaints regarding MSPs, local authority councillors and regulated board members together with complaints regarding lobbying.

Over time, this statutory mandate has been fulfilled through a variety of guises dating back to 2002, and from the onset of my term my focus has been on a forward-looking refresh of the current office. This refresh will underlie the strategic plan for my term in office (to be released in the coming months), with many key objectives therein regarding complaint handling being founded on a remodelling of this function.

Over the early months of my term I developed a restructuring proposal to reshape the complaints handling function to better meet the needs of MSPs, Councillors, Board Members and, of course, members of the public. In doing so, I worked closely with the SPCB<sup>1</sup> from the initial concept stage, incorporating guidance gratefully received therefrom as the proposal matured. The restructure is now well under way and whilst a level of service disruption was necessitated in effecting the restructure, this mainly coincided with the lower activity levels which typify summer recess.

Some key features of the restructure are highlighted below.

#### Complaints Handling Restructure – Key Features

- Doubling the hours available for investigation work each year from 3,000 to 6,000 hours
- No increase in the number of full-time equivalent staff
- Anticipated savings of £75,000 next year
- Consequent accelerated closure of complaint investigations

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<sup>1</sup> Scottish Parliament Corporate Body

Other office wide priority issues also required action during my five months in office to date. Some examples are provided below:

## Other Key Highlights since 1 April 2019

### IT Upgrade

- IT hardware and software were extensively replaced (in advance of support cessation for previous operating systems in January 2020)
- A new complaints case management system was deployed, replacing the former complaints database

### Governance Improvements

- Formation of a new senior management team
- Inauguration of internal audit arrangements
- Centralised recording of “complaints about us”

Turning now to Public appointments (PA) regulation which, in its strictest sense, aims to provide assurance that board appointments within remit are made in a “code compliant” way.

My PA team go beyond this strict compliance remit, working in partnership with the Scottish Government to help improve stubbornly low diversity metrics for board composition. The achievement of gender balance on boards is truly remarkable and denotes this jurisdiction as an outstanding gender diversity champion. However, other protected characteristics remain elusive despite much enthusiasm and effort to improve diversity. Concern exists that currently strained government resources, (which can only be further pressured by any EU exit), may further negatively impact diversity improvement efforts. Given this backdrop, I am assessing the future of such partnership working via my engagement with the Scottish Government in recent months. This assessment will be reflected by the incorporation of realistic diversity actions into the upcoming PA Strategic Plan for 2020 – 2024.

I would like to voice my appreciation to all those who have supported me in the progress which I have made in my 5 months to date. This includes:

- the Scottish Parliament
- Rosemary Agnew, Scottish Public Services Ombudsman
- Marie Anderson, Former Northern Ireland Public Services Ombudsman (NIPSO)
- Paul McFadden, Deputy Ombudsman, and Michaela McAleer Director of Investigations, NIPSO
- Shane McAteer, Standards and Privileges Committee, Northern Ireland Assembly
- and, last but not least, my invaluable senior staff.

Input from stakeholders such as the Standards Commission for Scotland, and the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) Monitoring Officers Working Group has also been formative and again was received with many thanks. Such stakeholder liaison and responsiveness will be a feature going forward, facilitating provision of a proactive customer-centric service which matures over my term in office.

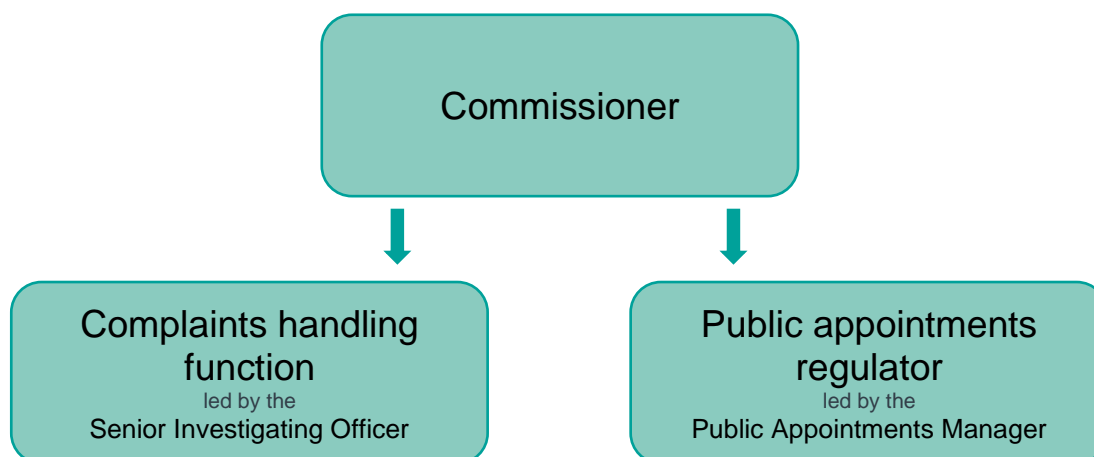
In summary, it has been a challenging and dynamic start to my term in office, which I have approached as an opportunity to secure service improvements and value for money going forward. I will soon be working closely with the Scottish Parliament and the Standards, Procedures and Public Appointments Committee to ensure readiness for further change, that being the upcoming expansion of my remit to include complaints pertaining to harassment, bullying and other inappropriate behaviour.

With change comes disruption so I will close with an apology to any service user who has been inconvenienced as a result of these ongoing changes. Bear with me, as the remodelled system will soon provide the service excellence which the Scottish public and broader stakeholders deserve.

Caroline Anderson FCA  
Ethical Standards Commissioner

## OUR PURPOSE

Under current statute the Commissioner has two separate roles. Firstly, the Commissioner regulates appointments by Scottish Ministers to the boards of public bodies in her remit. Secondly, the Commissioner investigates complaints about Members of the Scottish Parliament (MSPs), local authority councillors, board members of regulated public bodies and lobbyists.



The Commissioner's statutory functions in relation to complaints handling are:

- to investigate complaints alleging contravention of the relevant Code of Conduct by
  - Councillors
  - Members of Public Bodies
  - MSPs and,
- where there has been contravention of the relevant Code, to report
  - in the case of councillors and members of public bodies, to the Standards Commission for Scotland
  - 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.

The statutory functions of the Commissioner in relation to public appointments 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
- 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.

## KEY ISSUES AND RISKS

At 31 March 2019, a number of key legacy issues presented a challenge to the successful delivery of the complaints handling function which forms part of the statutory mandate of the Commissioner's office.

Key issues were as follows:

1. At 31 March 2019 a backlog of proposed breach investigation reports, equal in number to that heard by the Standards Commission in an average year, existed in relation to complaints received against local councillors.
2. Due to historic staff turnover, the necessary capacity was not available at 31 March 2019 to clear the backlog described above. At this date, the level of post vacancy in onsite complaints staff sat at 71%. This included the Senior Investigating Officer (SIO), being the only staff position requiring a legal qualification, for whom no temporary cover had been put in place by the accounting year end.
3. The new Case Management System (CMS) project, initially scheduled for deployment in 2017/18 was still under development, diverting the few remaining onsite complaints staff to project development and implementation tasks, and away from "business as usual" complaints handling.

As a consequence of the above issues, the complaints handling function was overstretched and operating sub-optimally. My strategic overview of the situation was that complaints handling required modernisation, together with remodelling of the associated staff complement, a full restructure being necessary to create a modern efficient and effective complaint handling function. This action necessitated incurrence of previously unanticipated costs, which are further described in note 11 to the accounts.

### Other operational considerations existing at 31 March 2019

#### Expansion of statutory remit to include sexual harassment and bullying

An additional consideration influencing my decision to restructure was to ensure readiness for this upcoming and significant development.

The Scottish Parliament is currently considering changes to the Code of Conduct for MSPs to include complaints from MSP staff and parliamentary staff, of bullying, harassment (including sexual harassment) and other inappropriate behaviour with no time bar on historic incidents. Additional staff members with suitable expertise may be required to cater for complaints arising under this newly expanded scope, which has the potential for considerable operational impact.

## PERFORMANCE ANALYSIS

### THE STRATEGIC PLAN

The work of the office has been planned and organised in accordance with the Strategic Plan for the four-year period 2016 - 2020, which sets out the Commissioner's main objectives. The plan is available at [www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk).

The strategic objectives are:

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1. An accessible complaints process with trusted outcomes.
  2. Public boards which are effective, and reflective of society.
  3. Managing resources and measuring performance.
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## COMPLAINTS ABOUT CONDUCT

1. An accessible complaints process with trusted outcomes.

### COMPLAINTS ABOUT LOCAL AUTHORITY COUNCILLORS AND BOARD MEMBERS OF PUBLIC BODIES

We investigate complaints about the conduct of local authority councillors and board members of certain public bodies.

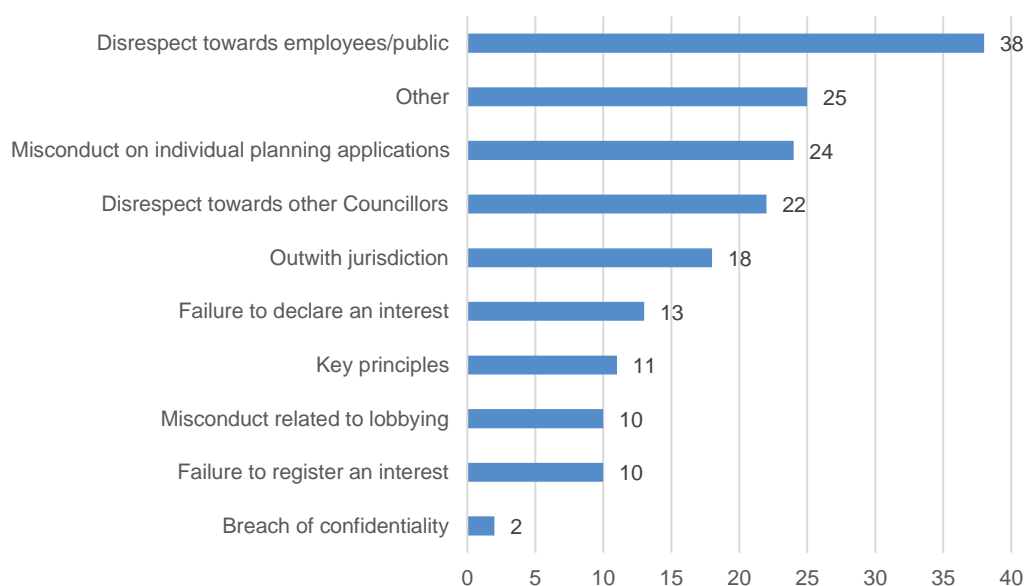
#### HOW MANY COMPLAINTS OF THIS TYPE WERE PROCESSED?

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 this better reflects our actual workload.

Complaints processed	2018/19		2017/18	
	Complaints	Cases	Complaints	Cases
Open at 1 April	24	20	54	30
Received	173	117	146	80
<b>Active during year</b>	<b>197</b>	<b>137</b>	<b>200</b>	<b>110</b>
Completed	153	109	176	90
Open at 31 March	44	28	24	20

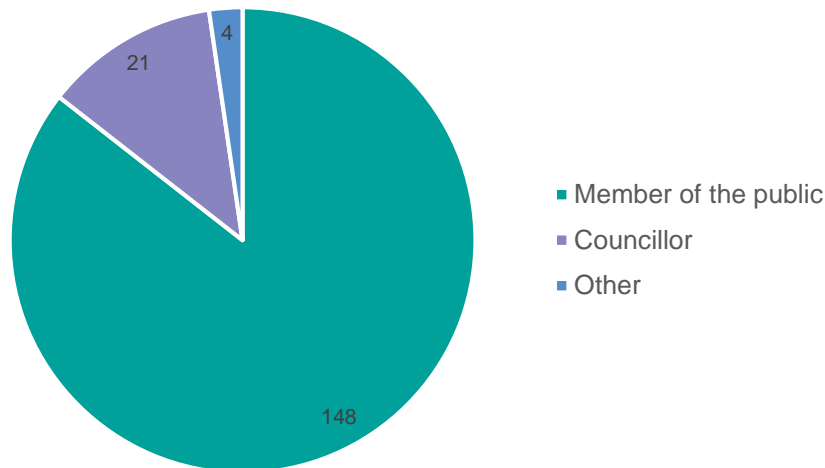
#### WHAT WERE THE COMPLAINTS ABOUT?

Number of complaints received by alleged breach



## WHO MADE THE COMPLAINTS?

Origin of complaints

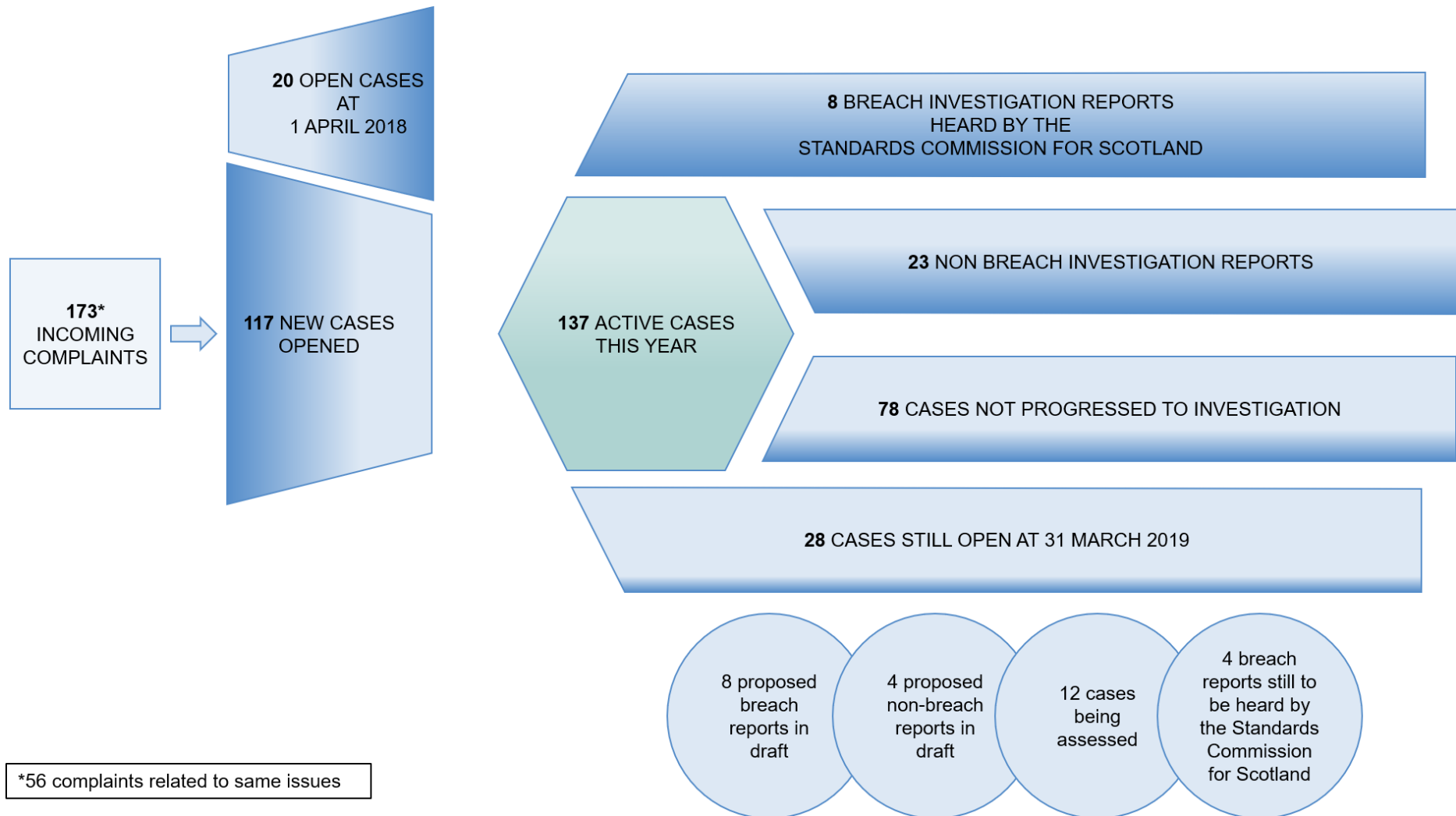


## WHAT WAS THE OUTCOME OF THE COMPLAINTS?

Twenty open cases were brought forward from the prior year and 173 new complaints received during the current year, equating to 117 new cases, as several complaints related to the same issues. Overall, 137 active cases existed during the year ended 31 March 2019, of which 78 were closed without being progressed to investigation.

A total of 31 cases progressed to full investigation and were reported on and finalised during the year, with 8 being breach reports which were heard by the Standards Commission, and 23 being reported on as non-breach.

This left some 28 cases open at the year-end in various stages of completion. In total 12 proposed breach and non-breach case reports were still to be finalised at 31 March 2019 and related to complaints dating back to August 2018.

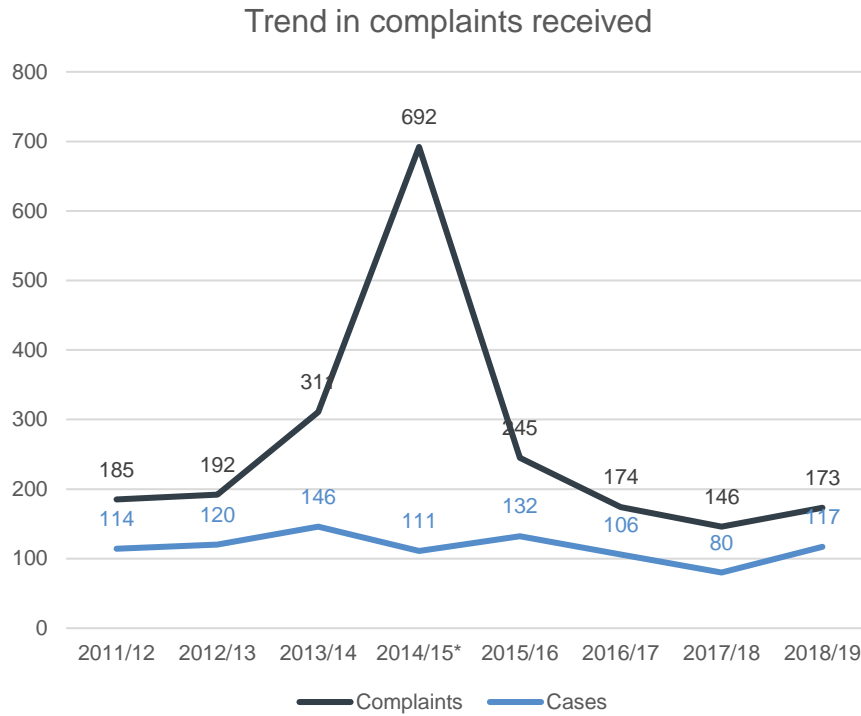


The Standards Commission for Scotland considers case report findings and may hold a hearing and impose a sanction. The following table provides further information about Standards Commission hearings held during 2018/19.

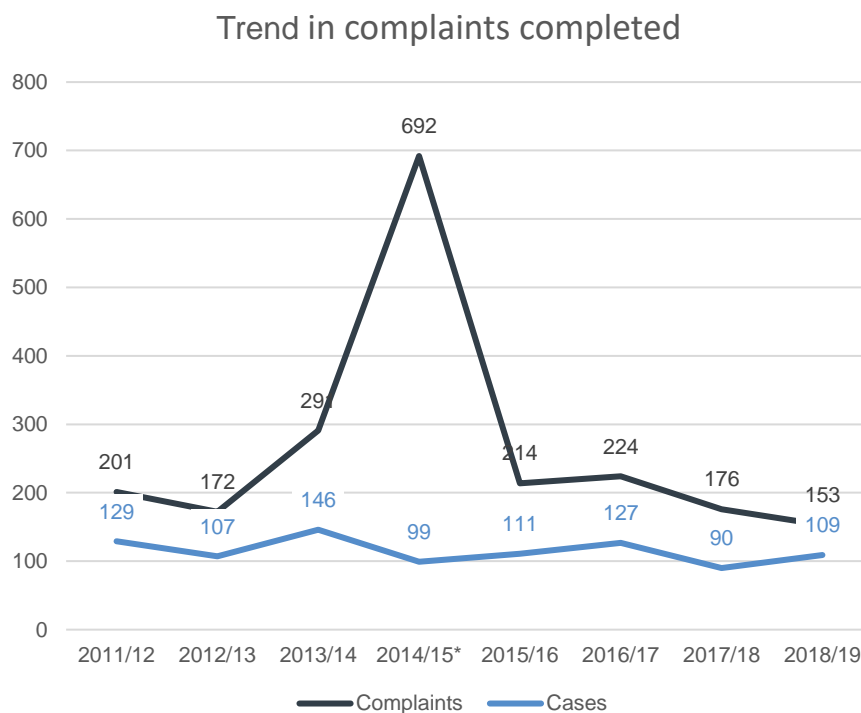
Complaint number	Council / Public Body	Nature of Complaint	Hearing date	Hearing decision	Sanction imposed
LA/Fi/2050	Fife Council	Disrespect towards applicant for licence	24-Apr-18	Breach	Suspension from the Regulation and Licencing Committee for 2 months
LA/CES/2091	Western Isles Council	Failure to register interest	03-Jul-18	Breach	Censure
LA/As/2062	Aberdeenshire Council	Failure to register a non-financial interest	28-Aug-18	Breach	Censure
LA/I/2113	Inverclyde Council	Failure to declare an interest	21-Sep-18	Breach	Censure
LA/An/2094	Angus Council	Disrespect	20-Nov-18	Breach	Suspension (full Council - 3 months)
LA/AB/2125	Argyll and Bute Council	Failure to declare an interest	18-Jan-19	Breach	Censure
LA/An/2134	Angus Council	Disrespect	20-Feb-19	Breach	Censure
LA/As/2173	Aberdeenshire Council	Failure to declare an interest	18-Mar-19	Breach	Censure

**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 2018/19, we received 117 cases and completed 109.



\* In 2014/15, 524 complaints related to one issue.



\* In 2014/15, 524 complaints related to one issue.

## COMPLAINTS ABOUT MSPS

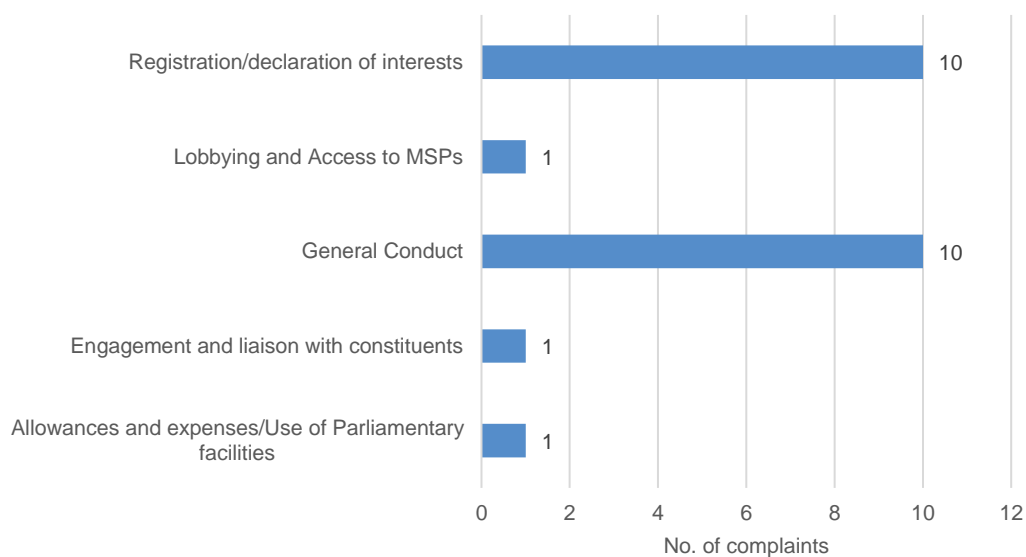
We investigate complaints about the conduct of MSPs.

### HOW MANY COMPLAINTS WERE PROCESSED?

#### MSP Complaints processed

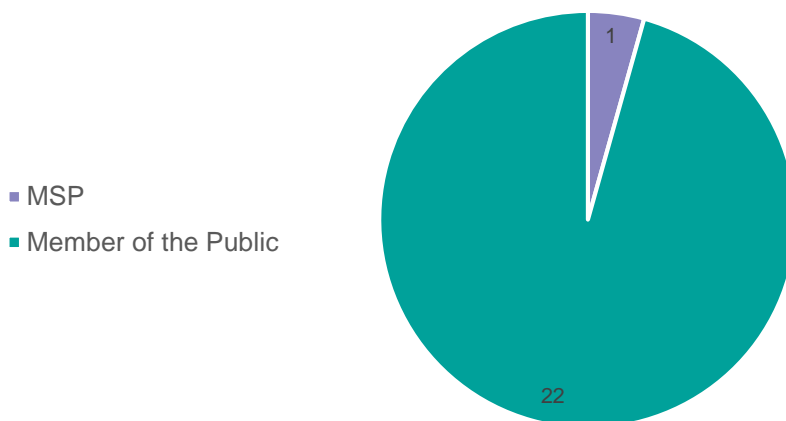
	2018/19	2017/18
Open at 1 April	3	3
Received	23	28
<b>Active during year</b>	<b>26</b>	<b>31</b>
Completed	20	28
Open at 31 March	6	3

### WHAT WERE THE COMPLAINTS ABOUT?



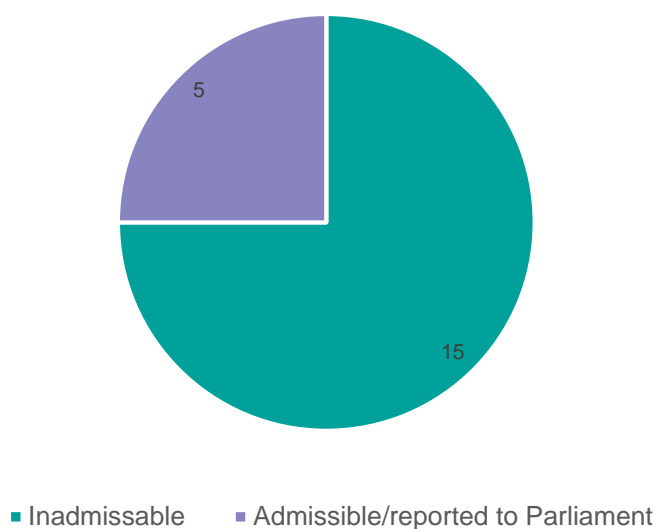
## WHO MADE THE COMPLAINTS?

Origin of complaints



## WHAT WAS THE OUTCOME OF THE 20 COMPLETED COMPLAINTS?

Some types of complaints about the conduct of MSPs are outwith our jurisdiction – they are ‘inadmissible’. When we receive a complaint about the conduct of an MSP, we assess whether it is within our jurisdiction – ‘admissible’ – in which instance we can investigate further.



The reasons for inadmissibility are as follows:

Reasons for inadmissibility	2018/19
Dismissed under the first statutory test – the complaint was not ‘relevant’ – eg that is about the conduct of an MSP	9
Dismissed under the third statutory test – was the complaint of enough substance to justify further investigation – that is was there enough evidence	1
Complaints “outwith” our jurisdiction were referred to	
Presiding Officer	2
Scottish Parliamentary Corporate Body	2
Standards, Procedures and Public Appointments Committee	1
<b>Total</b>	<b>15</b>

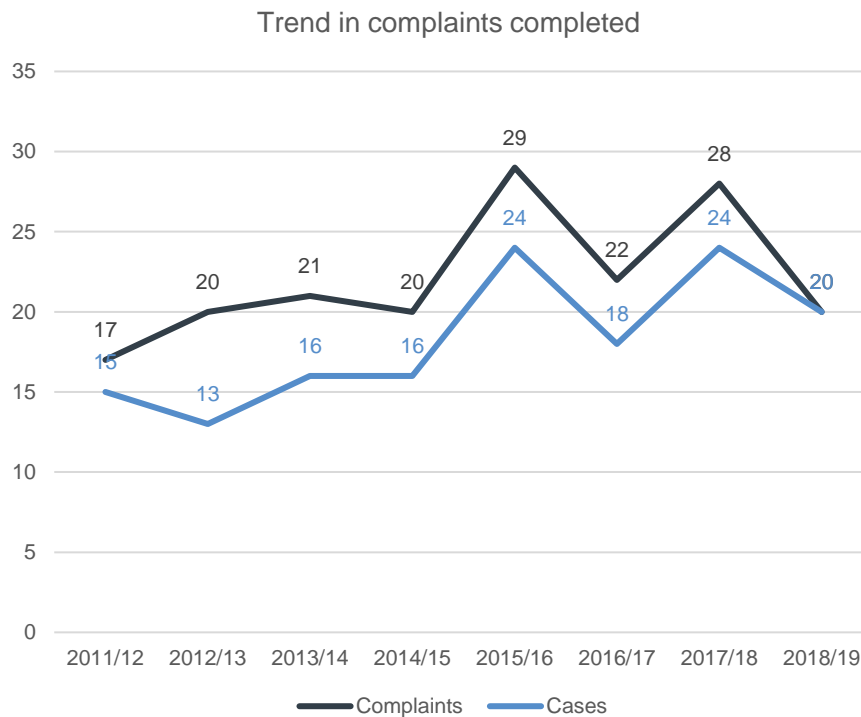
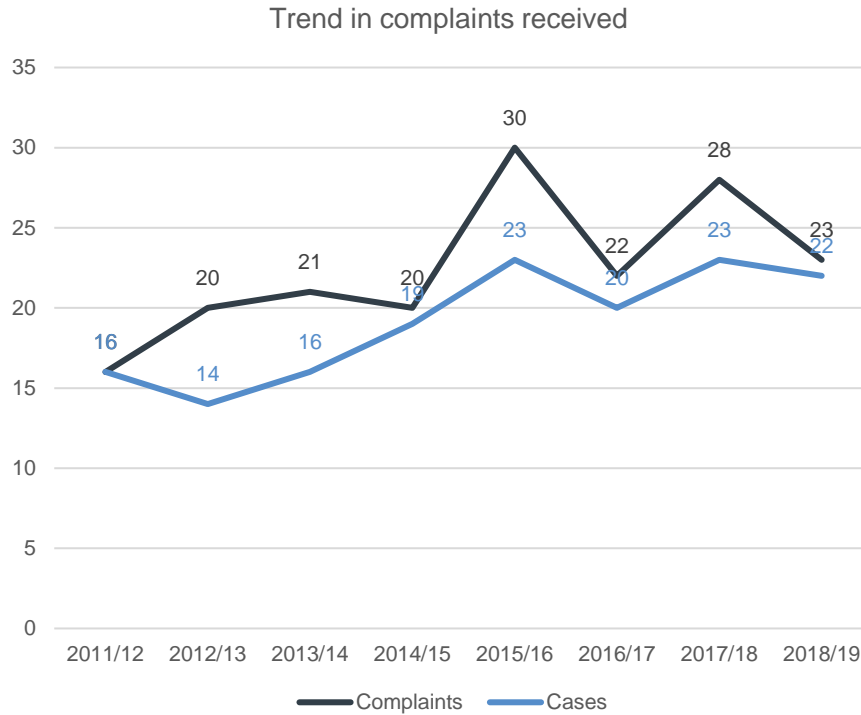
Where a complaint is ‘admissible’ we investigate and report our findings to the Standards, Procedures and Public Appointments Committee of the Scottish Parliament. There were five such complaints, with four being determined by the Committee during 2018/19 as shown below.

Case Ref.	Nature of Complaint	Commissioner’s Conclusion	Committee date	Committee decision	Sanction imposed by the Scottish Parliament
2083	Disclosure of confidential information	No Breach	31-05-18	Agreed	N/A
2119	Sexual harassment of female member of staff	Breach	21-06-18	Agreed	Excluded from proceedings and salary and right of access withdrawn for period of one month. Rights to any ceremonial, representational and related privileges withdrawn until dissolution.
2141	Making advance public comment on a Committee report	Breach	01-11-18	Agreed	Exclusion from meetings of the Parliament and its Committees for a period of five sitting days.
2144	Failure to declare an interest	No Breach	22-11-18	Agreed	N/A



**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 2018/19, we received 22 cases and completed 20.



## PUBLIC APPOINTMENTS

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### 2. Public boards which are effective, and reflective of society.

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We regulate how Scottish Ministers make appointments to the boards of public bodies that are within our remit.

As highlighted in previous annual reports, the Scottish Government and the Commissioner continue to share the objective of securing effective, diverse boards reflective of society and the communities that they serve. Our strategic plan indicated partnership working as the preferred method for improving the appointments system, but this has drifted somewhat in the year under review. This reduced partnership working coincides with increased workload volumes which have demanded the focus of the Scottish Government, together with other ongoing statutory obligations.

The Commissioner is in the process of seeking clarity regarding current arrangements in order to determine how the strategic objective might best be met. The Commissioner's options include continuance of partnership working with the Scottish Government or alternatively, taking a more traditional regulatory role. In either case the aim is that people from all walks of life are encouraged to apply, in the assurance that the appointment process is fair and easy to navigate for them when they do so.

The Commissioner has continued to support improvement by allocating Public Appointments Advisers (PAAs) to engage early with panels on an appointment round by appointment round basis. That engagement is intended to support succession planning and to assist panels towards selecting the most appropriate methods for the attraction and assessment of applicants for board roles.

The Commissioner also provided dedicated PAA resource to activities such as:

- the diversity in governance research
- thematic reviews into lessons learned and succession planning
- creating a bespoke plan to redress the underrepresentation of disabled people and
- a mentoring scheme for potential board chairs of the future.

Additionally, the small staff team in the Commissioner's office continue to provide practical support to the Scottish Government with its guidance, outreach and positive action activity.

During the year the Scottish Government appointed a new permanent public appointment team (PAT) manager to handle the increasing volume of applications and public appointments. The levels of parliamentary interest in public appointments also continues to rise which, whilst welcome, also has resource implications.

Despite these challenges, improvement still continues, although at a lower level than may have been hoped for. The Scottish Government continues with its programme of outreach events, new board member induction events and general process improvements. The enhanced gender balance on boards is an indicator that these activities have had a notable measure of success. Less positive is the fact that there has been a year on year decrease

in applications from and appointments of people who declare a disability. Lessons learnt from the positive work done on gender may now be successfully applied to redressing under-representation of those with other protected characteristics such as disability, age and ethnicity. The new Commissioner looks forward to a renewal of resources and focus by the Scottish Government in order to achieve this strategic aim.

As the time approaches for the Commissioner to formalise a new strategic plan in regard to public appointments, a decision is pending on the future positioning of this office with regards to its regulatory role. Devoting limited resources to the production of thematic reviews, governance research and recommendations for improvement is only valuable if acted upon by relevant stakeholders, which generally has not been the situation of late. As such, liaison and firm intentional engagement with the Scottish Government is welcomed to ensure best value for money is delivered to the public under the upcoming strategic plan.

More information about our work on public appointments can be found in our 'Annual Report on Public Appointments 2018-19' available on our website.

## HOW MANY BODIES AND POSITIONS DO WE REGULATE?

At 31 March	2019	2018
No. of bodies regulated	96	96
No. of posts regulated	678	661
<b>Avg. no. of regulated positions per board</b>	<b>7.1</b>	<b>6.9</b>

## HOW MANY APPOINTMENTS DID WE OVERSEE?

During the year, we scrutinised the appointment of 168 board members to 53 public bodies. Appointments are made through a process called an appointment round. Multiple appointments can be made through a single appointment round and bodies can run more than one round in a single year. In certain circumstances we allocate a Public Appointments Adviser (PAA) to scrutinise 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. For example, the PAA may be involved in preparatory work for an appointment round that does not proceed.

### Allocations processed

	2018/19	2017/18
Brought forward from previous year	43	24
Started in year	96	90
<b>Active during year</b>	<b>139</b>	<b>114</b>
Completed	81	71
Open at end of year	58	43

## HOW MANY PEOPLE APPLY FOR A PUBLIC APPOINTMENT?

This information is provided by the Scottish Government and relates to a calendar year.

Number of	2018
Applications	2,832
Appointments	168
Average applications per appointment	16.9

## HOW LONG DOES AN APPOINTMENT ROUND TAKE?

The following table shows the average time taken to appoint a member from the date of planning to the Minister's appointment decision.

	2018	TARGET
Number of rounds	70	
Average time taken (weeks)	18.9	Up to 16 and no more than 20 weeks

An appointment to the board of a public body is for a set number of years. At the end of this period, the board member's term of office may cease or they may be re-appointed. We ask the appointing Minister to give board members reasonable notice of their decision.

	2018	Target
	Weeks	(Min. no. of weeks)
Average amount of notice given to re-appointees before term of appointment due to end	21	13
Number of people reappointed	96	

## WHAT DO APPLICANTS THINK OF THE APPOINTMENT PROCESS?

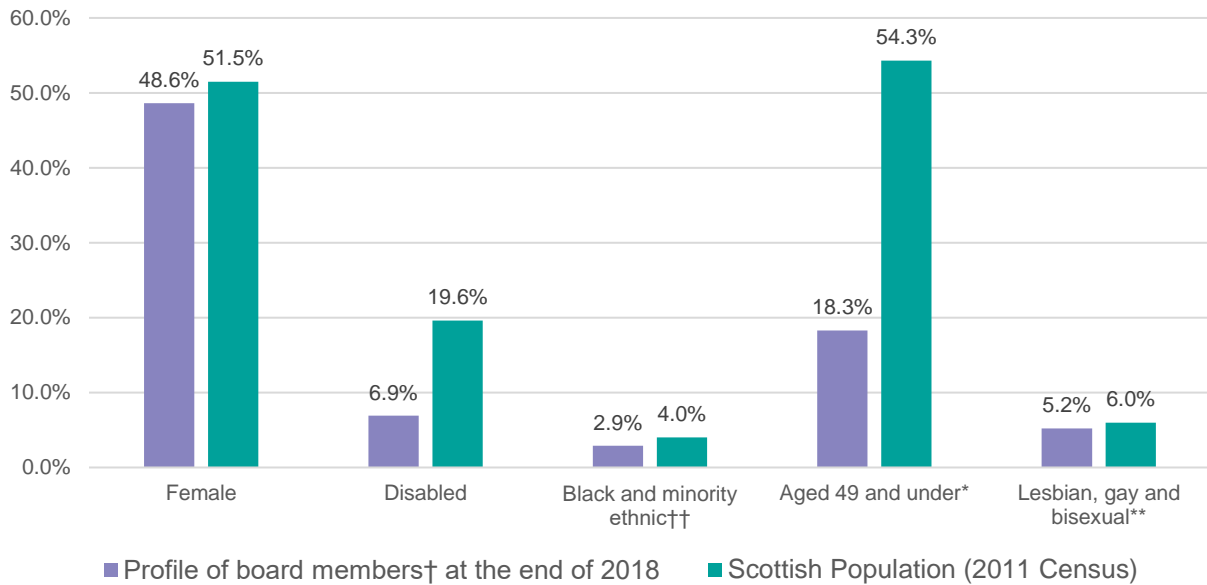
We published the 2017 Annual Applicant Research report in November 2018 and a summary of its findings was included in the last annual report. Work on the 2018 applicant survey, covering a much higher number of appointment rounds, is now underway and will be published on our website in the autumn.

We also ask public body and panel chairs to provide their views on the contribution of our PAA and on the appointments process. We use a simple 1 to 5 scale (5 is very satisfied, 1 is very dissatisfied), the results of which have consistently exceeded 4 in the past two years.

**IMPROVING DIVERSITY ON THE BOARDS OF PUBLIC BODIES**

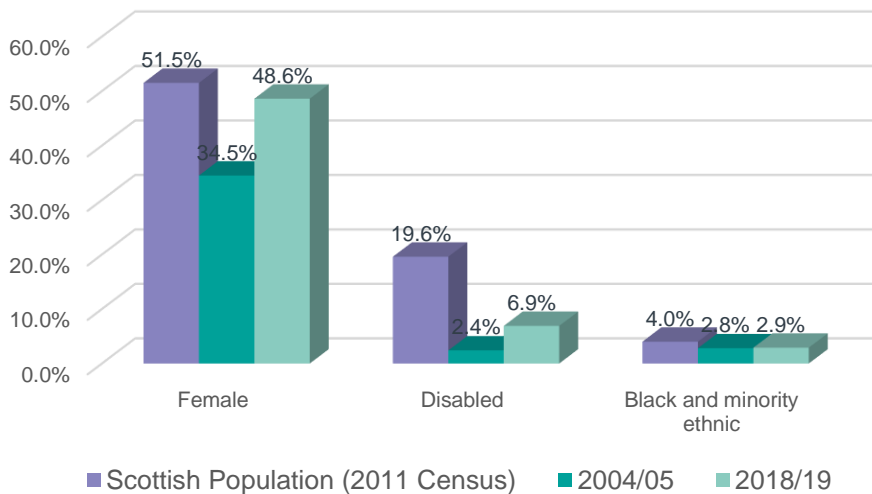
We have a statutory duty to use our powers to ensure that appointments are made fairly and openly and that as far as possible everyone has an opportunity to be considered. As part of our work in this area the Commissioner has set targets for Ministers to encourage applications from as wide a range of people as possible.

Demographic profile of board membership



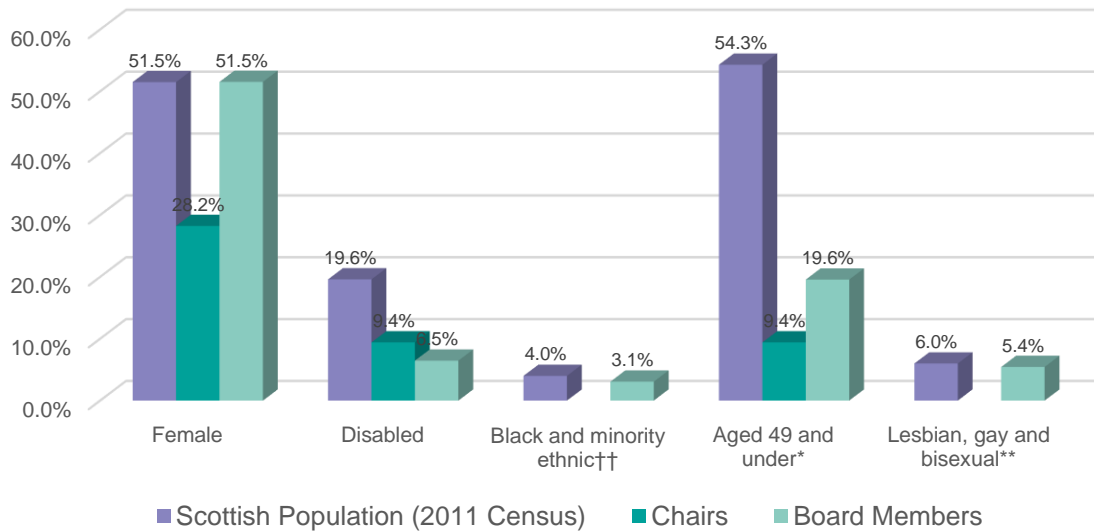
†All board members inclusive of the chair unless otherwise stated. Percentages do not include those who did not make a declaration.  
 ††Black and minority ethnic figures reflect people from a non-white minority ethnic background.  
 \*Scottish Population figures is based on those aged 18 to 49 as a percentage of the whole population aged 18 and over.  
 \*\*Scottish Population figure is estimated based on information from Stonewall Scotland website.

The changing profile of board members



For the first time the demographic profile of chair positions is available. The Commissioner requested this breakdown with a view to monitoring and in future tracking the extent to which public body chairs are reflective of society.

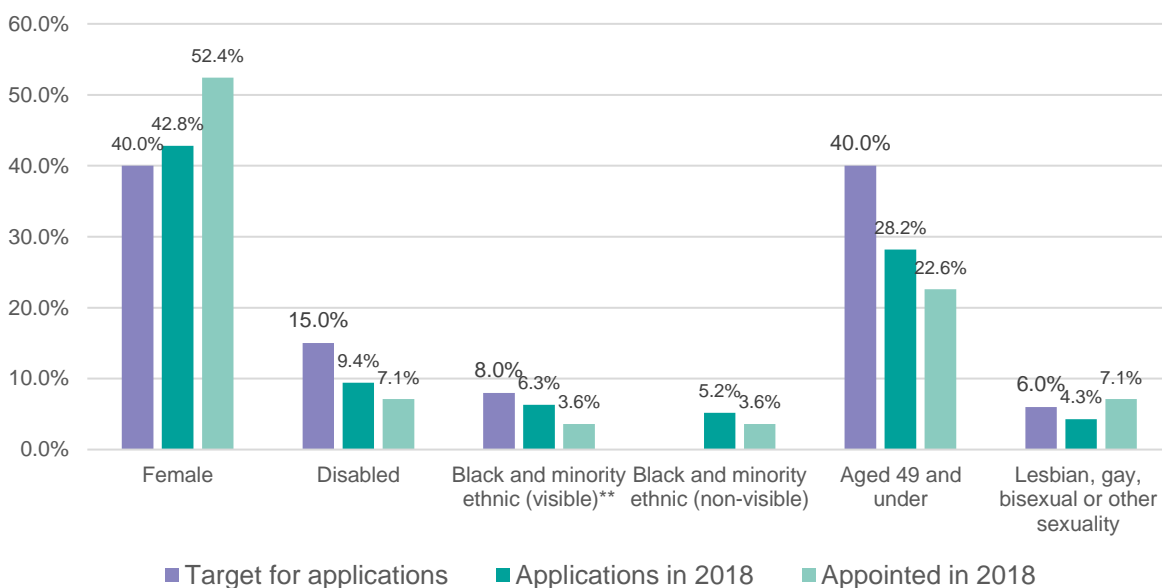
**Profile of Chairs and Board Members**



Values for fewer than five individuals have been suppressed to decrease the risk of disclosure of information about individuals.  
 ††Black and minority ethnic figures reflect people from a non-white minority ethnic background.  
 \*Scottish Population figures is based on those aged 18 to 49 as a percentage of the whole population aged 18 and over.  
 \*\*Scottish Population figure is estimated based on information from Stonewall Scotland website.

The following table shows the percentage of applications in 2018 by each target group as set out in *Diversity Delivers*, the Commissioner’s strategy for achieving more diverse boards.

**Performance against *Diversity Delivers* targets**



Values for fewer than five have been suppressed to decrease the risk of disclosure of information about individuals.  
 \*\*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 will be 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”.

## CORPORATE AND FINANCIAL PERFORMANCE

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### 3. Managing resources and measuring performance.

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## 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 Parliament allocated a budget of £915,200 to the Commissioner for financial year 2018/19 (2017/18: £838,000). In addition, two contingency funding awards were made:

- £10,000 towards additional public appointments costs
- £49,600 for the provision of a new case management system.

We earned no income in 2018/19 (2017/18: £Nil).

Total funding awarded for the year, including contingency funding, was £974,800 (2017/18: £838,000).

### EXPENDITURE

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

Including adjustments for accruals and prepayments, expenditure is £971,000 (2017/18: £811,000).

### EXPENDITURE AGAINST BUDGET

The SPCB awarded the Commissioner funding of £974,800 (2017/18: £838,000). £916,000 was drawn down (2017/18: £838,100).

Expenditure includes a provision of £49,200 for additional legal support costs as outlined in note 11 to the accounts.

Expenditure	Actual	Budget	Variance	
	£'000s	£'000s	£'000s	%
Staff costs	616	645	(29)	-4%
Staff related costs	8	13	(5)	-38%
Property	76	71	5	7%
Professional fees*	163	131	32	24%
Running costs	55	61	(6)	-10%
Additional legal support costs	49	0	49	-
Depreciation	4	0	4	-
Revenue expenditure	971	921	50	5%
Capital expenditure	62	54	8	15%
<b>TOTALS</b>	<b>1,033</b>	<b>975</b>	<b>58</b>	<b>6%</b>

\* 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 budget was overspent by £58,000. An analysis of spend against each heading is given below.

Staff costs were under budget by £29,000. We had budgeted for 565 days of Investigating Officer time, including 45 days allocated to investigating complaints about lobbying. In practice only 437 days were expended. There were two reasons for this:

- Although the number of complaints we received about MSPs, councillors and board members increased from 174 in 2017/18 to 196 this year, the number of investigations completed fell from 204 to 173.
- We received no complaints about lobbying.

Staff related costs were under budget by £5,000. Although staff recruitment incurred unanticipated costs of £1,500, this was offset by a significant reduction in Investigating Officer travel and expenses.

Property costs were over budget by £5,000 reflecting a revaluation of the building and adjustment to the capital charge apportioned to us.

Professional fees were over budget by £32,000. This is broken down as follows:

- £24,600 relates to our oversight of public appointments. In 2017/18, we oversaw the completion of 70 appointment rounds. This increased by 16% to 81 in 2018/19. We were active in 114 rounds during 2017/18 and this increased by 22% to 139 in 2018/19. In addition, due to the complexity of the rounds, the number of days required per round increased from 5.2 in 2017/18 to 6.0.
- £5,000 – HR advice relating to a long-running staffing issue
- £1,600 – legal advice regarding an historic staffing issue
- £500 – accountancy support during period of staff shortages.
- £300 – procurement advice from the Scottish Government regarding an IT tender



Running costs were under budget by £6,000. Savings were found across this budget. In particular, following a successful tendering exercise, we saved £2,900 in the production of our annual report.

There is a provision of £49,200 for additional legal support costs.

- A long-running vacancy in a key post resulted in external legal support being required.
  - £21,700 for legal representation at hearings held by the Standards Commission for Scotland scheduled prior to 31 March 2019 and held in April-June 2019.
  - £12,100 for external legal cover to assess casework
- A further £15,400 for legal advice and staff costs was required to resolve an historic staffing issue

These costs relate to long-running staff management issues. Although the costs were incurred after the year end they have been accrued as the conditions giving rise to the expenditure existed in the financial period ending 31 March 2019. Further details are available in note 11 to the accounts.

There was an outlay of £62,000 on capital expenditure. This being £8,000 over budget.

- £58,900 relates to the purchase of a new case management system (CMS). £33,800 was incurred in year with £25,100 being accrued. The CMS went live in August 2019 and is under a period of review. This has been treated as an asset under construction and as a result no amortisation has been charged in 2018/19.
- The balance of around £3,000 related to the budgeted purchase of new telephone equipment.

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

## 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. The Commissioner's payment performance for 2018/19 was 99% (2017/18: 97%).

## CORPORATE RESPONSIBILITY

### Environmental matters

We recognise that our activities may have both positive and negative impacts in Scotland and further afield. Through our policies and procedures, the Commissioner encourages the use of public transport wherever practicable. Arrangements for the holding of interviews are made with a view to minimising the travel required. The records management system and the move to electronic communications have reduced reliance on paper copies and postage. The introduction of the complaints management system is expected to make it possible to achieve further reductions in paper usage.

### 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-represented on the boards of public bodies. 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.

### Equal opportunities

The Commissioner supports the principle of equal opportunities in employment and operating practices. This involves a commitment to developing policies and practices to ensure that no individual is discriminated against, directly or indirectly, unlawfully or unjustifiably because of their personal status in relation to race, ethnic or national origin, religion, age, gender, sexual or marital status or disability.

### Whistleblowing

The Commissioner is a 'prescribed person' under the Public Interest Disclosure Act 1998. The Act provides protection for employees who pass on information concerning wrongdoing in certain circumstances. The protection only applies where the person who makes the disclosure reasonably believes:

1. that they are acting in the public interest, which means that protection is not normally given for personal grievances; and
2. that the disclosure is about one of the following:
  - criminal offences (this includes financial improprieties, such as fraud),
  - failure to comply with duties set out in law,
  - miscarriages of justice,
  - endangering someone's health and safety,
  - damage to the environment, or
  - covering up wrongdoing in any of the above categories.

The Prescribed Persons Regulations 2017 came into force on 1 April 2017. Prescribed persons are required to report annually on whistleblowing disclosures made to them.

During the reporting period 1 April 2018 to 31 March 2019 CESPLS received no whistleblowing disclosures. The statutory template of reporting is published below:

<b>Category</b>	<b>Number of disclosures</b>
Number of non-qualifying disclosures	0
Number of qualifying disclosures	0
Number of qualifying disclosures requiring no further action	0
Number of qualifying disclosures requiring further action	0

No investigations were carried out and no actions or improvement objectives were required during this reporting period.

Authorisation



Caroline Anderson FCA  
Ethical Standards Commissioner

Date: 21 October 2019

## ACCOUNTABILITY REPORT

### CORPORATE GOVERNANCE

#### COMMISSIONER'S REPORT

##### Officeholders

The officeholder is entitled 'Commissioner for Ethical Standards in Public Life in Scotland'.

**The Commissioner is currently:** Caroline Anderson  
**Appointed:** 1 April 2019  
**Term ends:** 31 March 2024

Caroline Anderson was appointed as Commissioner and Accountable Officer for a period of five years, with effect from 1 April 2019.

**The former Commissioner was:** Bill Thomson  
**Appointed:** 1 April 2014  
**Term ends:** 31 March 2019

Bill Thomson was Commissioner and Accountable Officer throughout the accounting year ended 31 March 2019.

##### Senior Management Team (SMT)

In fulfilling the dual roles of complaints handling function for Code of Conduct complaints and regulator of the public appointments process, the Commissioner has two separate teams led by a Senior Investigating Officer and Public Appointments Manager respectively. (A previous team which existed at 31 March 2019 has been subsumed as part of the ongoing restructure.) The Commissioner's office is further supported by a Head of Corporate Services.

The Senior Investigating Officer post was vacant in 2019 until late June 2019.

##### Advisory Audit Board

In addition, the Commissioner has an Advisory Audit Board (AAB), to provide advice on governance and financial issues. Members of the Commissioner's AAB are drawn from the SPCB's Advisory Audit Board.

##### Register of interests

The Commissioner's office maintains a register of directorships and other significant interests as held by the Commissioner and staff. The register is maintained to provide openness and transparency and to ensure that actual and perceived conflicts of interest can be identified and addressed. The register is updated regularly and is available on request. No significant interests were held during 2018/19 or 2017/18. A similar register of gifts and hospitality is also maintained.

**Fraud, bribery and corruption**

Our policies and procedures on fraud, corruption and bribery include the Anti-Fraud policy, our code of conduct, the terms and conditions for the supply of goods and services and the broader financial governance arrangements.

We declare any fraud, whistleblowing or control failure incidents to the Advisory Audit Board and this forms part of the annual assurance process. In 2018/19 and 2017/18 there were no instances of fraud or bribery identified or detected in the Commissioner's office.

**Personal data related incidents**

There were no reportable lapses of data security during 2018/19 or 2017/18.

## 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 accounts are prepared on an accruals basis and must give a true and fair view of the Commissioner's affairs at the year-end and of its net resource outturn, application of resources, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Commissioner is required to comply with the requirements of the Financial Reporting Manual (FReM) and in particular to:

- observe the Accounts Direction issued by the Scottish Ministers, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards, as set out in the FReM, have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a "going concern" basis, unless it is inappropriate to presume that the office will continue in operation.

The Scottish Parliamentary Corporate Body (SPCB) has appointed the Commissioner as Accountable Officer. The relevant responsibilities as Accountable Officer are set out in the Memorandum to Accountable Officers of other Public Bodies issued by the Scottish Government and published in the Scottish Public Finance Manual. These include the propriety and regularity of the public finances for which the Accounting Officer is accountable, the keeping of proper records, and safeguarding the Commissioner's assets.

As Accountable Officer, I can confirm that:

- as far as I am aware, there is no relevant audit information of which the Auditors are unaware
- I have taken all the steps that I ought to have taken to make myself aware of any relevant audit information and to establish that the auditors are aware of that information
- the Annual Report and Accounts as a whole is fair, balanced and understandable
- I take personal responsibility for the Annual Report and Accounts and the judgements required for determining that they are fair, balanced and understandable.

## GOVERNANCE STATEMENT

The Commissioner, as Accountable Officer, is personally responsible for this governance statement which covers not only the accounting year to 31 March 2019 but extends to the date on which the accounts are signed. This statement aims to depict the internal control structure and resource management processes used during this period to support the achievement of organisational aims, objectives and statutory duties whilst safeguarding public funds and assets.

This statement has been informed by:

- an in-depth internal review of governance and operational legacy arrangements which was instigated by the Commissioner in April 2019 and continues at this date,
- guidance from the Advisory Audit Board (AAB),
- external auditor's opinion,
- feedback from the senior management team.

### Governance framework overview

This report and accounts cover the year ended 31 March 2019.

Caroline Anderson was appointed Commissioner for Ethical Standards in Public Life in Scotland and Accountable Officer from 1 April 2019.

Given the independence of the Commissioner's Office and its relatively small size, the scheme of controls inherited does not feature formal oversight structures such as governance boards and committees, which are commonplace in larger sponsored entities and public authorities.

Instead the Commissioner's scheme of control historically relied on "in-house" features including:

- The Commissioner's role as Accountable Officer.
- The Commissioner's management team, individual members of which have delegated authority to make decisions as set out in the Commissioner's scheme of delegation.
- Bi-monthly meetings of this team, chaired by the Commissioner, at which strategic and operational issues were considered
- Frequent informal management team meetings handling operational matters on an ad-hoc basis.
- A system of internal financial accountability which follows agreed administrative procedures and a structured system of delegation and accountability.

These "in-house" controls were supplemented by external scrutiny as follows:

- External financial audit; The Commissioner's accounts for the year ended 31 March 2019 were audited by independent auditors appointed by the Auditor General for Scotland in accordance with section 22 of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. The Auditor General has appointed Deloitte LLP as the Commissioner's auditor for the five-year period from 2016/17 to 2020/21.

- Advisory Audit Board (AAB); the AAB, whose members are drawn from the SPCB's Advisory Audit Board, provides the Commissioner with advice on audit and financial issues on a purely discretionary basis. In the year to 31 March 2019 the AAB met with the former Commissioner on one occasion, providing guidance regarding the prior year accounts.

## Governance enhancement going forward

From 2019/20 the governance framework will be supplemented by an internal audit function.

The Commissioner has initiated liaison with the Scottish Parliament's Head of Internal Audit with the intention of entering a shared service agreement for provision of internal audit services. An internal audit programme providing comprehensive coverage of key risk areas is to be designed and implemented. Findings from this internal audit program will help inform assessment of the robustness and adequacy of the governance and internal control framework going forward.

## Key aspects of the governance framework

### Finance

The Commissioner's office is funded through the Scottish Parliament and, each year, submits an evidence-based budget bid for scrutiny and approval. The budget is based on the requirements of the strategic and annual business plans as well as projections of anticipated appointment activity and prior year performance. The budget is reviewed and approved by the Commissioner prior to submission to the Scottish Parliament to ensure that it demonstrates best value.

The Commissioner operates a scheme of delegation which outlines the type and level of authority delegated to specific staff members. These provide clear guidelines for the Commissioner's financial management and are supported by a set of financial instructions.

Financial management controls were in place during the year for purposes of identifying and managing financial variances from budget. As part of the restructure, a revision of the scheme of delegation will occur reflecting the new staff complement, so ensuring clear guidelines for financial management going forward.

## Strategic and business planning

During 2018/19, the office worked to its Strategic Plan 2016 - 2020 supported by an annual business plan. The annual business plan outlined the objectives for the year. Both documents are published online and progress against the objectives is described in the Performance section of this document. New Strategic and business plans for the 2020-2024 period will be issued over the coming months, reflecting the office restructure.



## Risk management

A risk management policy and risk register were in place during the year, in addition to which the incoming Commissioner identified further key risks at 31 March 2019 as detailed below:

- A backlog of proposed breach investigation reports regarding local councillor complaints, equal in number to that heard by the Standards Commission in an average year.
- Post vacancy equivalent to 71% of onsite complaints handling staff, including the Senior Investigating Officer.
- Significant delay in deployment of a new complaints case management system, with consequent diversion of the residual on-site staff.
- The processes and procedures for complaints handling required review and modernisation, including remodelling of the associated staff complement.

The above issues were addressed by the incoming Commissioner through restructuring of the complaints management function and provision of a robust set of risk management policies and procedures will form part of quality improvement going forward.

## Overall assessment of effectiveness of governance arrangements

The risk management framework requires revision to ensure that, in future, risks are comprehensively identified, assessed and mitigated. The overall enhanced governance approach already in operation will further strengthen risk management going forward.

The internal control systems previously featured gaps and weaknesses, most notably:

- An incomplete audit trail existed in relation to certain records in the complaints-handling function of the office.
- Working practices regarding the management and supervision of staff, including the review and limitation of actual working hours, gave rise to control weakness in this specific area.

These internal control issues have now been addressed and resolved by the ongoing restructure.

I was appointed as Commissioner and Accountable Officer as at 1 April 2019. As such, I have considered the systems of internal control, risk management and governance as outlined in this statement, and my assessment is one of moderate assurance.

## Authorisation



Caroline Anderson FCA  
Ethical Standards Commissioner

Date: 21 October 2019

## REMUNERATION AND STAFF REPORTS

The information in this section covering salary, pension entitlements, median pay disclosure and analysis of staff numbers and costs is subject to audit.

### 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.

Bill Thomson was appointed Commissioner with effect from 1 April 2014 for a period of five years. His term of office ended on 31 March 2019.

During the period 1 April 2018 to 31 March 2019 the Commissioner was employed on a full-time basis and drew a single salary. The Commissioner's salary and pension entitlements are set out in the table below.

#### Single total figure of remuneration

	Salary	Pension benefits	Total
	£'000s	£'000s	£'000s
2018/19	75-79	19*	95-99
2017/18	75-79	19*	95-99

\* The value of contributions made by the employer to the Commissioner's personal pension scheme.

The 'Salary' category 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 National Insurance or pension contributions.

There were no benefits in kind or bonus payments paid in 2018/19 or 2017/18.

#### Pension arrangements

The Commissioner's post is pensionable. Under the terms of his appointment arrangements could be made for the Commissioner to join either the Civil Service Pension Schemes or for the equivalent pension contributions at the rate set by the Cabinet Office for the Civil Service Pension Schemes, to be paid into an approved scheme of the Commissioner's choice.

The Commissioner opted not to join the Civil Service Pension Schemes and arrangements were made for the equivalent pension contributions to be paid into a defined contribution/money purchase scheme. The employer contribution rate for 2018/19 was 24.5% and contributions of £18,984 were made for 2018/19 (2017/18: £18,882).

**Remuneration Ratio**

Public sector bodies are required to disclose the relationship between the remuneration of the highest paid director in the organisation and the median remuneration of the organisation’s workforce. Total remuneration includes salary, non-consolidated performance-related pay, benefits in kind as well as any severance payments. It does not include employer pension contributions or the cash equivalent transfer value of pensions. It is based on annualised, full-time equivalent remuneration of all staff (including temporary and agency staff) as at the reporting date.

Staff members annualised, full-time equivalent remuneration fell in bands ranging from £20-£24,999 to £65-69,999. The banded remuneration of the highest paid director (the Commissioner) in 2018/19 was £75-79,999 (2017/18: £75-79,999). This was 1.47 times (2017/18: 1.66) the median remuneration of the workforce, which was £52,679 (2017/18: £45,852).

In 2018/19, no employees (2017/18: Nil) received remuneration in excess of the Commissioner.

	2018/19	2017/18
Band of highest earner’s total remuneration (£,000s)	75-79	75-79
Staff members annualised, full-time equivalent remuneration (£,000s) fell in bands ranging from	20-24 to 65-69	20-24 to 65-69
Median total remuneration	52,679	45,852
<b>Ratio</b>	1.47	1.66

## STAFF REPORT

### Employee numbers and gender breakdown

The average number of full time equivalent (FTE) persons employed by the Commissioner during the period was as follows:

	2018/19	2017/18
	FTE	FTE
Commissioner	1.0	1.0
Employees	6.6	8.2
	7.6	9.2

As at 31 March, the Commissioner's office employed:

	2019		2018	
	Female	Male	Female	Male
Commissioner	-	1	-	1
Senior Managers*	-	-	-	-
Employees	5	6	8	6
<b>Totals</b>	<b>5</b>	<b>7</b>	<b>8</b>	<b>7</b>

\* A senior manager is defined as being the equivalent of a member of the Senior Civil Service.

### Average sickness absence

The average sickness absence per person was as follows:

	2018/19	2017/18
	Days	Days
Commissioner and employees	2.0	2.2

### Employee costs

	2018/19			2017/18		
	Total £'000s	Commissioner £'000s	Employees £'000s	Total £'000s	Commissioner £'000s	Employees £'000s
Salaries	472	80	392	436	77	359
Social security costs	47	10	37	42	9	33
Pension costs	97	19	78	93	19	74
	616	109	507	571	105	466

Salaries include a provision covering the value of outstanding leave (the leave accrual).

A severance payment of £7,852 was expended during the year (2017/18: nil).

## Provision of Information to Employees

The Commissioner has adopted the principles of openness and participation in the organisation and places a high level of importance on both informing and consulting staff. The Commissioner does so by providing access to relevant documents, through oral and written briefings, by staff meetings and events. Information is only withheld where this can be shown to be justified or where a duty of confidence is owed to a third party.

## Staff pension arrangements

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. A full actuarial valuation was carried out as at 31 March 2012. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation (<http://www.civilservicepensionscheme.org.uk/about-us/scheme-valuations/>).

For 2018/19, employers' contributions of £77,800 were payable to the Civil Service Pension arrangements (2017/18: £74,300) at one of four rates in the range 20.0 to 24.5 per cent (2017/18: 20.0 to 24.5 per cent) of pensionable pay, based on salary bands. The scheme's Actuary reviews employers' contributions every four years following a full scheme valuation. The results of its most recent valuation are still to be published.

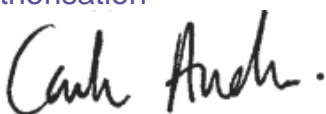
The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme. Outstanding scheme contributions at 31 March 2019 amounted to £6,733 (2018: £7,227).

Employees can opt to open a partnership pension account, this being a stakeholder pension with an employers' contribution. No employers' contributions (2017/18: Nil) were paid to an appointed stakeholder pension provider in 2018/19. Employers' contributions are age-related and range from 8.0 to 14.75 per cent (2017/18: 8.0 to 14.75 per cent) of pensionable pay. Employers also match employees' contributions up to 3 per cent of pensionable pay. In addition, no employers' contributions (0.5 per cent) (2017/18: Nil, 0.5 per cent) of pensionable pay, were payable to the Civil Service Pension arrangements to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees. There were no contributions due to the partnership pension providers at the reporting period date (2017/18: Nil). Contributions prepaid at that date were nil.

No persons (2017/18: No persons) retired early on ill-health grounds; the total additional accrued pension liabilities in the year amounted to nil (2017/18: Nil).

Further details about the Civil Service pension arrangements can be found at the website <http://www.civilservicepensionscheme.org.uk/>.

## Authorisation



Caroline Anderson FCA  
Ethical Standards Commissioner

Date: 21 October 2019

## AUDIT REPORT

### THE AUDIT PROCESS

#### Requirement for accounts

The accounts for the financial year ended 31 March 2019 have been prepared in accordance with the Accounts Direction given by the Scottish Ministers on 22 May 2012 in pursuance of Section 22(1) of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (the 2010 Act). The Accounting Officer authorised these financial statements for issue on 21 October 2019.

#### Disclosure of information to auditor

As Accountable Officer with effect from 1 April 2019, the Commissioner is not aware of any relevant information of which the auditor is unaware. The Commissioner has taken all necessary steps to ensure that she is aware of any relevant information and to establish that the auditor is also aware of this information.

#### Audit

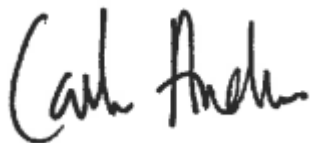
The accounts are audited by the Auditor General for Scotland in accordance with section 22(1) of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. The Auditor General appointed Deloitte LLP as external auditor.

#### Auditor's Fees

The external auditor's remuneration for the year was £12,900 (2017/18: £13,125). External audit received no fees in relation to non-audit work.

The Commissioner confirms that the annual report and accounts as a whole is fair, balanced and understandable and that she takes personal responsibility for the annual report and accounts and the judgments required for determining that it is fair, balanced and understandable.

#### Authorisation



Caroline Anderson FCA  
Ethical Standards Commissioner

Date: 21 October 2019

## INDEPENDENT AUDITOR'S REPORT

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

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### REPORT ON THE AUDIT OF THE FINANCIAL STATEMENTS

#### Opinion on financial statements

We have audited the financial statements in the annual report and accounts of Commissioner for Ethical Standards in Public Life in Scotland for the year ended 31 March 2019 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 Flows, the Statement of Changes in Taxpayers' Equity and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and International Financial Reporting Standards (IFRSs) as adopted by the European Union, and as interpreted and adapted by the 2018/19 Government Financial Reporting Manual (the 2018/19 FReM).

In our opinion the accompanying financial statements:

- give a true and fair view in accordance with the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 and directions made thereunder by the Scottish Ministers of the state of the body's affairs as at 31 March 2019 and of its net expenditure for the year then ended;
- have been properly prepared in accordance with IFRSs as adopted by the European Union, as interpreted and adapted by the 2018/19 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

We conducted our 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. Our responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of our report. We were appointed by the Auditor General on 31 May 2016. The period of total uninterrupted appointment is three years. We are independent of the body in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. Non-audit services prohibited by the Ethical Standard were not provided to the body. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

## Conclusions relating to going concern basis of accounting

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the body has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about its ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

## Risks of material misstatement

We have reported in a separate Annual Audit Report, which is available from the [Audit Scotland website](#), the most significant assessed risks of material misstatement that we identified and our conclusions thereon.

## Responsibilities of the Accountable Officer for the financial statements

As explained more fully in the Statement of the Accountable Officer 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 deemed inappropriate.

## Auditor's responsibilities for the audit of the financial statements

Our 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 our 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 economic decisions of users taken on the basis of these financial statements.

The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting 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. We therefore design and perform audit procedures which respond to the assessed risks of material misstatement due to fraud.

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](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of our auditor's report.



### Other information in the annual report and accounts

The Accountable Officer is responsible for the other information in the annual report and accounts. The other information comprises the information other than the financial statements, the audited part of the Remuneration and Staff Report, and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon except on matters prescribed by the Auditor General for Scotland to the extent explicitly stated later in this report.

In connection with our audit of the financial statements, our responsibility is to read all the other information in the annual report and accounts and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

## REPORT ON REGULARITY OF EXPENDITURE AND INCOME

### Opinion on regularity

In our 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. We are responsible for expressing an opinion on the regularity of expenditure and income in accordance with the Public Finance and Accountability (Scotland) Act 2000.

## REPORT ON OTHER REQUIREMENTS

### Opinions on matters prescribed by the Auditor General for Scotland

In our opinion, the audited part of the Remuneration and Staff Report has been properly prepared in accordance with the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 and directions made thereunder by the Scottish Ministers.

In our 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 we are required to report by exception

We are required by the Auditor General for Scotland to report to you if, in our opinion:

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

We have nothing to report in respect of these matters.

## Conclusions on wider scope responsibilities

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

## USE OF OUR 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 120 of the Code of Audit Practice, we do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.



Pat Kenny, CPFA (for and on behalf of Deloitte LLP)  
110 Queen Street  
Glasgow  
G1 3BX  
United Kingdom  
October 2019

## FINANCIAL STATEMENTS

### STATEMENT OF COMPREHENSIVE NET EXPENDITURE FOR THE YEAR ENDED 31 MARCH 2019

	Notes	2019 £'000	2018 £'000
<b>Administrative Costs</b>			
Staff Costs	6	616	571
Other Administration Costs	6	302	241
Additional legal support costs	11	49	0
Depreciation	2	4	(1)
<b>Net Administration Costs</b>		<b>971</b>	<b>811</b>
<b>Total Comprehensive Expenditure</b>		<b>971</b>	<b>811</b>

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 47 to 56 form an integral part of these accounts.

**STATEMENT OF FINANCIAL POSITION  
AS AT 31 MARCH 2019**

	Notes	2019 £'000	2018 £'000
<b>Non Current Assets</b>			
Tangible assets	2	6	7
Intangible assets	2	59	0
<b>Total Non Current Assets</b>		<b>65</b>	<b>7</b>
<b>Current Assets</b>			
Trade and Other Receivables	3	15	6
Cash and Cash Equivalents	4	91	148
<b>Total Current Assets</b>		<b>106</b>	<b>154</b>
<b>TOTAL ASSETS</b>		<b>171</b>	<b>161</b>
<b>Current Liabilities</b>			
Trade and Other Payables	5	(121)	(105)
Additional Legal Support Costs	11	(49)	0
<b>Total Current Liabilities</b>		<b>(170)</b>	<b>(105)</b>
<b>ASSETS LESS LIABILITIES</b>		<b>1</b>	<b>56</b>
<b>Taxpayers' Equity</b>			
General Fund		1	56
<b>Total Taxpayers' Equity</b>		<b>1</b>	<b>56</b>

The accompanying notes on pages 47 to 56 form an integral part of these accounts.

Authorisation



Caroline Anderson FCA  
Ethical Standards Commissioner

Date: 21 October 2019

**STATEMENT OF CASH FLOWS  
FOR YEAR ENDED 31 MARCH 2019**

	Notes	<b>2019</b> £'000	<b>2018</b> £'000
<b>Cash flows from operating activities</b>			
Net operating costs		(971)	(811)
Adjustment for non-cash items:			
Depreciation	2	4	(1)
(Increase) in trade and other receivables	3	(9)	(4)
Increase in trade and other payables	5	65	40
Net cash outflow from operating activities		(911)	(776)
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	2	(3)	(2)
Purchase of intangible assets	2	(59)	0
		(62)	(2)
		(973)	(2)
<b>Cash flows from financing activities</b>			
From the SPCB		916	838
Net increase/(decrease) in cash and cash equivalents in the period		(57)	60
Cash and cash equivalents at the beginning of period	4	148	88
Cash and cash equivalents at end of period	4	91	148
<b>Net cash requirement</b>			
Cash flows from financing activities		916	838
(Decrease)/Increase in cash		(57)	60
<b>Net cash requirement</b>		<b>859</b>	<b>898</b>

STATEMENT OF CHANGES IN TAXPAYERS' EQUITY  
FOR YEAR ENDED 31 MARCH 2019

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	<b>General Fund 2019 £'000</b>	<b>General Fund 2018 £'000</b>
<b>Balance at 1 April</b>	<b>56</b>	<b>29</b>
Net Operating Costs for the Year	(971)	(811)
Funding From the SPCB	916	838
<b>Balance at 31 March</b>	<b>1</b>	<b>56</b>

NOTES TO THE ACCOUNTS

**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 accounting 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 period 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 the lease. 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.

## 1.4 Property, Plant and Equipment

### 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 Non Current 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 period 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**

At the date of authorisation of these financial statements, the following Standards and Interpretations which have not been applied in these financial statements were in issue but not yet effective (and in some cases had not yet been adopted by the EU):

- IFRS 16, Leases (effective 1 January 2020)

The Commissioner does not expect that the adoption of the Standards and Interpretations detailed above will have a material impact on the financial statements in future periods.

IFRS 16 Leases was published by the International Accounting Standards Board in January 2016 and is applicable for accounting periods beginning on or after 1 January 2020. This means that for the Commissioner, the standard will be effective for the year ending 31 March 2021. IFRS 16 will require leases to be recognised on the Statement of Financial Position as an asset which reflects the right to use the underlying asset, and a liability which represents the obligation to make lease payments. At the date of authorisation of these financial statements, IFRS 16 has not been adopted for use in the public sector and has not been included in the FReM. As such it is not yet possible to quantify the impact of IFRS 16 accurately.

2 NON CURRENT ASSETS

2.1 Tangible Assets

<b>2018/19</b>	<b>Fixtures, Fittings &amp; Equipment</b>	<b>IT Equipment</b>	<b>Total</b>
	£'000	£'000	£'000
<b>Cost</b>			
At 1 April 2018	3	31	34
Additions	-	3	3
Disposals	-	(2)	(2)
At 31 March 2019	3	32	35
<b>Depreciation</b>			
At 1 April 2018	3	24	27
Charge for Year	-	4	4
Disposals	-	(2)	(2)
At 31 March 2019	3	26	29
<b>Net Book Value at 31 March 2019</b>	<b>-</b>	<b>6</b>	<b>6</b>
<b>Net Book Value at 31 March 2018</b>	<b>-</b>	<b>7</b>	<b>7</b>

The Commissioner purchased £2,582 of additional assets in 2018/19 (2017/18: £2,299). The addition comprised telephone equipment.

2.1 Tangible Assets contd

<b>2017/18</b>	<b>Fixtures, Fittings &amp; Equipment</b>	<b>IT Equipment</b>	<b>Total</b>
	£'000	£'000	£'000
<b>Cost</b>			
At 1 April 2017	3	38†	41†
Additions	-	2	2
Disposals	-	(9)	(9)
At 31 March 2018	3	31	34
<b>Depreciation</b>			
At 1 April 2017	3	34	37
Charge for Year	-	(1)*	(1)
Disposals	-	(9)	(9)
At 31 March 2018	3	24	27
<b>Net Book Value at 31 March 2018</b>	<b>-</b>	<b>7</b>	<b>7</b>
<b>Net Book Value at 31 March 2017</b>	<b>-</b>	<b>4†</b>	<b>4†</b>

\* In 2017, the Commissioner reviewed the estimated useful life applied to IT equipment. This was increased from three to five years and resulted in an adjustment to the cumulative depreciation charged against these assets. This is reflected in the negative depreciation charge for the year shown above.

† Due to the low value of assets and the cumulative effect of rounding, two figures describing Non-Tangible Assets had become increasingly inaccurate. These have been adjusted to ensure the table's accuracy in coming years. The prior year figures are highlighted in the following table, with the adjusted figures highlighted in the table above. See also the Statement of Financial Position and Statement of Taxpayers' Equity.

The Commissioner purchased £2,299 of additional assets in 2017/18 (2016/17: £1,500). The addition comprised one photo-copier/scanner/printer.

2.2 Intangible Assets

<b>2018/19</b>	<b>Software</b> £'000	<b>Total</b> £'000
<b>Cost</b>		
At 1 April 2018	3	3
Asset under construction	59	59
At 31 March 2019	62	62
<b>Amortisation</b>		
At 1 April 2018	3	3
Charge for Year	0	0
At 31 March 2019	3	3
<b>Net Book Value at 31 March 2019</b>	<b>59</b>	<b>59</b>
<b>Net Book Value at 31 March 2018</b>	<b>0</b>	<b>0</b>

The Commissioner purchased £58,865 of additional assets in 2018/19 (2017/18: Nil). The addition comprised a case management system.

<b>2017/18</b>	<b>Software</b> £'000	<b>Total</b> £'000
<b>Cost</b>		
At 1 April 2017	3	3
Additions	-	-
At 31 March 2018	3	3
<b>Amortisation</b>		
At 1 April 2017	3	3
Charge for Year	-	-
At 31 March 2018	3	3
<b>Net Book Value at 31 March 2018</b>	<b>-</b>	<b>-</b>
<b>Net Book Value at 31 March 2017</b>	<b>-</b>	<b>-</b>

The Commissioner purchased no additional intangible assets in 2017/18 (2016/17: Nil).

3 RECEIVABLES

	<b>2019</b> £'000	<b>2018</b> £'000
Prepayments	15	6
	<b>15</b>	<b>6</b>

4 CASH AND CASH EQUIVALENTS

	<b>2019</b> £'000	<b>2018</b> £'000
Balance at 1 April	148	88
Net Change in cash and cash equivalent balances	(57)	60
Balance at 31 March	<b>91</b>	<b>148</b>
Cash Held at Commercial Banks	<b>91</b>	<b>148</b>

5 PAYABLES

	<b>2019</b> £'000	<b>2018</b> £'000
Trade and other payables	(52)	(63)
PAYE and National Insurance	(9)	(8)
Pension Contributions	(7)	(7)
Accruals	(53)	(27)
	<b>(121)</b>	<b>(105)</b>

6 EXPENDITURE BREAKDOWN

	<b>2019</b> £'000	<b>2018</b> £'000
<b>Staffing Costs</b>		
Commissioner	109	105
Investigating Officers	152	143
Other Staff	355	323
	<b>616</b>	<b>571</b>
<b>Other Administrative Costs</b>		
Auditor & financial advisers	14	13
Hospitality	2	1
IT	38	18
Legal advisers	8	9
Other professional fees	5	5
Office costs	13	15
PAA costs	136	98
Printing	3	5
Property	76	69
Training & recruitment	2	2
Travel & expenses	5	6
	<b>302</b>	<b>241</b>
Additional legal support costs	49	0
Depreciation	4	(1)
	<b>971</b>	<b>811</b>

The £13,700 for Auditor & financial advisers includes £12,900 for external auditor's remuneration. The balance covers accounting services provided by a third party. The external auditor received no fees in relation to non-audit work.

During the financial year, £62,000 was used to purchase non-current assets (2017/18: £2,000) as detailed in note 2 to the accounts.

**7 LEASING COMMITMENTS**

At 31 March 2019 the Commissioner had minimum lease payments under non-cancellable operating leases as set out below.

	<b>Land &amp; Buildings</b>	
	<u>As at 31</u> <u>March 2019</u> £'000	<u>As at 31</u> <u>March 2018</u> £'000
Operating leases which expire:		
Within one year	82	76
Two to five years	88	155
	<u>170</u>	<u>231</u>

The Commissioner leases office accommodation from the Scottish Legal Aid Board. The current lease runs for five years from 1 April 2016 to 31 March 2021. Either party may give one year's written notice. Accommodation fees are recharged at cost as agreed each year. The Commissioner's lease cost for the period 1 April 2019 to 31 March 2020 is £81,400. Costs for year five are estimated. The actual cost of the Commissioner's accommodation lease in 2018/19 was £75,900 (2017/18: £68,800). The increase in costs is due to a revaluation of Thistle House in 2017. The revised valuation was more than double the previous one and has affected the capital charge applied to our lease.

**8 CAPITAL COMMITMENTS**

There were no contracted capital commitments as at 31 March 2019 (2018: Nil).

**9 CONTINGENT LIABILITIES**

The Commissioner had no contingent liabilities as at 31 March 2019 (2018: Nil).

**10 RELATED PARTY TRANSACTIONS**

The Commissioner 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 £916,000 during the year (2018: £838,000).

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

**11 ADDITIONAL LEGAL SUPPORT COSTS**

The incoming Commissioner faced several issues when taking up post on 1 April 2019. These have been outlined in the Key Risks and Issues section. There were financial implications in their management and resolution.

Costs can be summarised as follows:

1 Legal representation at hearings held by the Standards Commission for Scotland scheduled prior to 31 March 2019 and held in April-June 2019	£21,700
2 External cover in absence of SIO	£12,100
3 Resolving historic staffing issue	£15,400
Total	<u>£49,200</u>

We have concluded that that these items represent a liability based on past events. It is probable that there will be an outflow and a reliable estimate has been provided. Therefore, these items are considered to be a provision and have been accrued into our expenditure for 2018/19.

**12 POST BALANCE SHEET EVENTS**

The incoming Commissioner faced several issues when taking up post on 1 April 2019 as outlined in note 11 above. The following items are considered to be non-adjusting events.

Costs can be summarised as follows:

1 HR advice relating to the restructure	£11,200
2 Other restructuring costs	£58,700
Total	<u>£69,900</u>



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 (FRM) 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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