

Ethical Standards Commissioner

ANNUAL REPORT AND ACCOUNTS

2020/21

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PERFORMANCE REPORT

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

OVERVIEW

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

COMMISSIONER'S STATEMENT

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 has been on an extended period of leave since early March 2021.

As with all staff in the office, I moved to remote working prior to the beginning of the financial year. This transition was largely successful and the arrangement remains in place, in keeping with Scottish Government guidance.

During the year, our work on public appointments continued, although, as with everything, it was clearly affected by the global pandemic. Public appointment activity was halted by the Scottish Government for a period as officials were redeployed to other, more pressing, duties. We agreed for the provisions of the Code to be varied during this period to allow individuals to continue in their board roles beyond the usual eight-year limit to ensure that boards had a vital measure of continuity. We continued to provide oversight of appointment activity when it resumed in the summer and thereafter, and we recruited and inducted three new Public Appointments Advisers during the year to ensure we had the capacity to fulfil this function effectively. Fifty-eight allocations were made to potential new appointment rounds during the year in comparison with 70 in 2019/20. We also continued to provide guidance and support to all organisations and individuals who contacted us. We did, however, develop a backlog in some administrative tasks at the year end. A number of proactive activities on appointments were nevertheless completed during this period as attested to by our performance against the business plan, which is set out in more detail in our [standalone public appointments report](#) for the year. This included new research on time commitment and remuneration for board members, and a consultation on prospective revisions to the Code of Practice. More might have been achieved but the Commissioner re-assigned staff to support other priorities, unrelated to the appointments work of the office. These included my taking sole responsibility for handling incoming MSP complaints in my previous role as Public Appointments Manager.

In respect of MSP complaint handling, a staff member who had been dedicated to this activity took voluntary severance, in accordance with the Commissioner's restructuring plans, in 2019. The Commissioner engaged an official from the Northern Ireland Assembly to fulfil the role remotely in 2019 on a redeployment agreement, as no other arrangements had been put in place for cover. The Senior Investigating Officer (SIO), who was appointed in June 2019, was due to take this work on and did so when the redeployment ended. The SIO resigned in October 2020. The Commissioner asked me to take on the task as a temporary measure for a three-month period from January 2020. I continue to fulfil that role.

MSP complaint volumes rose significantly at the year end. We received 763 complaints this year in comparison with 109 in 2019/20. A significant backlog developed as a consequence. Plans are in place to address this.

Our handling of councillor and devolved public body member complaints was also affected by our reduction in staff capacity and by governance issues outlined below. Our staff complement for investigating these and MSP complaints should have been one SIO and three Investigating Officers (IOs), all full time. The SIO was relatively new in post having been appointed in June 2019. As indicated above, he resigned less than a year and a half later. Three IOs were appointed in October 2019 to replace all the prior post-holders, who left as a result of the first restructuring exercise conducted by the Commissioner. One resigned in June 2020, and another IO was recruited as a replacement in October 2020. That individual resigned shortly after our year end. Of the remaining two IOs in post, one was promoted to the post of SIO in October 2020. Over and above this, two longstanding staff members who fulfilled the role of Investigations Manager in the office left the organisation in October 2020 under severance arrangements put in place by the Commissioner as part of a further restructuring exercise. Complaint volumes remained high during the year, with a notable trend of increasing complaints about breaches of the respect provisions in the Code of Conduct. One hundred and thirty cases, comprising a total of 238 complaints, were received in comparison with 154 and 284 respectively in the previous year. Complaint handling was practically up to date at the end of the year covered by this report but an inevitable backlog has developed since that time as a result of the staffing issues referred to above. Plans are in place to address this.

In terms of adherence to our budget, funding of £1,029,500 was awarded and expenditure was £1,026,000 - £3,500 under budget.

In my capacity as Acting Commissioner, I am obliged to provide a perspective on the performance of the office during the period covered by this report and have done so above. I feel obliged also to reflect on subsequent events, given their relevance to our work in the preceding year.

During the year, the Standards Commission for Scotland felt compelled to issue directions to the Commissioner - action without precedent - with a view to providing assurance to itself and others that the office was acquitting its functions in accordance with its founding legislation. This, combined with high staff turnover and the absence of engagement with an Advisory Audit Board, led to our external auditor undertaking a wider scope audit.

A draft of the subsequent report and recommendations has been presented to the Auditor General for Scotland. He has concluded that the issues identified are sufficient to require a report under section 22 of the Public Finance and Accountability (Scotland) Act 2000. I am grateful to Deloitte for undertaking the review and for the opportunity presented to our office to address the issues of concern highlighted in its report.

I preface what follows by stating what seems self-evident to me but which may not be self-evident to others. The success or failure of every organisation relies on its staff. For an organisation to be successful it must value its people and recognise that unless it has staff who are valued and supported to maintain their wellbeing, and who feel happy in and proud of the organisation's work and the way in which the work is done, it will fail. The culture of an organisation has to be aligned to this fundamental principle.

During the course of the year, the organisation continued to lose staff members. Some of this was by design, some not. The net result was the same. The organisation continued to lose capacity, intellectual assets and corporate memory – a concerning trend that is reflected on in more detail later in this report. Through no fault of their own, the staff who remained were not equipped fully to fulfil the office’s statutory functions. Further, a culture prevailed in which some staff were obliged to perform duties and complete tasks in ways that they felt were, at best, inappropriate. Eventually, and inevitably, this became apparent to the individuals and organisations that relied on the office to fulfil its functions appropriately. Staff covering all office functions are also carrying excess leave that was built up in an attempt to address the demands placed on them.

The checks and balances that the organisation had in place, alongside those put in place by legislation, proved insufficient to address a deterioration in good governance. The work of the office was clearly affected by both the loss of people and the governance of the office. Some aspects of our work were affected more seriously than others.

The year was also characterised by an approach to engagement with some of our stakeholder organisations that largely limited exchanges to correspondence only.

Since my temporary appointment, I and the dedicated and professional team who have remained have sought to remedy as many of the issues that I refer to above as possible. Actions taken have included:

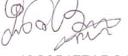
- ensuring that the directions issued by the Standards Commission were complied with
- meaningful re-engagement with the SPCB and on-going communications with the SPCB and the Parliament’s Standards, Procedures and Public Appointments Committee to keep the Parliament updated on our situation and plans
- meaningful and on-going engagement with all stakeholder organisations, including the Standards Commission, the Convention of Scottish Local Authorities (COSLA), the Society of Local Authority Lawyers & Administrators in Scotland (SOLAR) and the Society of Local Authority Chief Executives (SOLACE)
- the production of a revised strategic plan for the next three years, which now incorporates the values that were missing from the previous version and clear statements of intent about how the office will fulfil its statutory obligations in accordance with the expectations of the Parliament, public and stakeholders
- consultation on the same with all staff and with all relevant stakeholder organisations in Scotland
- a new draft biennial business plan covering all office functions and addressing each of the auditor’s recommendations
- the reinstatement of Senior Management Team (SMT) meetings in accordance with previous good governance arrangements and re-engagement with the Advisory Audit Board appointed by the SPCB
- the recruitment of three new Investigating Officers and a new Corporate Services Officer; the latter is required to supplement the work required of the post left vacant following an internal temporary promotion into my substantive role as Public Appointments Manager, all with SPCB approval, to ensure all office functions are appropriately covered
- the revision of, consultation on and subsequent publication of an extensive range of staff wellbeing policies

Ethical Standards Commissioner

- the securing of a confidential counselling service for all staff who wish to access it
- consultation with all staff on their preferences for remote/office working in the medium to longer term
- a change to the way in which councillor and board member complaints are assessed for admissibility, agreed with the Standards Commission
- the commissioning of an external party to independently investigate a significant stage 2 complaint about us
- the publication of an analysis of responses to prospective revisions to the Code of Practice for appointments and a revised draft Code issued for further consultation to an extensive range of organisations
- the agreement of draft revisions to the Model Members Code of Conduct and the Councillors Code of Conduct with the Standards Commission and the Scottish Government
- the commissioning of legal advice to aid in the handling of a significant number of complex MSP complaints.

I anticipate being able to report on further progress later in the year and record here my thanks to the SPCB for the support that it has provided to the office during my tenure.

I end by expressing my gratitude to the members of the Senior Management Team and to every staff member in the office. They have shown remarkable resilience and commitment to our work during an exceptionally challenging period. I am immensely proud to belong to such a dedicated team of people and grateful for both their positive attitude and their efforts.

DocuSigned by:

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Ian Bruce
Acting Ethical Standards Commissioner

19 October 2021

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.
- to regulate and monitor how people are appointed to the boards of public bodies in Scotland, and to promote diversity in that process.

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:

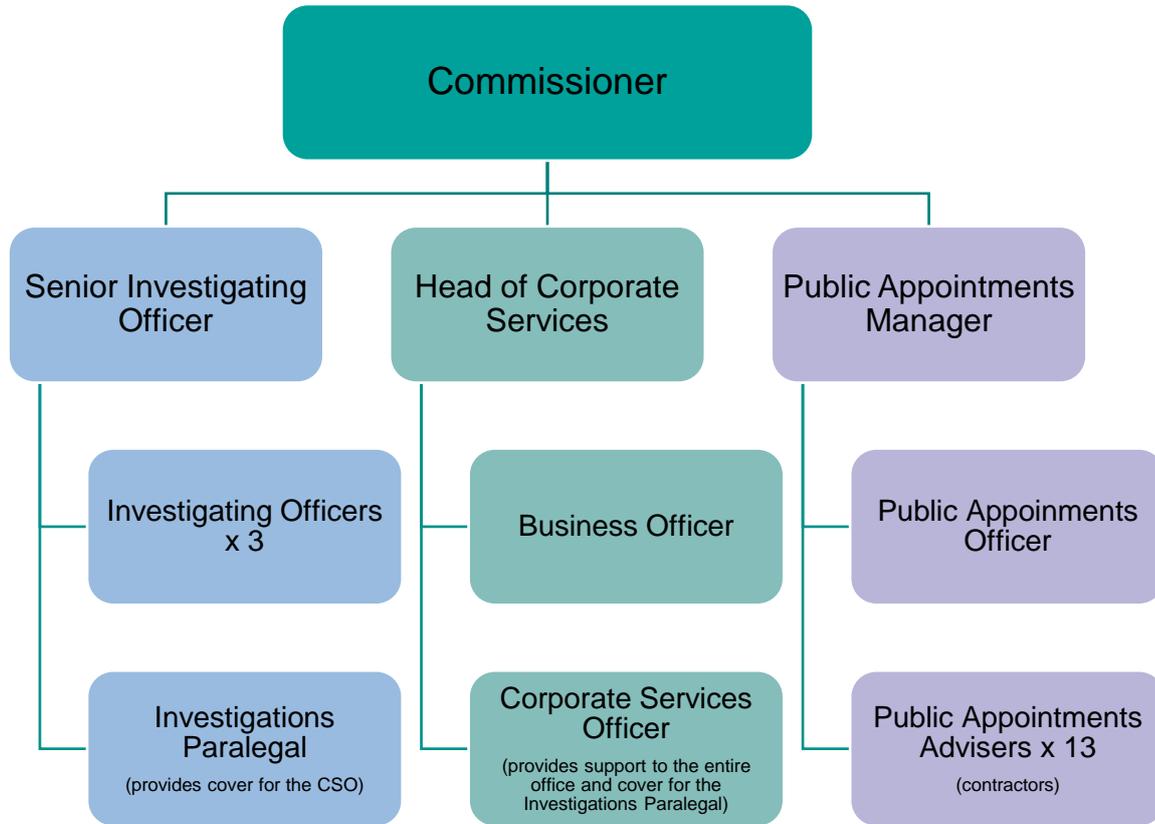
- to prepare, publish and, as necessary, revise a Code of Practice for Ministerial Appointments to Public Bodies in Scotland (the Code)
- to issue guidance on the Code and to promote compliance with its provisions
- to examine the methods and practices employed by the Scottish Ministers when making appointments
- 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.

The key items of legislation setting out the Commissioner's functions and responsibilities are as follows:

- [The Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) (the "2000 Act")
- [The Scottish Parliamentary Standards Commissioner Act 2002](#) (the "2002 Act")
- [The Public Appointments and Public Bodies etc. \(Scotland\) Act 2003](#) (the "2003 Act")
- [The Scottish Parliamentary Commissions and Commissioners etc. Act 2010](#)
- [The Public Services Reform \(Commissioner for Ethical Standards in Public Life in Scotland etc.\) Order 2013](#) and
- [The Lobbying \(Scotland\) Act 2016](#).

OUR STRUCTURE

Figure 1



The Commissioner is currently on an extended period of leave. The Scottish Parliamentary Corporate Body appointed Ian Bruce, the Public Appointments Manager, as Acting Commissioner and Karen Elder, the Head of Corporate Services as Acting Accountable Officer as of 20 April 2021.

OUR OBJECTIVES

Our strategic objectives during 2020/21 are drawn from the [Strategic Plan 2020-2024](#) and summarised here:

Assuring ethical excellence through delivery of a high-quality complaints handling service

- Develop and implement new investigation procedures to optimise service provision
- Implement risk-based quality assurance monitoring to foster further improvements
- Innovative thinking around legislative and related changes which secure public interest and best value

Evolution and maturity as a regulator, responsive to contextual and scope change

- Help create public body boards that are effective and reflective of society through our regulatory and outreach work, including our Diversity Strategy
- Consider adoption of a traditional regulatory role more fitting to the current environment
- Prioritise evolution of systems fit for handling sexual harassment and bullying complaints

Developing a talented professional team to further drive quality

- Plan for breadth of experience in our team to facilitate succession and cover
- Identify new capabilities required to support continual modernisation and deliver strategy
- Perform training needs analysis and tailor provision to identified development needs

Creating an effective information governance system designed to support our business aims

- Review our risk management procedures to ensure they are fit for purpose
- Ensure that we manage the information we hold in a secure and appropriate manner
- Utilise technological developments to improve our services

The Acting Ethical Standards Commissioner has [consulted on a revised strategic plan](#) covering the period from April 2021 to March 2024.

OUR PERFORMANCE

COMPLAINTS ABOUT CONDUCT

The 2020/21 financial year has been a time of significant challenge and change not just for the office but worldwide. Shortly before the start of the financial year, the pandemic sparked an almost overnight shift to remote working for all of the Commissioner's staff and stakeholders. Stakeholders include all our complainers, local authorities' staff and elected members, devolved bodies' staff and Board members, the Standards Commission for Scotland's staff and members, and all parties who engage with the standards team in the course of an investigation.

As set out in the Commissioner's Statement, other than the effects of the pandemic, this office and in particular the team which handles complaints about conduct (the standards team) have also experienced the following notable challenges:

- a. **High rate of staff turnover and loss of corporate memory** - the high number of vacancies and staff turnover in the standards team has meant increasing loss of capacity to handle day to day workload and a loss of corporate memory on custom and practice relating to complaint handling processes.
- b. **Changes to internal processes** – significant changes to the internal process for assessing complaints took place throughout the year. The changes related primarily to the process used to assess a complaint's admissibility and resulted in a serious complaint about the office which had to be independently investigated.
- c. **Lack of performance management, training & development for staff and key performance indicators** - the changes set out above had the effect of diverting staff resource and capacity away from implementing a structured performance management system, and shifted focus away from training and development. There was minimal communication of key performance indicators to the standards team for the majority of the financial year.
- d. **The Standards Commission for Scotland's Directions** - over the course of the financial year, the Standards Commission took the unprecedented action of issuing statutory directions . These directed the Commissioner to:
 - submit interim reports where an investigation takes more than a three-month period.
 - report the outcome of each investigation undertaken pursuant to s 9 and 12 of the 2000 Act.
 - carry out an investigation into every complaint about a Councillor and Member save in specific circumstances set out in the Direction.

These were intended to provide assurance to the Standards Commission and others that the Commissioner's office was acquitting its functions in accordance with its founding legislation.

Against this background, the number of active complaints and complaints received this year remains high and comparable with the previous financial year. As will be seen from the data shown in this report, 238 complaints (comprising 130 cases) were received during 2020/21,

as compared with 284 complaints (comprising 154 cases) received during 2019/20. There were 301 complaints active during 2020/21 as compared to the 319 complaints active during 2019/20.

The average time taken to progress complaints increased to an extent immediately after lockdown measures were introduced while the standards team became acclimatised to working remotely. However, this was very brief and the team was able to maintain a consistent if not slightly higher level of productivity compared to when working in the physical office by completing work on 277 complaints (comprising 157 cases), compared with the 256 complaints (comprising 143 cases) the previous year. Likewise, the number of complaints (and cases) open at 31 March 2021 is lower than the previous year, at 24 complaints (8 cases) being open compared to 63 complaints (35 cases) the previous year. This is a significant achievement, given the shift to remote working and the challenges set out above relating to staff shortage and changes to our internal processes.

The Commissioner's strategic plan has been redrafted as of 31 March 2021. However, until then, the strategic plan for the financial year set out the following objective for the standards team:

Assuring ethical excellence through delivery of a high-quality complaints handling service

- Develop and implement new investigation procedures to optimise service provision
- Implement risk-based quality assurance monitoring to foster further improvements
- Innovative thinking around legislative and related changes which secure public interest and best value.

Actions to achieve this objective were set out in the Commissioner's business plan for 2020/21. Progress is as follows:

- In relation to MSP complaints, standard dismissal letters and a new factsheet was developed by the Public Appointments Manager and in use from October 2020;
- the office was able to provide a response to public consultation on the revised Model Code of Conduct for Members in January 2021;
- management team meetings were held to review staffing complement subsequent to completion of phase 2 restructure;
- work on complaint form re-design was initiated and completed, with the redesigned form being uploading to the office's website in January 2021;
- work on a 'case story book' with a view to publishing case stories on the office's website was initiated (but suspended on the Commissioner's instructions in February 2021 to prioritise other workload);
- as of March 2021 onwards, the office is compliant with all Directions issued from the Standards Commission over the course of the financial year;
- as of March 2021 onwards, meaningful engagement and relationship-building took place with the Standards Commission, COSLA, SOLAR and SOLACE (see Commissioner's Statement above)

- work on upgrading and updating of procedural documentation (such as templates and factsheets) remains ongoing and, as of May 2021, the content covering assessment at the admissibility stage agreed with the Standards Commission.

During the year, progress against the following was limited:

- in relation to MSP complaints, the development of an action plan documenting a suite of arrangements in anticipation of upcoming amending legislation on sexual misconduct and removal of time bar for allegations of such misconduct and,
- in relation to Councillors and Members' complaints, roll-out of external engagement with local authorities and the Standards Commission, finalising the Memorandum of Understanding with various authorities, and initial review of external contracting arrangements.

PUBLIC APPOINTMENTS

The financial year of 2020/21 in regulated public appointments has been affected by the same significant worldwide events as every other area of public and private life. The start of the financial year in April 2020 coincided with the onset of a world-wide pandemic. This saw a sudden and urgent move to remote working for those organisations and individuals for whom it was practicable and achievable. A lock down on the movement of individuals was implemented in order to slow down the spread of a deadly new virus. These measures affected all who are involved in the regulated public appointments process including the Commissioner's staff, the Public Appointment Advisers (PAAs), Scottish Government officials who run the public appointments process on behalf of Ministers, Boards themselves and, of course, prospective applicants.

Initially, there was a temporary "pause" in appointment activity as all involved in the process waited to see what effect the pandemic would have on society. Many of the Scottish Government employees who would normally be involved in the process were transferred temporarily to Covid-19 related duties. This cessation in appointment activity can be seen reflected in the overall numbers of appointment rounds for the year. Fifty-eight allocations of PAAs were made in comparison with 70 in the previous year.

Satisfaction levels on the part of panel and body chairs about the contribution of our PAAs during appointment rounds remained high – the average score was 4.46 this year in comparison with 4.51 in the prior year – with a score of 5 equating to "very satisfied".

The overall numbers of contacts with the office in the form of enquires and reports did not diminish and in fact increased in some cases on previous years; 756 enquiries and/or reports were received and dealt with in comparison with 680 in 2019/20.

This is not surprising; quite a number of requests were submitted to the Commissioner by the Scottish Ministers to extend appointment terms beyond the eight-year limit normally anticipated by the Code. These were agreed by the Commissioner to afford boards vital continuity during a period of significant uncertainty. Two emergency interim appointments were also agreed during the course of the year.

As appointment activity resumed, in order to secure new Chairs and Members with the skills, knowledge and experience required for boards to deal with their hugely changed operational context, we saw a rise in requests for advice on how different parts of the

process might best be conducted online. This process was iterative, as new information on good practice in this area was ingathered and distributed to the PAAs.

In respect of performance against our business plan and action plan for appointments, we managed to complete some proactive work that had been planned prior to the pandemic and in spite of the impact that lockdown had. All activities were streamed to reflect what was and was not possible to complete via remote working.

Notable achievements included:

- a comprehensive consultation exercise on prospective revisions to the Code of Practice
- the publication of a report following research into time commitment and remuneration for board members and the potential impact of these on board diversity
- a successful tendering exercise to engage three new PAAs
- the production of new good practice guidance on recruitment and selection, inclusive of conducting the same using ICT, and training for PAAs in this area
- support for the two mentoring schemes run by the Scottish Government during the year, one for prospective body chairs and one for disabled people considering applying for board roles
- a revision to our statutory guidance following the coming into force of provisions of the Gender Representation on Public Board (Scotland) Act 2018.

We were not, however, able to complete and publish the analysis of responses to the consultation during the year nor to publish the revised Code in draft. Both the Scottish Parliament and the Scottish Ministers wished to have further input into its development and so further consultation is underway in the 2021/22 reporting year.

A range of other planned activity was also suspended or postponed, such as audit of appointment rounds, due to the prioritisation of other work by the Commissioner. This in turn was attributable to high staff turnover and non-appointments related work being delegated to the Public Appointments Manager. More detail is included in our [standalone public appointments report](#) for the year. We nevertheless continued to acquit our core responsibilities for the provision of oversight and guidance.

In terms of board diversity, the statistics for the 2020/21 year have shown a general improvement overall, although, other than for gender, our boards still do not reflect the public that they serve. Figures for the proportion of women on our boards continue to increase. Figures for BME applicants, appointments and reflection on boards have also improved and this may be as a result of positive action taking place due to the relaunch of the Scottish Government's Race Equality Action Plan in October 2020. It is encouraging to see improvement happening, however limited, across a number of areas. We will encourage learning on the part of the Scottish Government to establish what practices, some of which have been necessitated by the pandemic, have had an impact on these figures, if any.

KEY ISSUES AND RISKS

At the beginning of the period, the Commissioner had identified the following the key risks for the office in 2020/21.

1. Expansion of our statutory remit to include complaints about historic sexual harassment by MSPs towards their own staff

The Commissioner considered that further restructuring may be required to address complaints arising under this expansion to our remit. There was potential for considerable operational impact, particularly with the intended removal of the time bar for all MSP complaints. The Scottish Parliamentary Standards (Sexual Harassment and Complaints Process) Act 2021 does not come into force until 21 October 2021. Ensuring there is adequate preparation for the implementation of the Act remains a risk for the organisation in 2021/22. The Acting Commissioner aims to address this through recruitment and training.

2. Impact of Covid-19

The Commissioner moved the office to remote working on 16 March 2020. Business continuity plans were implemented and we were able to transition to fully offsite working whilst continuing to fulfil our statutory functions. That was and remains the situation and is likely to be so for some time. We continued to safeguard the connectivity and security of our digital networks during the year, and provided everyone with the resources they need to work from home. Cyber Essentials Plus accreditation in our remote-working environment has been achieved and home health and safety assessments for all staff have been undertaken. The Acting Commissioner's priority in 2021/22 is to identify the most effective method for operating once Covid-19 restrictions are relaxed and to seek staff input and support for any resulting changes.

During the period further risks were identified. These remain key risks for the organisation going into 2021/22.

1. High staff turnover

Staff turnover during the year remained high at 60% (2019/20: 70%) (see figure 45). There was a significant risk that we would have insufficient capacity and capability to carry out our statutory and ancillary functions. In addition, staff morale was low impacting productivity to an extent and retention in particular. Ongoing restructure contributed to this turnover but natural turnover was also high.

2. Reputational damage

During the year the Commissioner's relationships with a range of key external stakeholders had deteriorated.

3. Override of controls and the system of internal governance

The system of internal governance and external oversight designed to provide sufficient checks and balances has proven ineffective. It is essential that actions to address this issue, incorporated into strategic and business plans remain supported and ultimately implemented by this office and those external agencies and bodies with responsibility.

4. Exiting the EU

The Acting Commissioner has considered the impact of exiting the EU on our operation. Given the size and very specific remit of the Commissioner's office, the impact will be limited.

Since April 2021, the Acting Commissioner has implemented a range of actions to address these issues. In particular, standard risk management practices will be re-introduced in 2021/22.

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

GOING CONCERN ASSESSMENT

These accounts must be prepared in line with the UK Government's Financial Reporting Manual. This requires that these accounts are prepared on a going concern basis.

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

The Statement of Financial Position shows a negative balance of £10,000. This is a temporary position caused by a late adjustment to accruals. Cash was available in the budget for drawdown at 31 March 2021 which could have covered these expenses if they had been known at the time.

In common with similar public bodies, the future financing of the Commissioner's office will be met by funding approved annually by the Scottish Parliament. Funding for 2021/22 has already been awarded and there is no reason to believe that future approvals will not be forthcoming. Accordingly, it is considered appropriate to adopt a going concern basis for the preparation of these financial accounts.

PERFORMANCE ANALYSIS

OUR STRATEGIC OBJECTIVES

The Commissioner published a new four-year strategic plan in April 2020. This outlines our strategic objectives for the period. These are:

Assuring ethical excellence through delivery of a high-quality complaints handling service

Evolution and maturity as a regulator, responsive to contextual and scope change

Developing a talented professional team to further drive quality

Creating an effective information governance system designed to support our business aims

Our strategic plan is supported by annual business plans. These detail the actions we will take each year to achieve our strategic objectives. The development of our 2020-21 business plan was suspended between April and September 2020, A business plan covering the period October 2020 to March 2021 was developed.

Both the [Strategic Plan 2020-2024](#) and the [Business Plan for 2020-21](#) are available on our website.

The Acting Ethical Standards Commissioner has [consulted on a revised strategic plan](#) covering the period from April 2021 to March 2024. A biennial business plan was produced to meet the objectives in the strategic plan and to address recommendations from our external auditor.

All plans are available at www.ethicalstandards.org.uk.

COMPLAINTS ABOUT CONDUCT

Assuring ethical excellence through delivery of a high-quality complaints handling service

We have undertaken an audit of the statistics presented in this section. Any changes to information previously presented have been indicated. We have included statistics from 2017/18 onwards to identify any emerging trends and to link to previous annual reports, in order to allow a full record of our work to be published and for like for like comparisons to be made with previous years such that our performance can be tracked.

COMPLAINTS ABOUT LOCAL AUTHORITY COUNCILLORS AND BOARD MEMBERS OF PUBLIC BODIES

SUMMARY OF THE YEAR

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

The vast majority of the complaints investigated in the course of 2020/21 concerned the conduct of Councillors, as shown in figure 3.

Amongst these, the largest number of complaints involved allegations of disrespect towards members of the public and Council employees (96 complaints, see figure 4). Several of these involved allegations of disrespect in the form of social media posts or engagement on social media platforms such as Twitter and Facebook. There is a clear trend that allegations of disrespect towards members of the public and Council employees are becoming increasingly frequent for this office, as reflected in the year on year increase since 2017/18. Allegations of bullying and harassment are included in the categorisation of complaints alleging disrespect due to both types of conduct being covered by the same section of the applicable Codes and the pre-set categories available from the new Case Management System introduced in 2019/20.

The second largest number of complaints are classified as 'Other' (89 complaints, see figure 4). This category of complaints covers a broad spectrum of allegations about issues outwith the remit of this office. Examples include enforcement of Covid-19 restrictions or Council matters such as appointment of an individual to a committee. The significantly higher number of complaints classified as 'Other' compared to previous accounting years can be attributed to the introduction of the new case management system in the 2019/20 financial year, where complaints which do not match a pre-set description or containing more than one allegation may be labelled 'Other' in order to be logged. A cohesive system of categorising and recording complaints is under development in a new Investigations Manual which is aimed to be introduced by November 2021.

A total of 15 breach reports were submitted to the Standards Commission for Scotland (the Commission) this year. Of these, a significant portion of the breach reports submitted involved allegations of disrespect towards employees or members of the public and disrespect towards other Councillors (6 reports). The right to freedom of speech guaranteed under Article 10 of the European Convention of Human Rights and the wider latitude recognised by the courts as applying to “political expression” featured in many of these cases. Another significant portion of the breach reports covered failure to declare an interest (5 reports). A small portion of the breach reports covered breach of confidentiality (3 reports), one of which covered the premature release of confidential information relating to a Council’s Covid-19 response on Facebook.

The remaining report concerned the breach of paragraph 1.5 of the Code in addition to a finding of disrespect against a Council employee or member of the public.

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

	2020/21		2019/20		2018/19 Revised		2017/18	
	Complaints	Cases	Complaints	Cases	Complaints	Complaints	Complaints	Cases
Open at 1 April	63 ⁹	35 ⁹	35 ⁷	24 ⁷	23 ³	19 ³	53 ²	29 ²
Received	238	130	284	154	174 ⁴	118 ⁵	146	80
Active during year	301	165	319	178	197	137	199	109
Completed	277	157	256 ⁸	143 ⁸	162 ⁶	113 ⁶	176	90
Open at 31 March	24	8	63 ⁹	35 ⁹	35 ⁷	24 ⁷	23 ³	19 ³
Completed, hearing to follow ¹	0 ¹⁰	0 ¹⁰	1	1	10	4	1	1

1. Previously, the number of complaints and cases recorded as ‘Open at 31 March’, included instances where breach reports had been submitted to the Standards Commission for Scotland, 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. This were shown as 57 in the 2016/17 and 2017/18 annual report and accounts and was corrected to 54 (30 cases) in 2018/19. Following a full audit this has been amended to 53 and 29 respectively. A formula error in a spreadsheet used in 2016/17 caused the initial error.

3. In previous reports, these were shown as 24 and 20 respectively. They are adjusted to 23 and 19 in line with bullet 1 and 2 above.

4. This was recorded as 173 in the 2018/19 annual report and accounts. On reviewing our records, one case had a single complaint recorded against it, when there should have been two. The revised total is 174 complaints.

5. This was recorded as 117 in the 2018/19 annual report and accounts. The correct total is 118. The error was the result of two cases with multiple complaints being recorded incorrectly.

6. In previous reports, these were shown as 152 and 109 respectively. They are adjusted to 162 and 113 in line with bullet 1 above.

7. In previous reports, these were shown as 45 and 28 respectively. They are adjusted to 35 and 24 in line with bullet 1 above.

8. In previous reports, these were shown as 269 and 150 respectively. They are adjusted to 259 and 146 in line with bullet 1 above. They are further adjusted to 256 and 143 as three complaints (three cases) were erroneously recorded as complete in 2019/20.

9. In previous reports, these were shown as 60 and 32 respectively. They are adjusted to 63 and 35 as three complaints (three cases) were erroneously recorded as complete in 2019/20.

10. The Standards Commission’s decisions in two cases heard on 10 September 2020 were quashed on appeal on grounds that the panel should not have proceeded in the absence of the respondent who was self-isolating. Re-scheduled hearings were held on 3 May 2021.

The issues corrected above occurred following the transition from one Commissioner to another in 2019 and from one case management system to another. In preparing this annual report and accounts, a full review and reconciliation has been undertaken. The figures presented above are now correct and comparable with those provided in the years up to 2017/18.

Figure 3

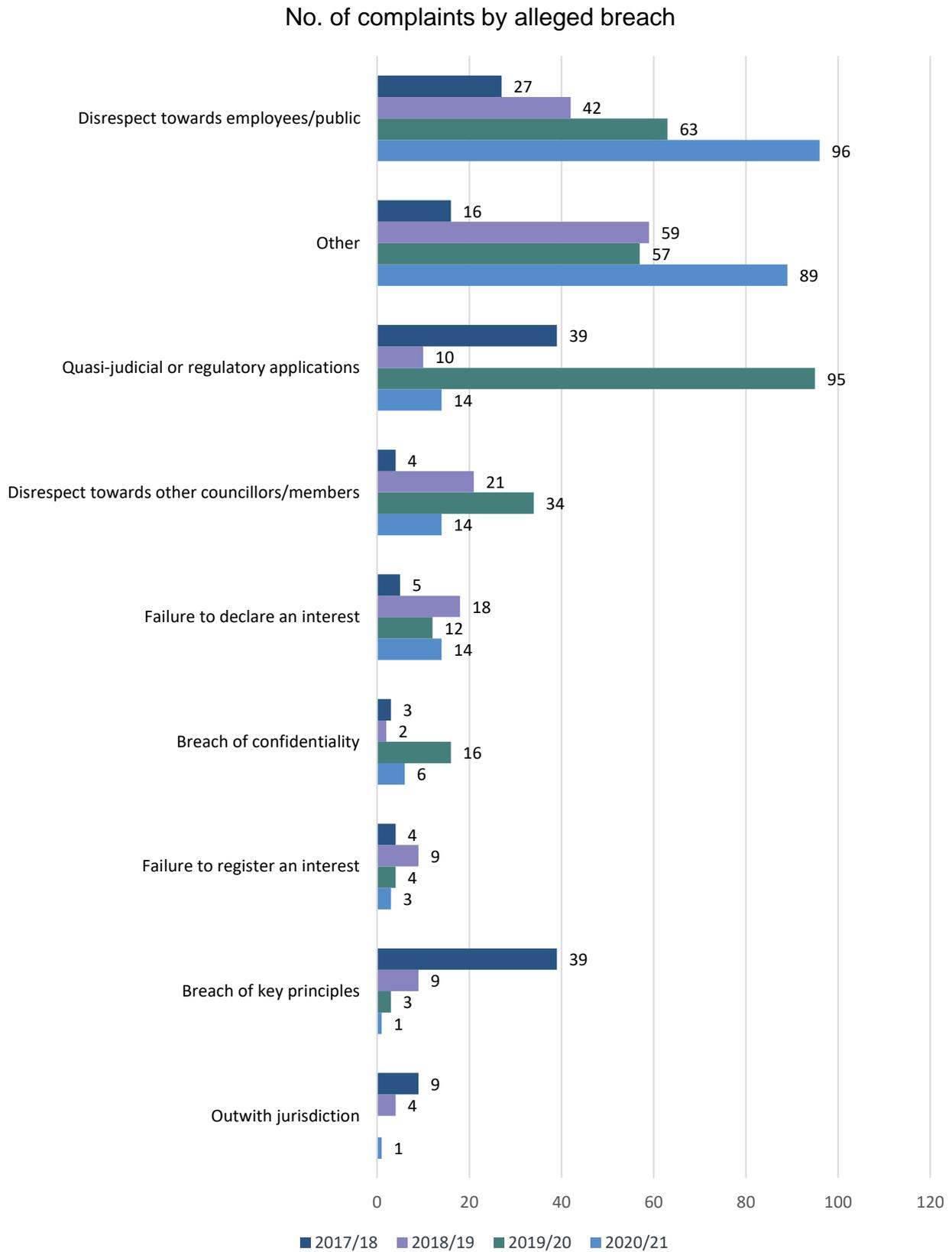
Complaints received	2020/21		2019/20		2018/19		2017/18	
	Complaints	Cases	Complaints	Cases	Complaints	Cases	Complaints	Cases
Councillors	225	121	273	145	155	102	134	69
Board members	13	9	10	8	6	6	3	3
Outwith jurisdiction	0	0	1	1	13	10	9	8
Totals	238	130	284	154	174	118	146	80

The table above shows the number of complaints we receive about Councillors and Board members. The number of complaints about Councillors (225 complaints covering 121 cases) remains significantly higher than complaints about Board members (13 complaints covering 9 cases), which is consistent with the trend of previous years.

The number of complaints received about individuals who are outwith the jurisdiction of this office (i.e. not about a Councillor or Board member covered by the applicable Codes) has decreased significantly since 2018/19. A possible explanation for this is a change in how such complaints were categorised and logged to the Case Management System (CMS). The Commissioner revised procedures so that complaints likely to be 'outwith jurisdiction' were not logged on the CMS. As of March 2021, procedures reverted so that all complaints received are logged to ensure consistency and like-for-like comparisons with previous years.

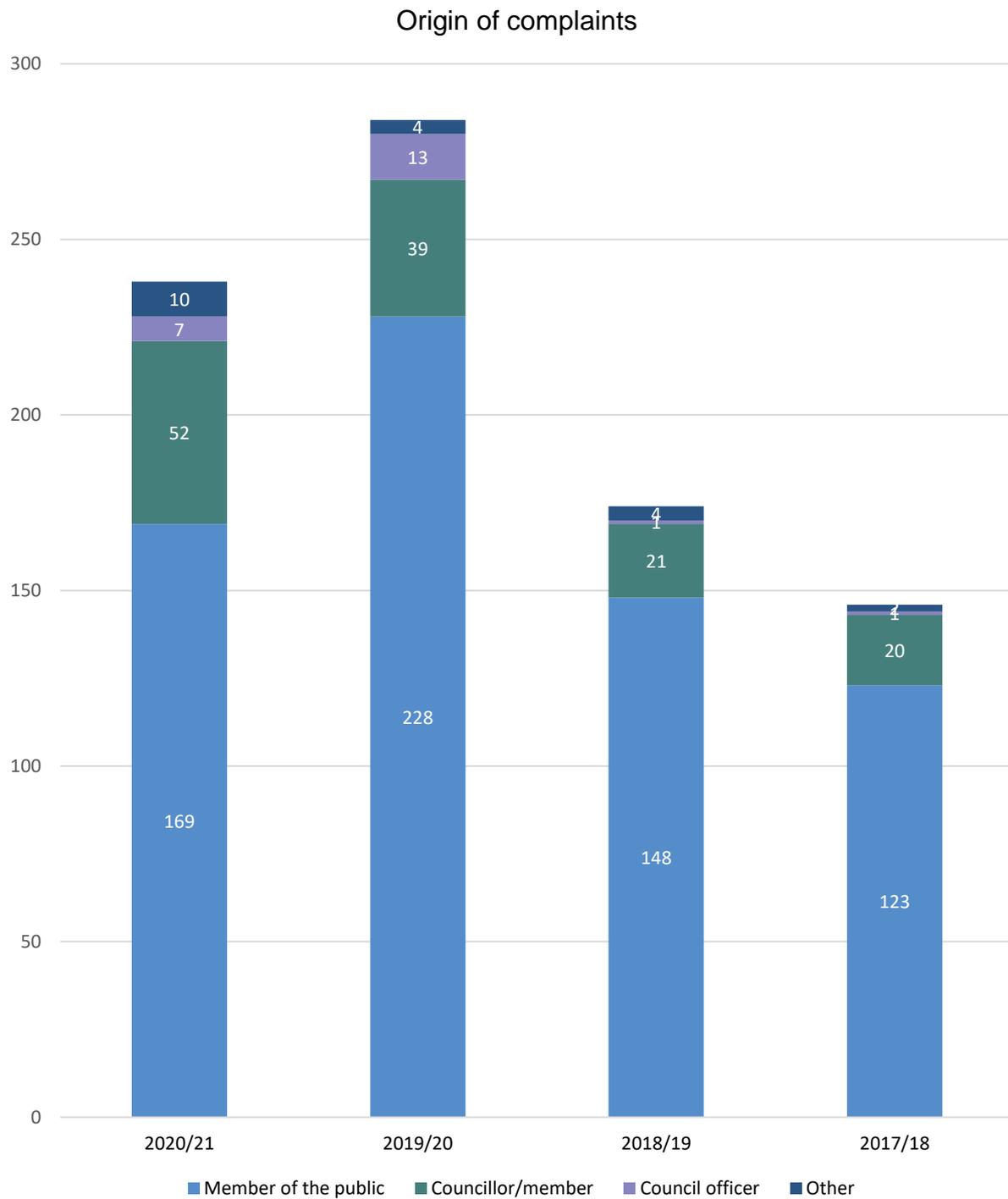
WHAT WERE THE COMPLAINTS ABOUT?

Figure 4



WHO MADE THE COMPLAINTS?

Figure 5



Following a full review of our statistics as described above, we have adjusted the breakdown for 2019/20.

WHAT WAS THE OUTCOME OF THE COMPLAINTS?

Two hundred and seventy-seven complaints were completed this year, comprising 157 cases.

- A full investigation was carried out in respect of 49 complaints (18%) – 24 cases (15%)
 - 39 complaints (14%) – 17 cases (11% of all cases) resulted in a report being submitted by the Commissioner to the Standards Commission with a finding that there had been a breach of the Code.
 - Following investigation, 10 complaints (4%) which were investigated as 7 cases (4%), were concluded with a finding of no breach of the Code.
- There were 227 complaints (82%) – 132 cases (84%) which, after initial investigation, were subject to no further action. The initial investigation involved the assessment and consideration of the complaint by gathering information from parties involved in the complaint or from the relevant council or public body. These complaints were found not to amount to a possible breach of the Code because of limited substance or merit. Following a recommendation from our auditors, and further to concerns raised by the Standards Commission for Scotland about complaints not being properly investigated, we will commission a review of decisions made in 2020/21.
- No complaints/cases were found to be outwith jurisdiction.
- 1 complaint – 1 case was withdrawn.

Figure 6

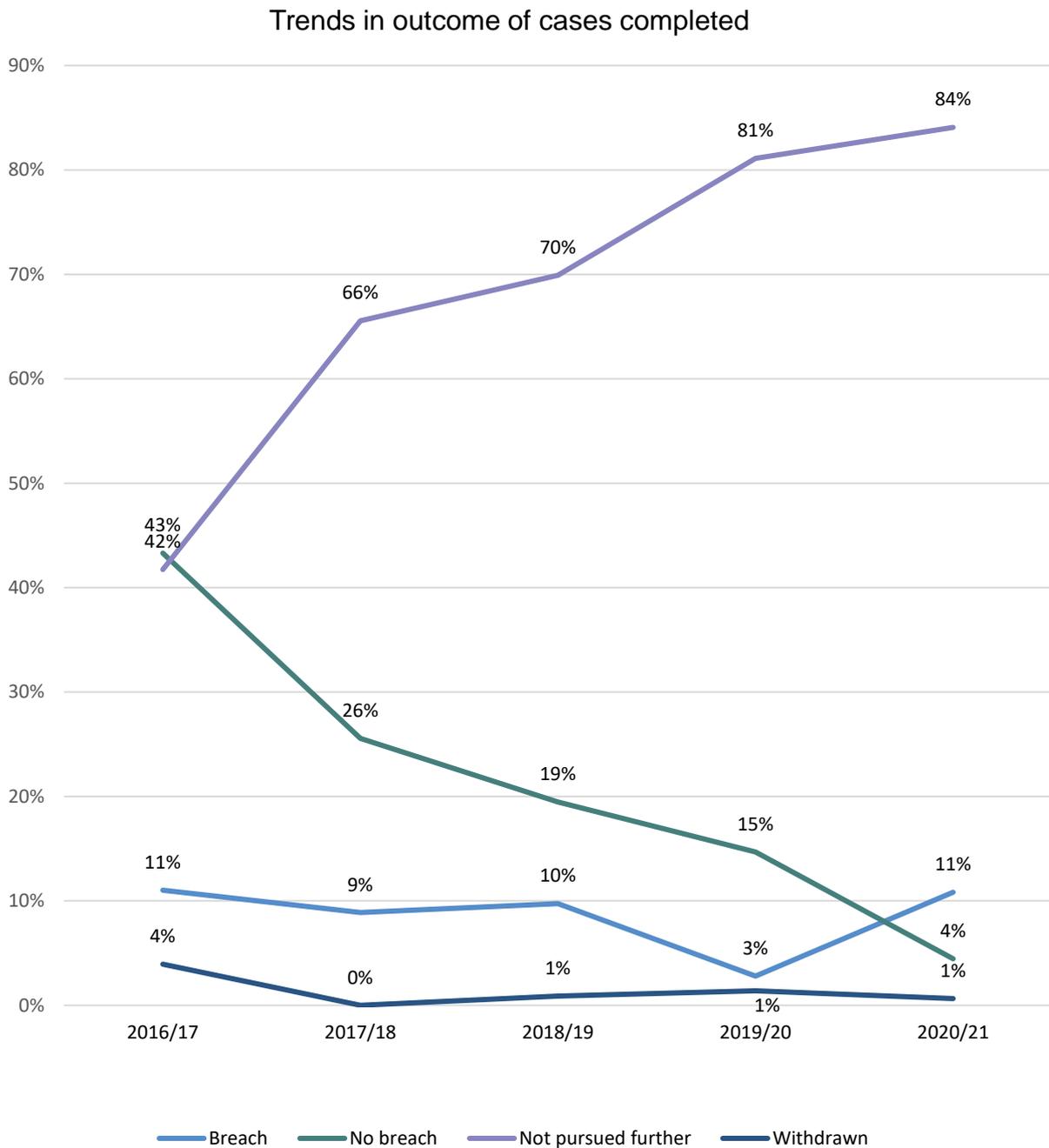
Outcome	2020/21		2019/20		2018/19		2017/18	
	Complaints	Cases	Complaints	Cases	Complaints	Cases	Complaints	Cases
Breach	39	17	8	4	17	11 ³	12	8
No breach	10	7	32 ¹	21 ¹	31	22 ³	43	23
Not pursued further	227	132	214 ²	116 ²	110	79 ³	114	52
Outwith jurisdiction	-	-	-	-	-	-	7	7
Withdrawn	1	1	2	2	4	1	-	-
Total cases	277	157	256	143	162	113	176	90

1. This was recorded as 21 complaints and 13 cases in the 2019/20 annual report and accounts. After an audit of our records this is amended here.

2. This was recorded as 228 complaints and 127 cases in the 2019/20 annual report and accounts. After an audit of our records this is amended here.

3. In the 2018/19 annual report and accounts only cases were noted. These were recorded as 8 breaches, 23 no breaches and 78 'not pursued further'. After an audit of our records, they are amended here.

Figure 7



There has been a steady increase in cases that are ‘not pursued further’ and a correlating steady decline in the number of ‘no breach’ cases since 2017/18. A detailed explanation for this trend as shown from 2016/17 to 2018/19 cannot be provided due to loss of corporate memory from significant staff turnover beginning in 2018/19 onwards although it is likely attributable to a change to the way in which incoming complaints were initially assessed. Additionally, it may be that an increasingly thorough assessment stage process (particularly from August 2020 onwards) where complaints which cannot be substantiated or are without merit are not accepted for investigation has meant the number of non-breach findings would decrease significantly as only complaints which can be substantiated or which have merit were accepted for investigation.

The decline of breach reports to 3% in 2019/20 and subsequent increase to 11% in 2020/21 can be attributed to the backlog of cases which accrued over the course of 2019/20 (explained further below) and for which work concluded in 2020/21.

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

Figure 8

2020/21	Breach	No breach	Not pursued further	Outwith jurisdiction	With-drawn	Totals
Introduction/Key Principles			3			3
Outwith 12 months			4			4
Personal conduct/not acting as Councillor			13			13
Insufficient/no evidence to support allegation		7	84			91
Code not engaged/no misconduct			11			11
Not about a Councillor or Member						0
Breach	17					17
Not in the public interest			6			6
Other			11		1	12
2020/21 Totals	17	7	132	0	1	157
2019/20 Totals	4	21	116	0	2	143

WERE THERE ANY INTERIM REPORTS ISSUED?

Pursuant to s21 of the 2000 Act, the Commissioner may issue an interim report to the Standards Commission setting out that (i) the further conduct of an investigation is likely to be prejudiced if a suspension is not imposed or that (ii) it would be in the public interest to impose a suspension on a councillor or member of the devolved public body, prior to the completion of a full investigation. Alternatively, the Standards Commission may also direct the Commissioner to submit an interim report on an investigation being conducted by the Commissioner. On receiving the interim report, the Standards Commission may impose a sanction of suspending the councillor or member of a devolved public body where the Commission is satisfied of (i) or (ii) above.

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 issued no interim reports in 2020/21 (2019/20: four).

WERE THERE ANY HEARINGS?

The Commissioner reports any findings that the relevant Code of Conduct has been breached to the Standards Commission. They may hold a hearing and impose a sanction, direct the Commissioner to conduct further investigation or do neither. The following table provides further information about hearings held during 2020/21.

Figure 9

Complaint number	Council / Public Body	Nature of Complaint	Hearing date	Hearing decision	Sanction imposed
Report submitted in 2019/20; hearing held in 2020/21					
LA/Fi/2268	Fife Council	Other	24/08/2020	No breach	N/A
Report submitted and hearing held in 2020/21					
LA/AC/3199	Aberdeen City Council	Other	20/11/2020	Breach	Suspension
LA/AC/2276	Aberdeen City Council	Breach of confidentiality	22/10/2020	Breach	Censure
LA/ER/3271	East Renfrewshire Council	Disrespect towards other Councillors	13/11/2020	Breach	Suspension
LA/Fi/3075	Fife Council	Disrespect towards employees/public	23/11/2020	Breach	Suspension
LA/Fi/3039	Fife Council	Disrespect towards employees/public	23/11/2020	Breach	Suspension
LA/Fi/3125	Fife Council	Failure to declare an interest	09/11/2020	Breach	Censure
LA/Fi/3278	Fife Council	Breach of confidentiality	16/12/2020	Breach	Suspension
LA/H/3003	Highland Council	Failure to declare an interest	08/07/2020	Breach	Censure
LA/Mo/3132	Moray Council	Failure to declare an interest	12/10/2020	Breach	Censure
LA/OI/3265	Orkney Islands Council	Breach of confidentiality	18/01/2021	Breach	Suspension

LA/R/3262	Renfrewshire Council	Disrespect towards other Councillors	10/09/2020	Decision quashed on appeal	
LA/R/2257	Renfrewshire Council	Disrespect towards other Councillors	10/09/2020	Decision quashed on appeal	
LA/SI/3305	Shetland Islands Council	Failure to register an interest	17/12/2020	Breach	Censure
LA/SL/2252	South Lanarkshire Council	Failure to declare an interest	23/07/2020	Breach	Censure
LA/WD/3016	West Dunbartonshire Council	Disrespect towards employees/public	14/09/2020	Breach	Suspension
Report submitted 2020/21 and hearing scheduled for 2021/22					
LA/R/3262	Renfrewshire Council	Disrespect towards other Councillors	03/05/2021	Breach	Disqualification
LA/R/2257	Renfrewshire Council	Disrespect towards other Councillors	03/05/2021	Breach	Disqualification

The Standards Commission did not direct the Commissioner to carry out any further investigations during the year.

The significant increase in the number of breach reports and hearings reflects the backlog of cases which accumulated between April and October 2019. A backlog was created initially due to there being no Senior Investigating Officer in post, followed by the Commissioner's decision to suspend work on new investigations during the restructure. Investigations recommenced as a matter of priority in October 2019.

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 2020/21, we received 130 cases and completed 157. Some prior year figures have been adjusted as outlined under Figure 2 above.

Figure 10

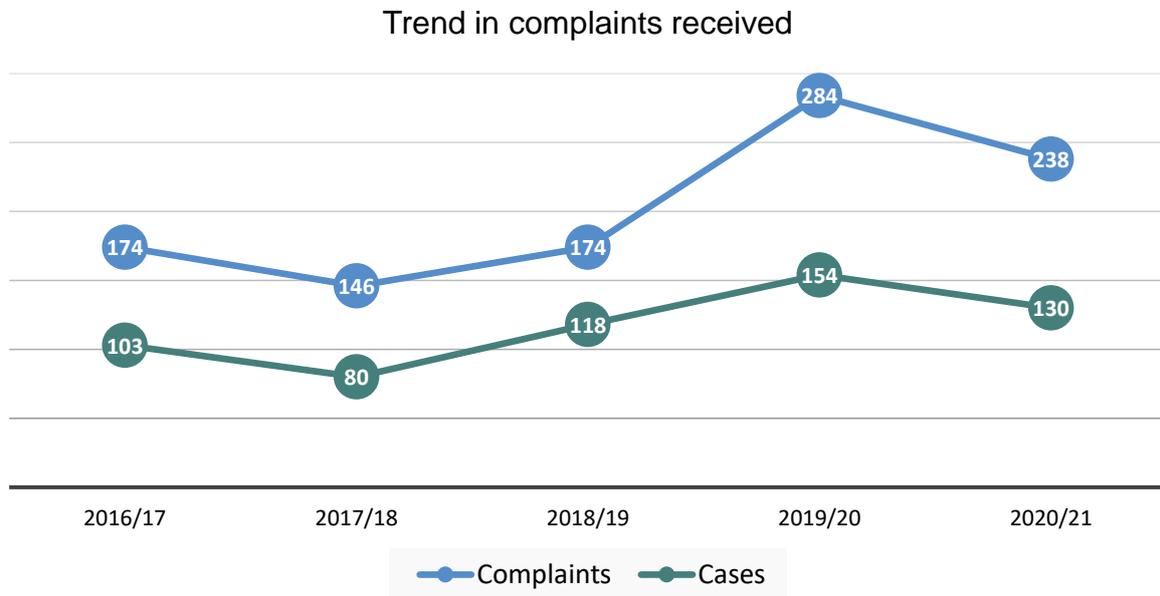
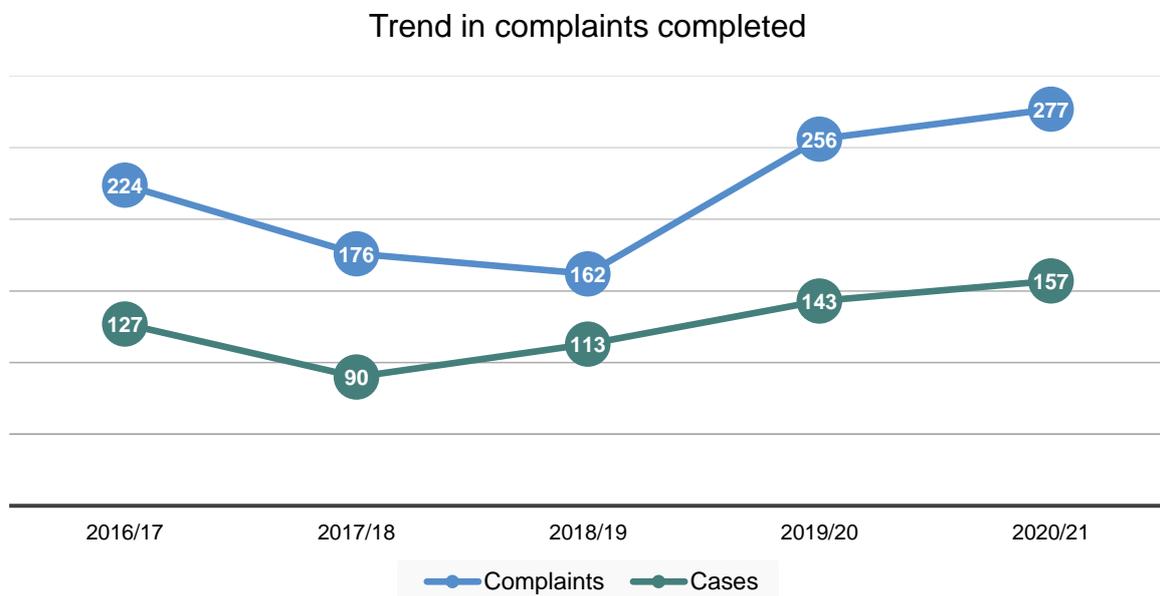


Figure 11



COMPLAINTS ABOUT MSPS

We investigate complaints about the conduct of MSPs.

HOW MANY COMPLAINTS WERE PROCESSED?

Figure 12

		2020/21		2019/20		2018/19		2017/18	
		Complaints	Cases	Complaints	Cases	Complaints	Cases	Complaints	Cases
Open at 1 April	Stage 1			6	5	1	1		
	Stage 2	1	1			2	2	4	3
Received		763	54	109	39	23	22	28	24
Active during year		764	55	115	44	26	25	32	27
Completed		61	40	114	43	20	20	29	24
Open at 31 March	Stage 1	702	14			6	5	1	1
	Stage 2	1	1	1	1			2	2

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 (2019/20: Nil).

WHAT WERE THE COMPLAINTS ABOUT?

Figure 13

	2020/21	2019/20	2018/19	2017/18
Allowances and expenses/Use of Parliamentary facilities			1	4
Breach of confidentiality	584	1		2
Engagement and liaison with constituents		3	1	8
General conduct		9	9	9
Other	145	89	1	1
Registration/declaration of interests	3	5	11	4
Treatment of other MSPs/staff	31	2		
Totals	763	109	23	28

Towards the end of 2020/21 the Commissioner received over 730 complaints relating to a similar issue. The majority of these complaints have been grouped together and will be processed in 2021/22. It is anticipated that concluding these investigations will require considerable resources.

The rapid increase in complaint volumes in the past two years have been driven by single issues attracting a large volume of complaints. In 2019/20, we received 63 complaints about a single MSP's manner of engaging with constituents. The complaints received towards the end of 2020/21 all related to a series of linked courses of conduct.

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 cases assessed and the outcome.

Figure 14

Reasons for inadmissibility	2020/21	2019/20	2018/19	2017/18
Dismissed under the first statutory test – the complaint was not ‘relevant’ – for example, it did not concern conduct of an MSP?	56	41 ³	9	15
Dismissed under the third statutory test – was the complaint of enough substance to justify further investigation – that is, was there sufficient evidence?	-	1 ³	1	-
Complaints “outwith” jurisdiction were referred to				
Presiding Officer	1	67	2	6
First Minister	-	3	-	2
Scottish Parliamentary Corporate Body	3	-	2	2 ¹
Standards Procedures and Public Appointments Committee	-	1	1	-
Inadmissible	60	113	15	25¹
Admissible	2⁴	1	5	4²
Totals	62	114	20	29²

1. This was originally shown as 3 in the 2017/18 annual report and accounts giving a total of 26 inadmissible complaints. Following a review of our records this has been amended to 2 and 25 respectively.

2. This was originally shown as 2 in the 2017/18 report giving a total of 28 complaints assessed. Following a review of our records this has been amended to 4 and 29 respectively. All four complaints were assessed as admissible in 2016/17 with the Stage 2 investigation being carried out in 2017/18.

3. 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.

4. One of the two complaints was assessed as admissible in 2019/20 with the Stage 2 investigation being carried out 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 was one such report in 2020/21 (2019/20: two). The remaining admissible case was under investigation as at 31 March 2021.

Figure 15

Case Ref.	Nature of Complaint	Commissioner's Conclusion	Committee date	Committee decision	Sanction imposed by the Scottish Parliament
3142 (2019/20)	Part 1 – Failure to register an interest Part 2 - Failure to declare an interest	Part 1 – No Breach Part 2 – Breach	24-Sep-20	Agreed	No sanction

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 61 complaints (40 cases) that were assessed for admissibility in 2020/21, one complaint (one case) took over two months.

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. Two complaints (two cases) proceeded to Stage 2 in 2020/21. One was completed within the six-month time limit and one was still in progress at the end of the reporting year.

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 2020/21, we received 54 cases and completed 40.

Figure 16

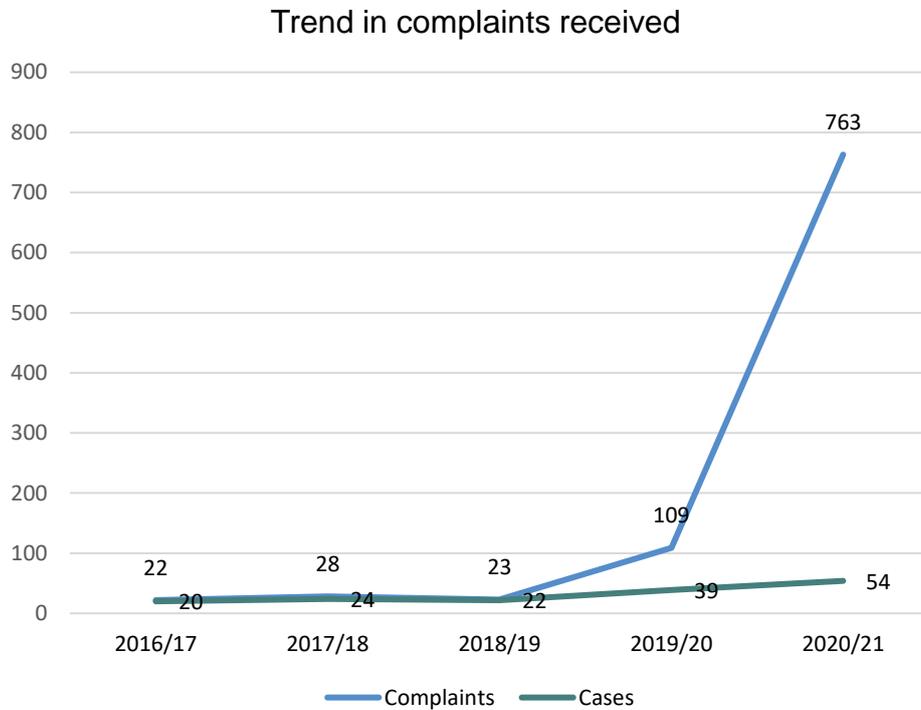
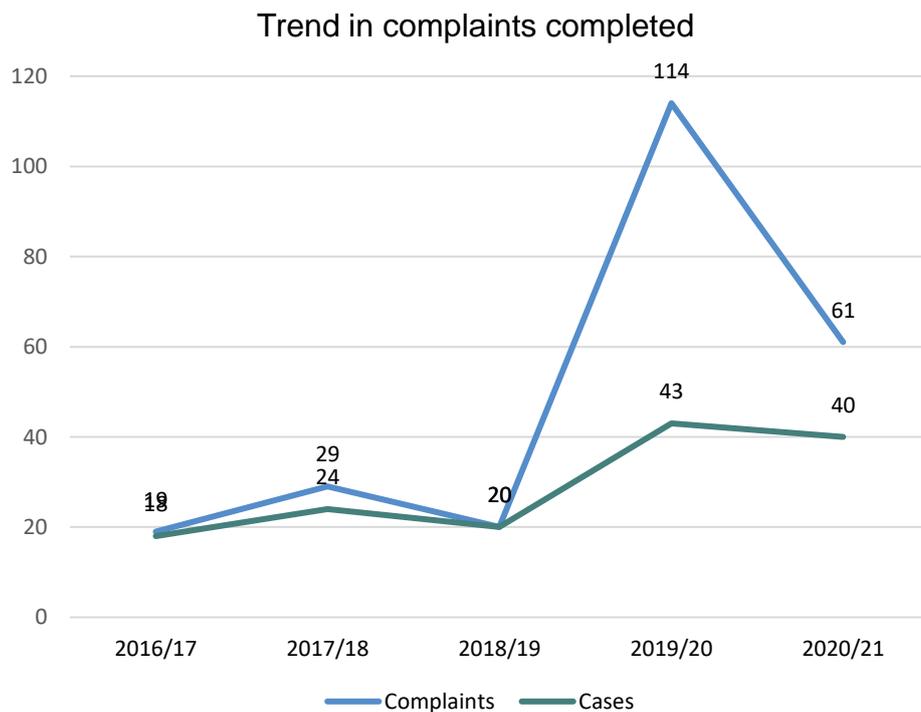


Figure 17



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 (2019/20: one complaint).

PUBLIC APPOINTMENTS

Evolution and maturity as a regulator, responsive to contextual and scope change

SUMMARY OF THE YEAR

The regulation of public appointments in the financial year 2020/21 was affected in an unprecedented and unanticipated way. The entire world was affected by the impact of the Covid-19 pandemic and its aftermath. In March 2020 the Commissioner's team moved to remote working exclusively. A number of general "in principle" variations to the requirements of the Code were requested by the Scottish Government as likely to be needed. These included requests to extend chair and member terms of appointment beyond the eight-year maximum normally allowed for by the Code. This took cognisance of the fact that appointment activity was likely to be delayed and it would therefore take longer to get new appointees in place. The Commissioner also allowed for greater flexibility in relation to changes to panel membership as there was a potential for people to become unwell or otherwise unavailable and unable as a consequence to fulfil their obligations under the Code. Eventually, there was a cessation in the majority of appointment activity pending the outcome of measures put in place to deal with the pandemic. Most of the Scottish Government Public Appointments Team were temporarily assigned to duties required to help deal with Covid-19 response work at this time.

Updates from the Scottish Government and some term extension requests (which are provided in more detail later in this report) were received in April, May and August 2020. The Commissioner was keen to support the Scottish Ministers where possible during this time by agreeing to extensions and also made an offer that Public Appointment Advisers (PAAs) who were experienced in governance might help with board cover on an emergency interim basis if it was required.

The Commissioner also wrote to the Permanent Secretary and the responsible Cabinet Secretary to seek assurances about the extent to which the resumption of activity would take account of the new operational context facing all public bodies. Progress in this area was incremental and inconsistent.

In the midst of the early cessation of appointment activity, the Gender Representation on Public Boards (Scotland) Act 2018 came into force. This had been anticipated and new statutory guidance on application of the Code, which took account of the Act's provisions, was published at the end of May 2020.

In the second half of 2020, the Commissioner launched a consultation on prospective revisions to the current Code of Practice for Ministerial Appointments to Public Bodies in Scotland. The 2019/20 annual report had highlighted that there was a need to review the current Code which had last been updated in 2013. The consultation was open from August 2020 until early November 2020. A range of responses was received to this, including one from the Scottish Government on behalf of the Scottish Ministers. This response gave the Commissioner some cause for concern with a proportion of the content suggesting that the Code should be 'principles based' and suggesting that current

regulation is inflexible and prescriptive. Subsequent discussions between the Acting Commissioner and Scottish Government officials have suggested that a suitable resolution can be achieved.

Early 2021 saw the publication of reports on two pieces of research that the Commissioner had conducted. One was the annual report of applicant views on the appointments process. In line with the Commissioner's interest in the issue, this had researched applicants' responses to questions about aspects of the appointments process split by household income and by sector worked (or most recently worked) in. The other report was on the results of a survey of current board chairs and members seeking their views on various aspects of their role. This included how closely they felt the time commitment that they committed to when applying matched the reality once in post. We also sought their views on the remuneration that they receive, how they feel about expenses that they are able to claim and what they knew of the Commissioner's role. It was apparent that the realities of taking on a board role differed from what is publicised in applicant information packs. Both of these reports are available on the website and will feature in further discussions with the Standards, Procedures and Public Appointments Committee, which expressed interest in the findings, and the Scottish Government.

During the course of the year, the Public Appointments Manager was required by the Commissioner to handle all incoming MSP complaints, which had originally been a temporary arrangement for three months from the start of 2020, and to provide advice and support in relation to a range of other of the Commissioner's statutory functions. As a consequence, a proportion of the activity planned for appointments remained incomplete at the year end. More detail is included in our [standalone public appointments report](#) for the year.

IMPROVING DIVERSITY ON THE BOARDS OF PUBLIC BODIES

We have a statutory duty to use our powers with a view to ensuring that appointments are made fairly and openly and that as far as possible everyone has an opportunity to be considered. As part of our work in this area, the Commissioner agreed targets with the Scottish Ministers in the strategy document “Diversity Delivers”, 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: <https://www.ethicalstandards.org.uk/promoting-diversity>.

The following tables and graphs show the extent to which Scotland’s board members at the end of 2020 reflect the population of the country as a whole and how it has changed over time.

CURRENT DEMOGRAPHIC PROFILE OF SCOTLAND’S BOARDS

Figure 18

Target Group	Change in board membership profile	Profile of board members† at the end of 2020	Profile of board members† at the end of 2019	Scottish Population (2011 Census)
Female	+1.7%	51.7%	50.0%	51.5%
Disabled	+0.2%	7.4%	7.2%	19.6%
Black and minority ethnic††	+0.8%	3.6%	2.8%	4.0%
Aged 49 and under	-0.2%	17.7%	17.9%	54.3%*
Lesbian, gay and bisexual	-0.2%	4.9%	5.1%	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

Figure 19

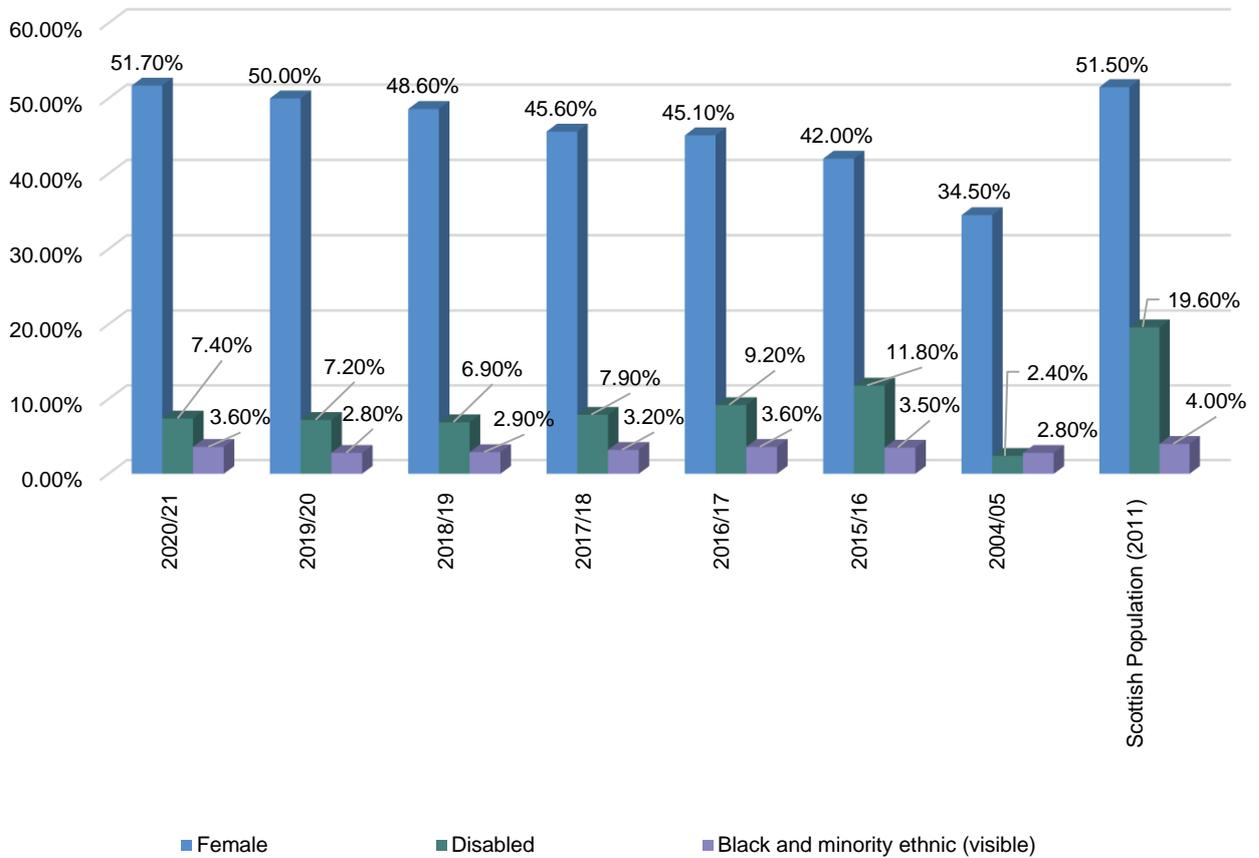
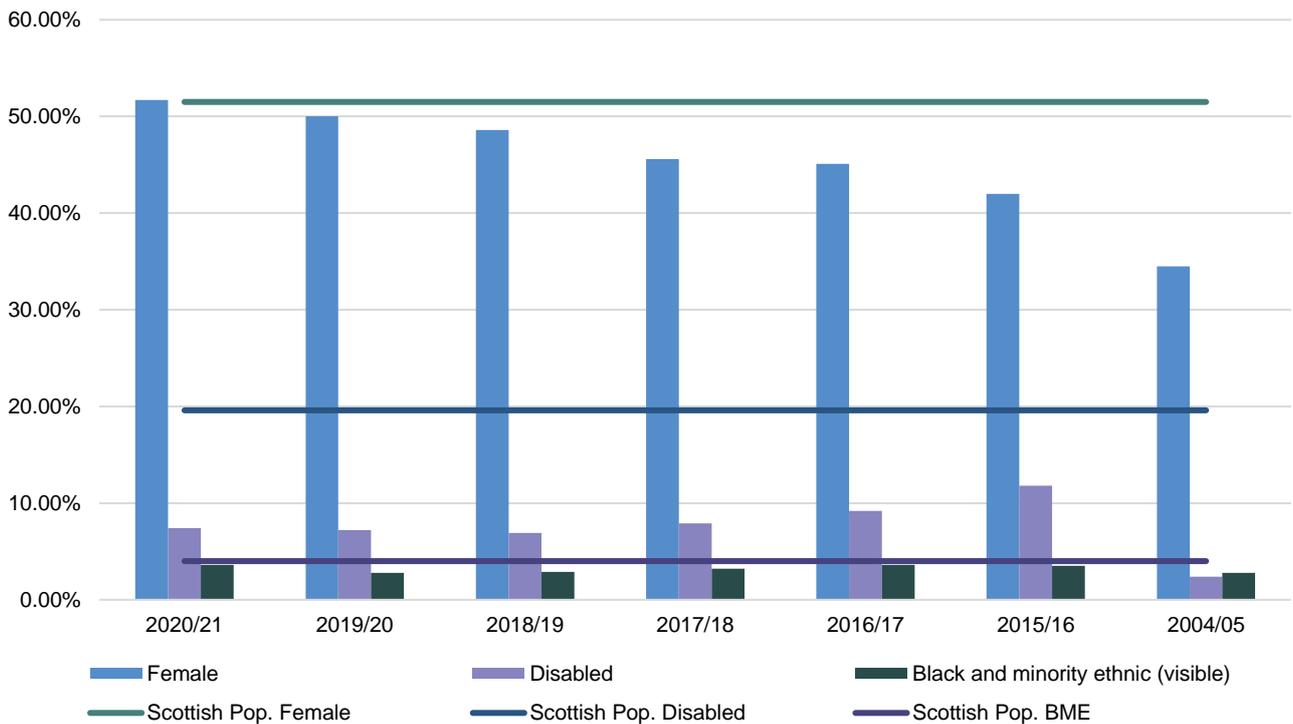


Figure 20



The Commissioner has not set a target for reflection by protected characteristics on boards. It is however recognised that this baseline must be tracked in order to assess whether the measures put in place to meet Diversity Delivers targets are making a difference to board demographics. This in turn will determine whether the targets continue to be required and set at current levels.

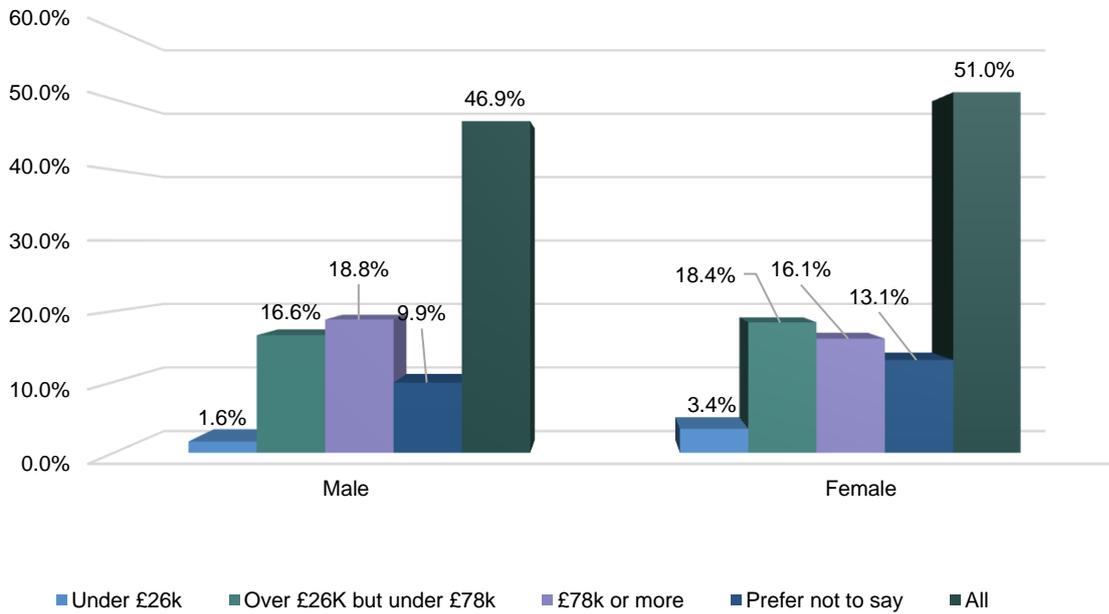
Female board membership has increased year on year since 2015/16 and has now exceeded the 50% target set by the Scottish Ministers in 2015. There is still under-reflection in respect of all other characteristics for which targets have been set in comparison with the demographics of the population. It is, however, encouraging to see a number of small increases across some of these characteristics in 2020/21.

In 2018, the Commissioner requested, for the first time, the breakdown between chairs and members with a view to monitoring and tracking the extent to which public body chairs are reflective of society. At the end of 2020 the cohort of board chairs was made up of just over 39% women and nearly 12% of people declaring a disability. These breakdowns are provided in more detail in our [standalone report for public appointments](#). That report also includes figures for board chairs and members disaggregated by household income and sector worked or most recently worked in. Around 70% of our current board chairs and members (as at 31 December 2020) earn above the median income in Scotland.

Around half of both public body chair and members either work or mostly recently worked in the public sector. According to the Scottish Government publication “Public sector employment in Scotland: statistics for fourth quarter 2020” around 21.8% of the Scottish population work in the public sector. The data also shows that individuals from a public sector background are more likely than those from a private sector background to apply and that they are more successful when they do so.

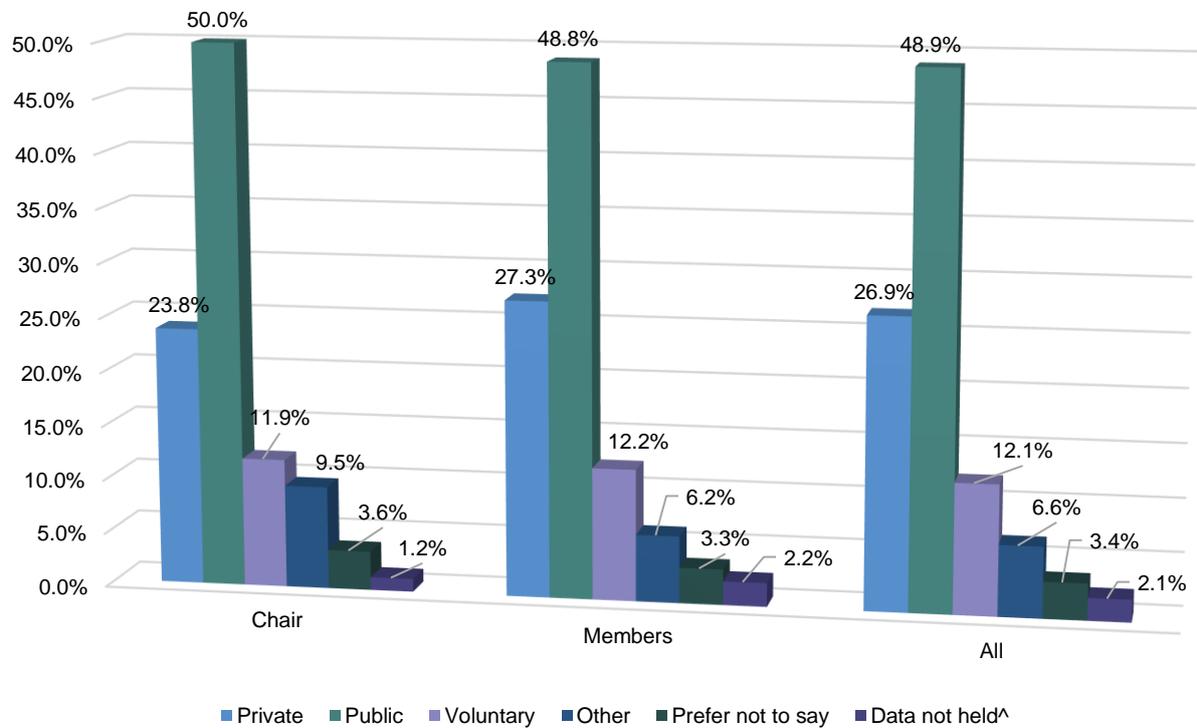
HOUSEHOLD INCOME OF BOARD CHAIRS AND MEMBERS AS AT 31 DECEMBER 2021

Figure 21



SECTOR WORKED (OR MOST RECENTLY WORKED) IN

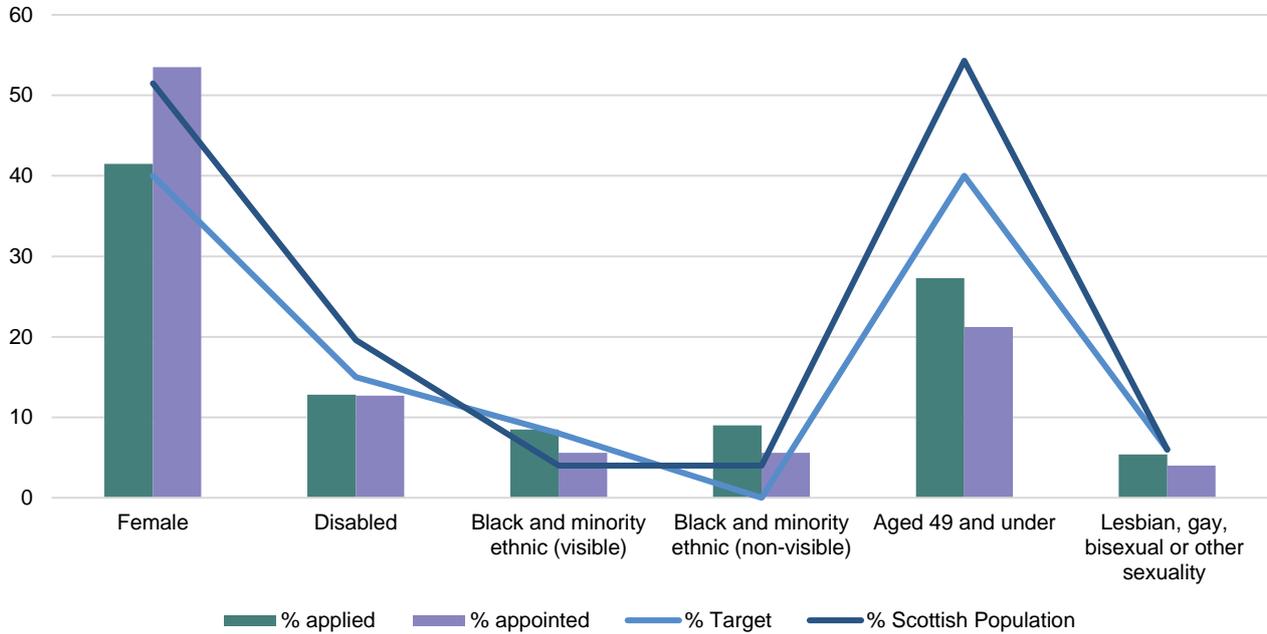
Figure 22



PERFORMANCE AGAINST DIVERSITY DELIVERS TARGETS 2020

The following chart shows the percentage of applications and appointments in 2020 by each target group as set out in Diversity Delivers.

Figure 23



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

APPLICATIONS AND APPOINTMENTS BY TARGET GROUP

Figure 24

Target Group	Target	2020			2019		2018		2017		Scottish Population*
	●	●	●	●	●	●	●	●	●		
	%	%	%	%	%	%	%	%	%		
Female	40.0	41.4	53.5	42.9	48.1	42.8	52.4	39.5	52.8	51.5	
Disabled	15.0	12.8	12.7	12.9	11.9	9.4	7.1	11.0	6.5	19.6	
Black and minority ethnic (visible)**	8.0	8.5	5.6	8.7	5.9	6.3	3.6	7.0	^	4.0	
Black and minority ethnic (non-visible)	N/A	8.9	5.6	6.3	5.9	5.2	3.6	4.9	^	4.0	
Aged 49 and under	40.0	28.2	21.2	30.8	27.4	28.2	22.6	27.1	29.6	54.3***	
Lesbian, gay, bisexual or other sexuality	6.0	5.4	5.6	4.9	3.7	4.3	7.1	4.6	4.6	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

It is apparent from these figures that women are the only standalone group over the past four years who were more likely to be successful when they applied (although it is acknowledged that, in 2020, BME applications exceeded the target, people declaring LGB status were relatively successful when applying and people declaring a disability have seen some increase in both applications and appointments in the last 2 years).

The Scottish Government also provides application and appointment data to the Commissioner disaggregated by Director General (DG) area to aid in identifying those that are meeting or exceeding the targets and so that the sharing of their good practice can be encouraged. The Commissioner requested, for the first time this year, the data also disaggregated by household income and sector worked (or most recently worked in).

There appears to have been some encouraging progress by some DGs in some areas. More information is included in our [standalone public appointments report](#) for the year.

PERFORMANCE AGAINST OUR BUSINESS PLAN

The Commissioner's public appointments objective is set out in the strategic plan for 2020 to 2024. At 31st March 2020 (it has since been re-written) it was:

Evolution and maturity as a regulator, responsive to contextual and scope change

- Help create public body boards that are effective and reflective of society through our regulatory and outreach work, including our Diversity Strategy
- Consider adoption of a traditional regulatory role more fitting to the current environment
- Prioritise evolution of systems fit for handling sexual harassment and bullying complaints

The Commissioner's business plan for 2020/21 was not published but included actions intended to contribute to the achievement of this objective. Specific activities were set out under the following headings:

- Revise the Code and Guidance on Ministerial Appointments to Public Bodies in Scotland
- Increase transparency in the public appointments process by adoption of a traditional regulatory role
- Help create public body boards that are effective and reflective of society through regulation and support of ministerial plans to implement the diversity strategy
- Developing a talented professional team to further drive quality
- Creating an effective information governance system designed to support our business aims

Progress against the business plan is summarised in the following table:

Figure 25

Public Appointments		Milestones	Achieved
A1	Develop a revised Code of Practice for Public Appointments	i. Consult Scottish Ministers, Scottish Parliament and key stakeholders on broad proposals by Dec-20. ii. Produce revised draft by Feb-21. iii Publish in May-21	i ✓ ii ✗ iii ✗
A2	Tender for new Public Appointments Advisers	Tender over Sep-20 /Oct- 20. New SLAs issued in Dec-20	✓
A3	Survey board members on time commitment and remuneration – report on results	Run survey from Jul-20 to Oct-20. Published results in Feb-21	✓
A4	Engage with the Scottish Parliament’s subject committee about appointments practices with a view to making improvements. Take committee views into account in the development of the Code and guidance (see A1).	May-20 to Oct-20 - Done	✓
A5	Revise the applicant survey to take account of applicant views in prior year. Publish the results of all applicant surveys run in year in a single report.	Draft published slightly behind schedule on 20/01/21.	✓
A6	Revise and publish further good practice advice on Code compliance and recruitment and selection and provide further training for Public Appointments Advisers to inform advice and oversight.	Published guidance by Sep-20. Online training in Jul-20, Oct- 20 and Dec-20.	✓
A7	Support the Scottish Government’s mentoring schemes for chairs of the future and for disabled people shadowing current board members.		✓
✓ 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](#).

MONITORING AND REPORTING

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

The Commissioner's remit extended to 717 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 26

At 31 March	2021	2020	2019	2018
No. of bodies regulated	99	97	95	95
No. of posts regulated	717	755	677	660
Avg. no. of regulated positions per board	7.2	7.8	7.1	6.9

Consumer Scotland, the Scottish National Investment Bank and the Scottish Fuel Poverty Advisory Panel were added to the Commissioner's remit over the course of the year and the Parole Board for Scotland was removed.

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

HOW MANY APPOINTMENTS DID WE OVERSEE?

During the previous calendar year, 71 regulated board appointments were made to 30 public bodies. For a more detailed breakdown of appointment activity see Appendix Two. The data in Appendix Two are supplied by the Scottish Government. It covers a calendar rather than financial year. It sets out all appointments made by the Scottish Ministers in 2020, the number of applications for the posts and the oversight level applied by the Commissioner.

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 27

Allocations made	2020/21	2019/20	2018/19	2017/18
Brought forward from previous year	40 ¹	58	43	24
Started in year	58	70	96	90
Active during year	98	128	139	114
Completed	45	83	81	71
Open at end of year	53	45	58	43

¹ 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.

The significant drop in number of rounds completed during the year 2020/21 can largely be attributed to a temporary cessation in appointment activity due to the Covid-19 pandemic. The oversight levels for all allocations in 2020/21 are included in our [standalone public appointments report](#). How the Commissioner decides on an appropriate oversight level is explained in the guidance on application of the Code.

HOW MANY PEOPLE APPLY FOR A PUBLIC APPOINTMENT?

During 2020, 71 appointments were made to 30 public bodies following 1,307 applications made by 1,117 applicants. This information is provided by the Scottish Government and relates to a calendar year.

NUMBER OF APPLICATIONS AND APPOINTMENTS

Figure 28

Number of	2020	2019	2018	2017
Applications	1,307	2,088	2,832	2,048
Appointments	71	135	168	108
Average applications per appointment	18.4	15.5	16.9	19.0

BREAKDOWN OF APPLICATIONS

Figure 29

Number of applications	2020	2019	2018	2017
Applied	1,307	2,088	2,832	2,048
Reached shortlist	1,299	2,079	2,827	2,017
Invited to interview	242	442	580	368
Recommended for appointment	87	151	176	132
Appointed	71	135	168	108

HOW LONG DOES AN APPOINTMENT ROUND TAKE?

As with the appointments' statistics, much of the material relating to these measures is provided to the Commissioner by the Scottish Government and relates to a calendar year. Concerns have historically been raised about the time taken for appointment rounds and reappointments and the Commissioner therefore included indicative targets for timescales in guidance on application of the Code. All of the indicative targets were surpassed in the prior three reporting years but not met by a small margin in this year. Full details are included in the [standalone public appointments report](#).

HOW MANY APPLICANTS HOLD OR HAVE HELD A PUBLIC APPOINTMENT?

This indicator relates to whether applicants hold or have previously held a public appointment.

Figure 30

	2020				2019				2018			
	●	%	●	%	●	%	●	%	●	%	●	%
Total	1,117		1,301		1,786		2,088		2,058		2,832	
Currently holds /previously held a public appointment*	91	8	101	8	83	5	97	5	348	17	612	22
Currently holds /previously held a regulated public appointment*	54	5	64	5	52	3	72	4	249	12	467	17
Did not say**	0	0	0	0	0	0	0	0	81	4	92	3

Key: Applicants ● Applications ●

*Applicants who complete the relevant fields on the application form do not restrict themselves to listing regulated appointments. Two figures are provided as a consequence; the number of those who have declared any appointment and those who declared regulated appointments. The former includes children's panels, housing associations, tribunals, justice of the peace posts and appointments in England among others.

**Applicants are now obliged to provide an answer to this question.

MINISTERS INTERVIEWING APPLICANTS

The guidance on application of the Code states that the appointing minister is anticipated as meeting with appointable applicants, particularly in the case of significant chair appointments. During 2020, the Scottish Ministers only met the potential appointees on one round which was seeking new members for the Care Inspectorate.

WHAT DO APPLICANTS THINK OF THE APPOINTMENTS PROCESS?

The Commissioner published the 2019 Annual Applicant Research report in January 2021. The only recommendations in the 2019 research report were that the Scottish Government take on board the views of applicants as expressed in the report and provide a response to these. This response was received and is published on the website alongside the report.

Applicant surveys continued to be undertaken for the majority of rounds taking place in the financial year 2020/21.

In summary:

- 1,170 applicants were asked for their views on 27 appointment rounds. This is in comparison to 1,372 applicants covering 48 appointment rounds in 2019, 2,230 applicants covering 53 appointment rounds in 2018, 1,601 applicants covering 40 rounds in 2017 and 805 applicants covering 16 rounds in 2016.
- 293 applicants responded in full or in part (25%). This is a decrease of 7 percentage points on response rates in comparison with the 2019 annual survey.

Due to the low numbers of applicants responding to the surveys in this year, and the changed operational circumstances of the Commissioner's office, it is not intended to produce an annual applicant survey report for 2020 and instead continued discussions will take place with the Scottish Government as to how applicant participation in the survey can be encouraged with a view to producing an annual report in 2022, for the survey's conducted in 2021

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.

SATISFACTION WITH THE APPOINTMENT PROCESS

Figure 31

Average satisfaction level	2020/21	2019/20	2018/19	2017/18
PAA's contribution	4.46	4.51	4.71	4.55
Appointments process	3.85	4.05	4.21	4.18

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 office during the reporting year.

Figure 32

Issues raised	Supplementary Information	2020/21	2019/20	2018/19	2017/18
Enquiry - Asked for advice on the Code of Practice	1*	177	166	155	167
Enquiry - Asked for advice on good practice		14	8	27	23
Enquiry – Asked for exceptions to the Code, or term extensions or to discuss options not covered by the Code	2*	46	46	35	28
Diversity research enquiry		0	5	16	48
Enquiry - General enquiry on the work of the office		42	30	60	76
Enquiries and Reports - Miscellaneous or “Other” enquiries or reports		346	315	283	190
Enquiry - Freedom of information requests		0	0	0	2
Report a complaint about an appointment round	3*	4	1	2	1
Report a concern about an appointment round or a failure in administration	4*	100	91	93	84
Report about good practice	5*	20	10	13	20
Report about non-compliance with the Code of Practice	6*	7	8	13	7
Totals		756	680	697	646

* Narrative below provides further detail

1* - Requests for advice on the Code of Practice

Comparative analysis of these requests showed that seeking advice related to planning were the highest in the year concerned. Requests for advice on application and assessment methods were the next most common. There was a significant jump in queries relating to recruitment consultants (12 compared to 1 in the previous year) which will have been as a result of panels seeking advice on new statutory guidance introduced on this subject during the year (see below).

2* - Exception requests and options discussions

The Scottish Ministers can approach the Commissioner and make a case for specific provisions of the Code to be varied. The Commissioner’s agreement to such “exceptions” allows for courses of action to be taken that would otherwise not comply with the Code.

Thirty-nine such cases were approved during the year in comparison with 28 in 2019/20:

- The largest number of exceptions sought in 2020/21 were in relation to extensions to board member and chairs' terms. This was due to appointment activity being temporarily ceased due to the Covid-19 pandemic and Scottish Government staff who would normally be engaged in this work being required to support work related to the pandemic for a short time. Exceptions were therefore needed (with the Commissioner having assured the Scottish Government that these would be agreed) in order to allow boards to continue to operate until such time as appointment activity could recommence. In the course of the year there were 27 contacts with the office about extension requests which resulted in 24 extensions being agreed covering 20 different bodies and 30 posts in total. Extensions tended to be for about 9 months.
- Other exception requests were:
 - additional appointments were made to three bodies
 - changes to panel membership were allowed for twice
 - unanticipated vacancies were filled from a reserve list of people considered suitable but not appointed at the conclusion of a recent competition once
 - an emergency interim appointment was allowed for twice
 - three miscellaneous Code variations were agreed. One was a request for a panel to convene a planning meeting remotely, rather than in person. This became a norm as the year progressed.

3* - Report a complaint about an appointment round

One of the complaints received during the year was as a result of a discussion where an applicant wanted to provide feedback in addition to that which had been provided in an applicant survey. It became clear that some of the applicant's experience was closer to an individual complaint than generic feedback about the process. The complainer was therefore referred to the Scottish Government as they had not yet raised their complaint direct. The Commissioner only investigates complaints once the Scottish Government's complaints handling process has been exhausted. The other two complaints received (one being made twice resulting in two contacts with the office) were out with the Commissioner's remit and the individuals were directed to the appropriate body to raise their concerns.

During the year, the Commissioner made no reports of material non-compliance with the Code of Practice to the Scottish Parliament (2019/20: Nil), nor direct the Scottish Ministers to delay making an appointment or recommendation for appointment (2019/20: Nil).

4* - Reported concerns

Reported concerns this year were roughly on a par with the previous one. Concerns about planning were the highest followed by public confidence and application and assessment methods.

5* - Reported good practice

Twenty good practice reports were received during the course of the year which included the following:

- Two referred to the panel's consideration of changing board needs due to the pandemic.

- Five related to various instances of good practice in succession planning. These included board chairs discussing the impact of the pandemic and societal changes in general on succession planning for their boards, use of succession planning committees and use of skills assessment for succession planning.
- Four related to reports of interviews going well, particularly in relation to the online environment which replaced face to face interviews as the year progressed.
- Five related to innovative approaches to publicising the opportunities through avenues such as good quality packs, video links describing the opportunity or virtual events to promote the opportunity.
- One described a panel's good use of priority criteria
- One described a good use of assessment with a simulated interview with a journalist being used to assess communication skills
- One referred to a great contribution from one of the Scottish Government's PAT managers who provided advice and support on using ICT for assessment and bias mitigation
- One related to support for applicants following their appointment to the role.

6* - Report non-compliance

There were 7 contacts relating to non-compliance – three of these were about the same instance but providing updates therefore there were 5 reports in total. The instances of non-compliance are listed below.

- The panel chair did not take part in shortlisting due to being on leave and delegated someone to attend in their place, with no prior warning to the rest of the panel.
- A role description was notified as being unable to be changed by the panel as a result of a decision by the minister. This was later clarified as a misunderstanding.
- A mismatch in the time commitment listed in the pack to the chair's understanding of the actual time commitment required.
- Two cases in which a potentially inappropriate candidate had been identified for the role. One of these was circumvented from becoming material non-compliance through intervention to preclude this during the course of the round. The other resulted in an investigation which found that there was no material non-compliance.

PAT and the Scottish Government's cooperation when non-compliance was identified precluded material breaches of the Code arising.

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.

Statutory guidance was provided during the course of the year on the following topics:

- The statutory guidance document was updated and published in May 2020 to take account of the Gender Representation on Public Boards (Scotland) Act 2018 which came into force on 29th May 2020.
- The use of recruitment consultants.

The Commissioner also updated the PAAs comprehensive good practice toolkit during the course of the year, particularly in relation to assessment using ICT.

CORPORATE AND FINANCIAL PERFORMANCE

Creating an effective information governance system designed to support our business aims

PERFORMANCE AGAINST OUR BUSINESS PLAN

The business plan covering the period October 2020 to March 2021 set the following corporate and financial goals.

Figure 33

Corporate Goals for 2021/22	Achieved
Annual Report and Accounts design formatting and online presentation project	●
Decision on office accommodation needs	✓
Review of organisation restructure	X
Remote working arrangements	✓
Review contractual arrangements for CMS	●
Furnishing new staff with full suite of IT/home office equipment and induction materials/training as necessary	✓
Workforce development plan refresh	●
Develop method to renew Cyber Essentials Plus accreditation	✓

✓ Achieved ● Partially achieved X Not achieved

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 £937,000 to the Commissioner for financial year 2020/21 (2019/20: £957,000). In addition, two contingency funding awards were made:

- £2,500 for internal audit services
- £90,000 towards Phase 2 of an office restructure.

The Commissioner earned no income in 2020/21 (2019/20: £Nil).

Total funding awarded for the year, including contingency funding, was £1,029,500 (2019/20: £1,040,260). Of the funds awarded £914,600 was drawn down (2019/20: £1,009,600).

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 is £1,012,000 (2019/20: £910,000).

Expenditure against budget

The SPCB awarded the Commissioner funding of £1,029,500 (2019/20: £1,040,260). £915,000 was drawn down (2019/20: £1,010,000).

Figure 34

Expenditure	Actual	Budget	Variance	
	£'000s	£'000s	£'000s	%
Staff costs	703	645	58	9%
Staff related costs	1	8	(7)	-88%
Property	89	85	4	5%
Professional fees*	152	145	7	5%
Running costs	50	51	(1)	-2%
Depreciation	31	0	31	-
Revenue expenditure	1,026	934	92	10%
Less depreciation	(31)	0	(31)	-
Capital expenditure	9	3	6	200%
Cash expenditure	1,004	937	67	7%

* 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 £67,000. Contingency funding of £92,500 was awarded, but the full amount was not required. An analysis of spend in key areas is given below.

Staff costs were over budget by £58,200. Three issues affected expenditure:

- Phase 2 of the office restructuring incurred severance costs of £75,900. This was incurred following contingency funding of £90,000 being awarded by the SPCB to cover both severance and associated legal costs.
- Staff vacancies as a result of both restructure and turnover remained a significant issue. For seven of the 12 months, the office operated under capacity. This had the effect of reducing staff costs by £36,900. These savings were reduced by £11,500 to cover payment of untaken leave and any periods of salary overlap.
- Commissioner’s costs rose by almost £7,700 following a 3% pay award and an increase in untaken leave to be accrued.

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 to allow all staff to safely and securely work remotely in light of Covid-19 restrictions.

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

Figure 35

Savings	
Staff travel	£5,800
PAA travel	£9,800
Suspension of public appointment activity	£12,300
PAA recruitment and ad hoc costs (50% apportioned to Covid-19)	£3,000
Hospitality	£700
Costs	
Equipment for remote working	(£5,500)
Total savings	£26,100

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

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

Payment of creditors

The Commissioner has committed to the CBI Prompt Payment Code for the payment of bills for goods and services received. Payments are normally made as specified in the agreed contract conditions. Where there is no contractual position or other understanding, they are treated as requiring to be paid within 30 days of receipt of the goods or services. The Commissioner’s payment performance for 2020/21 was 99% (2019/20: 98%).

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 operating 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. 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 2021-24 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.

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 year 1 April 2020 to 31 March 2021 the Commissioner received seven whistleblowing disclosures (2019/20: Nine). Disclosures are registered when a complainant indicates on the complaint form that they wish to be considered a whistle-blower.

Depending on whether a complaint is admissible, we will explore this further with the complainer.

Figure 36

Category	Number of disclosures	
	2020/21	2019/20
Number of non-qualifying disclosures	7	8
Number of disclosures withdrawn prior to confirming whistle-blowing status	0	1
Number of qualifying disclosures	0	0
Number of qualifying disclosures requiring no further action	0	0
Number of qualifying disclosures requiring further action	0	0

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

Authorisation

DocuSigned by:

 A9D97CC82566456...

Karen Elder
 Accountable Officer

Date: 19 October 2021

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 Commissioner began a period of absence in March 2021. The Scottish Parliamentary Corporate Body (SPCB) made the following appointments to ensure operational continuity during this period.

Acting Commissioner: Ian Bruce
Appointed: 20 April 2021
Period: Interim appointment

Accountable Officer: Karen Elder
Appointed: 20 April 2021
Period: Interim appointment

Senior Management Team (SMT)

The Commissioner leads a management team which oversees the operation and development of the office. During 2020/21, this comprised:

Name	Position
Ian Bruce	Public Appointments Manager
Karen Elder	Head of Corporate Services
Martin Campbell	Director of Investigations and Solicitor to the Commissioner (until November 2020)
Angela Glen	Senior Investigating Officer (from November 2020)

Advisory Audit Board

In previous years, Commissioners operated an Advisory Audit Board (AAB) with members drawn from the SPCB's own Advisory Audit Board. The Commissioner did not engage the services of the AAB during 2020/21. The AAB was re-established in May 2021.

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 2020/21 or 2019/20.

Fraud, bribery and corruption

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

The Commissioner's 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 maintain a register of gifts and hospitality, which is updated regularly.

The Commissioner's standard procedure is to declare any fraud, whistleblowing or control failure incidents to the Advisory Audit Board (AAB) and this forms part of the annual assurance process.

In 2020/21 and 2019/20 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 2020/21 or 2019/20. The Commissioner reported one minor data breach voluntarily to the Information Commissioner's Office. The ICO advised that no further action was required.

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 and of its income and expenditure, Statement of Financial Position, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Accountable Officer is required to comply with the requirements of the Government 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
- prepare the accounts on a "going concern" basis; and
- confirm that the Annual Report and Accounts as a whole is fair, balanced and understandable and take personal responsibility for the Annual Report and Accounts and the judgements required for determining that it is fair, balanced and understandable.

The Scottish Parliamentary Corporate Body has appointed the Head of Corporate Services as Accountable Officer for the Commissioner. The responsibilities of an 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 responsibility for the propriety and regularity of the public finances for which the Accountable Officer is answerable, for keeping of proper records, and for safeguarding the Commissioner's assets.

As the Accountable Officer, 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 Commissioner's auditors are aware of that information. So far as I am aware, there is no relevant audit information of which the auditors are unaware

GOVERNANCE STATEMENT

The Accountable Officer is responsible for maintaining a sound system of governance and internal control that supports the organisation in successfully achieving its objectives, policies and aims, whilst safeguarding the public funds and assets under their control. Caroline Anderson was appointed Commissioner and Accountable Officer on 1 April 2019 for a period of five years. The Commissioner is currently on a period of absence and I was appointed Acting Accountable Officer on 20 April 2021. As a consequence, I have assessed the system of governance and internal control in operation during 2020/21 and prepared this statement.

SYSTEM OF GOVERNANCE AND INTERNAL CONTROL

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

The Commissioner is the Accountable Officer.

The Commissioner is supported by the Senior Management Team (SMT), which comprises the Commissioner, the Public Appointments Manager, the Head of Corporate Services and the Senior Investigating Officer. The SMT met in June and then monthly from August onwards. On some occasions, members of the SMT were not invited to attend and on others were not full participants. The purpose of the meeting was to share information and flag up concerns. There was no formal agenda, but key points and actions were noted. Notes/minutes were not published.

Members of the SMT and individual staff members have delegated authority to make decisions as set out in the Scheme of Delegation. The Scheme of Delegation relating to the operation of the office was updated in November 2020. SMT members and staff were not consulted on the revision. The Schemes of Delegation for complaints handling and public appointments date to October 2018.

During 2020/21, the office worked to its Strategic Plan 2020 to 2024. An annual business plan was developed in October 2020 although not published. This plan outlined the objectives for the period October 2020 to March 2021. Progress against these objectives is described in the Performance Report.

The Commissioner operates a set of standing orders. These describe the key operating requirements of the Commissioner's office. The Standing Orders were updated in November 2020. SMT members and staff were not consulted on the revision.

Managing finances

The Commissioner is funded through the Scottish Parliamentary Corporate Body (SPCB) and, each year, submits an evidence-based budget bid for scrutiny and approval. The budget is based on the requirements of any strategic and annual business plans as well as projections of anticipated appointment activity and prior year performance. Performance against budget is analysed and reviewed on a monthly basis. Key issues are raised with the Accountable Officer, as they occur and at SMT meetings. This allows any financial concerns to be identified and resolved.

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

Managing staff

The annual business plan should form the basis of the performance management system. Each year, staff members should agree a series of specific objectives directly related to and designed to achieve the organisation-wide objectives outlined in the strategic and annual business plans. Since January 2019 the frequency and format of staff appraisals has varied. There was no annual business plan for 2019/20 nor the first half 2020/21. As a result, staff objectives were not aligned to business plans.

As well as the performance management system, the Commissioner maintains a number of staff policy documents. These reflect statutory duties to staff, as well as terms and conditions and HR-related procedures. As referenced in last year's annual report and accounts, policies and procedures were significantly out of date. A revision project began in February 2021 with a full suite of updated HR policies published in June 2021. Staff members were consulted on and informed about any revisions. This ensures that staff members are fully aware of the rights and responsibilities they have.

The Commissioner maintains a register of interests and gifts and hospitality.

The Commissioner's office operates a whistle-blowing policy. This requires staff to first report internally with limited avenues for reporting unresolved concerns. The underlying structure of the organisation, with power concentrated in a single individual, makes it difficult for staff to find a safe route to report concerns.

A lack of openness and transparency in the operation of the office has been noted. Staff communications were monitored and restricted and distinct silos emerged. The building of external networks was discouraged. In particular, both internal and external meetings of complaint handling staff were restricted and any communications, assessments and conclusions were tightly controlled.

During 2020/21, the rate of staff turnover was 60% (2019/20: 70%). This level of staff turnover diverts resources from core functions, destroys corporate memory and impedes our ability to develop and implement standard operating procedures. Staffing issues have been driven by two restructures as well as increasing turnover resulting from management difficulties.

Managing risk

The previous risk management policy and risk register was replaced with a more informal method. The previous method will be reinstated from 2021/22 onwards.

The key risks to the organisation are detailed in the Key Issues and Risks section of this report. In summary, at the beginning of 2020/21, the most significant risks to the organisation were identified as being:

- Expansion of our statutory remit to include complaints about historic sexual harassment by MSPs towards their own staff
- Impact of Covid-19

As the year progressed, additional risks were identified and these remain key risks for 2021/22:

- High staff turnover
- Reputational damage
- Override of controls and the systems for internal governance and external oversight
- Exiting the EU

External scrutiny

The Commissioner has access to 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. The Commissioner did not engage the services of the AAB during 2020/21.

The Commissioner had aimed to appoint an internal auditor in 2020/21 but due to limited staff capacity and the impact of Covid-19 was unable to.

External oversight into various aspects of our work is also provided by the Standards Commission, the SPCB and Committees of the Scottish Parliament. Productive working relationships with these bodies had previously existed but had deteriorated to a significant degree. This culminated in the Standards Commission issuing a series of directions in order to obtain information and provide assurance that the Commissioner's office was acquitting its statutory functions. Disengagement with key stakeholders such as local authority monitoring officers, the Scottish Government and others was noted.

The Auditor General for Scotland (AGS) has appointed Deloitte LLP as external auditor. Deloitte, with the approval of the AGS, have undertaken a wider scope audit for this reporting year. The factors informing this decision include:

- the Standards Commission for Scotland's decision to issue a number of directions
- the lack of engagement with the Advisory Audit Board (AAB)
- the high turnover of staff.

Following the wider scope audit, the Auditor General for Scotland was sufficiently concerned by the issues it identified to conclude that a report under section 22 of the Public Finance and Accountability (Scotland) Act 2000 is required.

EFFECTIVENESS OF GOVERNANCE ARRANGEMENTS

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

I am satisfied that an effective system of internal control remained in place during 2020/21 ensuring that finances were managed appropriately. I am not satisfied that an effective scheme of governance operated during 2020/21. I am reassured to note that the Acting Commissioner has adopted the majority of our auditor's recommendations and these have been incorporated into the business plan for 2021-23.

Authorisation

DocuSigned by:

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Karen Elder
Accountable Officer

Date: 19 October 2021

REMUNERATION AND STAFF REPORTS

The information disclosed in the tables below, which is subject to external audit, includes total remuneration, pension tables, fair pay disclosures, and analysis of staff numbers and costs. The other sections in the remuneration and staff report are reviewed by the external auditors to ensure they are consistent with the financial statements.

REMUNERATION REPORT

Set out in the table below are the salaries (including overtime, but excluding employer's superannuation and national insurance contributions), benefits in kind, and pension entitlements of the Commissioner and members of the Senior Management Team. Information is presented for the whole year to 31 March 2021.

The Commissioner for Ethical Standards in Public Life in Scotland is appointed by the Scottish Parliamentary Corporate Body (SPCB) with the agreement of the Scottish Parliament. The Commissioner's remuneration is set by the SPCB. Members of the Senior Management Team are employees. The terms of employment are set by the Commissioner, are analogous with those of the Scottish Parliamentary staff and are approved by the SPCB, in line with the Scottish Parliamentary Commissions and Commissioners etc. Act 2010.

The remuneration details of members of the Senior Management Team were not published prior to 2020/21. In order to provide more information regarding those in controlling positions within the organisation and at the request of the external auditor, these will be reported from 2020/21 onwards.

Single total figure of remuneration

Figure 37

Remuneration	2020/21 £'000	2019/20 £'000
Commissioner		
Salary ¹	75-79	75-79
Benefits in kind	-	-
Pension benefits ²	21 ²	21 ²
Total	95-99	95-99
Director of Investigations and Solicitor to the Commissioner³		
Salary ¹	45-49	
Benefits in kind	-	
Pension benefits ⁴	19	
Total	65-69	N/A
Public Appointments Manager		
Salary ¹	55-59	
Benefits in kind	-	
Pension benefits ⁴	27	
Total	80-84	N/A
Head of Corporate Services		
Salary ¹	45-49	
Benefits in kind	-	
Pension benefits ⁴	27	
Total	70-74	N/A
Senior Investigating Officer⁵		
Salary ¹	15-19	
Benefits in kind	-	
Pension benefits ^{4,5}	8	
Total	25-29	N/A

Pension benefits

Figure 38

Pension benefits	Accrued pension at pension age as at 31/03/2021 and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31 March 2021	CETV at 31 March 2020	Real increase in CETV funded by the employer
	£'000s	£'000s	£'000s	£'000s	£'000s
Commissioner	See note 2 below				
Director of Investigations and Solicitor to the Commissioner ³	0-5	0-2.5	19	9	6
Public Appointments Manager	15-20	0-2.5	271	241	18
Head of Corporate Services	10-15	0-2.5	230	202	19
Senior Investigating Officer ⁵	0-5	0-2.5	10	7	2

Notes

- Salary covers both pensionable and non-pensionable amounts. It includes gross salary and, if awarded, overtime, recruitment and retention allowances, taxable allowances and any ex-gratia payments. It does not include employer's national insurance or pension contributions.
- The Commissioner's post is pensionable. The Commissioner's application to join the Civil Service Pension Schemes was approved in May 2021 and will be back-dated to 1 April 2019. The employer contribution rate for both 2020/21 and 2019/20 was 27.9%. Contributions of £21,400 have been accrued for 2020/21 (2019/20: £20,777).
- The Director of Investigations and Solicitor to the Commissioner was employed until November 2020. The full year equivalent remuneration is £55k - £59k.
- The value of pension benefits accrued during the year is calculated as the real increase in pensions and applying the HMRC methodology multiplier of 20 plus the real increase in any lump sum. The real increases exclude increases due to inflation (0.5 per cent) and are net of contributions made by the individual.
- The Senior Investigating Officer was appointed in November 2020. Prior to this the SIO held another role in the organisation. The salary details above reflect the period from November 2020 onwards. The full year equivalent remuneration is £40k - £45k. Pension benefits reflect the full year.

The cash equivalent transfer value (CETV)

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement that the member has transferred to the civil service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

The real increase in the value of the CETV

This reflects the increase in CETV effectively funded by the employer. It takes account of the increase in accrued pension due to inflation, contributions paid by the member (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Severance payments

The Commissioner undertook a two-phase restructure of the organisation. Phase 1 began in July 2019 and Phase 2 in July 2020. As a result of the restructure, a number of staff members left under voluntary severance terms.

Figure 39

Exit Packages	2020/21			2019/20		
	Number of compulsory redundancies	Number of other departures agreed	Total number of exit packages by cost band	Number of compulsory redundancies	Number of other departures agreed	Total number of exit packages by cost band
<£10,000						
£10,000 - £25,000					4	4
£25,000 - £50,000		2	2			
£50,000 - £100,000						
£100,000 - £150,000						
£150,000 - £200,000						
Total no. of exit packages	0	2	2	0	4	4
Total cost (£'000s)	0	76	76	0	59	59

Fair Pay Disclosure

Reporting 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, and benefits-in-kind of employees. It does not include severance payments, employer pension contributions and the cash equivalent transfer value of pensions. It is based on annualised, full-time equivalent remuneration as at the reporting period date.

In 2020/21, no employees (2019/20: Nil) received remuneration in excess of the Commissioner.

Figure 40

	2020/21	2019/20
Staff remuneration	£23,243 - £55,888	£22,587 - £55,617
Workforce median	£40,091	£34,549
Commissioner remuneration	£75,000 - £79,999	£75,000 - £79,999 ¹
Ratio	1.93	2.24¹

¹An adjustment to the prior year figures (previously £70,000 - £74,999 and 2.10 respectively) has been made to reflect the impact of a lump sum payment the Commissioner received. The figures shown in the remuneration table were correct.

The workforce median has increased due to one post being vacant at the end of the reporting period. During the 2020-21 accounting period, the Commissioner maintained the Living Wage Accreditation status.

STAFF REPORT

Staff numbers

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

Figure 41

	2020/21	2019/20
	FTE	FTE
Commissioner	1.0	1.0
Senior Management Team	3.0	3.0
Employees	5.6	5.7
Totals	9.6	9.7

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

Figure 42

	2021		2020	
	Female	Male	Female	Male
Commissioner	1	-	1	-
Senior Management Team*	2	1	1	2
Employees	6	-	7	1
Totals	9	1	9	3

*In prior years, we reported on the number of 'senior managers' employed. A 'senior manager' was defined as being the equivalent of a member of the Senior Civil Service. We now define 'senior managers' as being members of the Senior Management Team and prior year figures have been adjusted to reflect this.

As at the end of the reporting period, all staff members were employed on a permanent contract (2019/20: one person; 0.2 FTE was employed on a fixed term contract). The organisation was carrying one vacancy at the end of the reporting year.

Staff costs

Figure 43

	2020/21			2019/20		
	Total £'000s	Commissioner £'000s	Employees £'000s	Total £'000s	Commissioner £'000s	Employees £'000s
Salaries	456	82	374	425	76	349
Social security costs	51	10	41	42	9	33
Pension costs	120	21	99	108	21	87
Sub totals	627	113	514	575	106	469
Severance costs	76		76	59	-	59
Totals	703	113	590	634	106	528

Salaries include a provision covering the value of outstanding leave (the leave accrual). Staff costs, excluding severance costs, increased by 9%. Costs in 2019/20 were lower than anticipated as the organisation was carrying a number of staff vacancies. Phase 1 of the restructure began in July 2019 and the full staff complement was not in place until December 2019.

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 2016. Details can be found in the 'Government Actuary's Department Civil Service Pension Scheme Actuarial Valuation as at 31 March 2016' available here - <http://www.civilservicepensionscheme.org.uk/about-us/scheme-valuations/>.

For 2020/21, employers' contributions of £99,100 were payable to the Civil Service Pension arrangements (2019/20: £87,100) at one of four rates in the range 26.6 to 30.3 per cent (2019/20: 26.6 to 30.3 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 published in the document detailed above.

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 2021 amounted to £9,567 (2019/20: £10,355).

No persons (2019/20: No persons) retired early on ill-health grounds; the total additional accrued pension liabilities in the year amounted to nil (2019/20: Nil).

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

Average sickness absence

The average sickness absence per person was as follows:

Figure 44

	2020/21	2019/20
	Days	Days
Commissioner and employees	3.3	9.4

The average sickness absence decreased during the year to below the organisation's average of 4.4 days. This followed a sharp increase the previous year due to a small number of periods of unusually lengthy sickness absence.

Staff turnover

The Commissioner undertook a two-phase restructure of the organisation.

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

Figure 45

	2020/21	2019/20	2018/19	2017/18
Employees at the beginning of the period	11	12	14	16
Employees at the end of the period	9	11	12	14
Average employees during the period	10	11.5	13	15
Leavers	6	8	6	4
Staff turnover	60%	70%	46%	27%

The Commissioner's staff turnover has remained high for a number of years. An average of around 25% would be expected ([ONS Employee turnover levels and rates by industry section, UK, January 2017 to December 2018 Public admin and defence](#)). In 2020/21, two staff members left under voluntary severance terms (2019/20: four) as part of the restructure. Taking account of this, staff turnover remains high. The Acting Commissioner's revised Strategic Plan 2021-2024 includes a specific strategic objective to address this issue.

Staff policies for disabled persons

The Commissioner is committed to providing a fair and inclusive workplace free from discrimination, that promotes equality of opportunity for all. As part of standard recruitment practice, applications are encouraged from all people who share protected characteristics that are currently not reflected in our workforce, including those with disabilities.

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

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, sex, gender reassignment or identity, sexual or marital status or disability.

Employee participation

A number of issues of concern relating to openness and transparency within the organisation have been identified by our auditors. Decisions made have not been communicated effectively to the staff. Concerns have been raised that the Commissioner's Office is not open and transparent and that all policies and procedures require urgent review.

The Acting Commissioner has consulted on and published a revised Strategic Plan and bi-ennial business plan designed to address these issues as a matter of urgency. Action has already been taken with a new suite of HR policies developed and implemented, following staff consultation. The minutes of all Senior Management Team meetings are now circulated to staff and published. Full staff meetings have been established on a monthly basis, to supplement those for individual teams. Staff surveys began in July 2021 and will continue into the future.

Learning and development

Over the years, the organisation has developed a comprehensive annual performance review process, where individuals are encouraged and supported to plan for their own development needs and career plans. This process has not been fully implemented over the past two to three years. The Acting Commissioner has moved to re-instate this and to ensure that staff members receive informal and formal external and internal training.

Health, safety and wellbeing

The Commissioner is committed to promoting the health, safety and wellbeing of all staff, and to ensuring that our working environment supports this. In light of the Covid-19 pandemic, the Commissioner ensured that all staff moved to offsite working as of 18 March 2020. Following Scottish Government guidance, all staff remain working remotely. Appropriate equipment and furniture have been provided and all staff have completed Health and Safety assessments of their remote working arrangements. The Commissioner recognised that staff wellbeing would be affected as a result of the pandemic and its associated restrictions and encouraged more flexible working. A remote working policy has been developed. The Acting Commissioner has obtained a confidential counselling support service for all staff that wish to access it.

Authorisation

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Karen Elder
Accountable Officer

Date: 19 October 2021

AUDIT REPORT

THE AUDIT PROCESS

Requirement for accounts

The accounts for the financial year ended 31 March 2021 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). I authorised these financial statements for issue on 19 October 2021.

Disclosure of information to auditor

As Accountable Officer with effect from 20 April 2021, I am not aware of any relevant information of which the auditor is unaware. I have taken all necessary steps to ensure that I am 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 £30,900 (2019/20: £12,600). External audit received no fees in relation to non-audit work.

I confirm that the annual report and accounts as a whole is fair, balanced and understandable and that I take personal responsibility for the annual report and accounts and the judgments required for determining that it is fair, balanced and understandable.

Authorisation

DocuSigned by:

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Karen Elder
Accountable Officer

Date: 19 October 2021

INDEPENDENT AUDITOR'S REPORT

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

Reporting on the audit of the financial statements

Opinion on financial statements

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 2021 under the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. The financial statements comprise the Statement of Comprehensive Net Expenditure, the Statement of Financial Position, the Statement of Cash Flow and 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 2020/21 Government Financial Reporting Manual (the 2020/21 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 2021 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 2020/21 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 of 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 5 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 concluded that the use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work we have performed, we have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the body's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from when the financial statements are authorised for issue.

Risks of material misstatement

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

Responsibilities of the Accountable Officer for the financial statements

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

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

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

Extent to which the audit was considered capable of detecting irregularities, including fraud

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

- considering the nature of the body's control environment and reviewing the body's documentation of their policies and procedures relating to fraud and compliance with laws and regulations. We also enquired with management and those charged with governance about their own identification and assessment of the risks of irregularities;
- obtaining an understanding of the applicable legal and regulatory framework and how the body is complying with that framework;
- identifying which laws and regulations are significant in the context of the body;

- assessing the susceptibility of the financial statements to material misstatement, including how fraud might occur; and
- considering whether the audit team collectively has the appropriate competence and capabilities to identify or recognise non-compliance with laws and regulations.

We obtained an understanding of the legal and regulatory framework that the body operates in, and identified the key laws and regulations that:

- had a direct effect on the determination of material amounts and disclosures in the financial statements. This included the Scottish Parliamentary Commissions and Commissioners etc. Act 2010.
- do not have a direct effect on the financial statements but compliance with which may be fundamental to the body's ability to operate or to avoid a material penalty. These included the Data Protection Act 2018 and relevant employment legislation.

We discussed among the audit engagement team regarding the opportunities and incentives that may exist within the organisation for fraud and how and where fraud might occur in the financial statements.

As a result of the performing the above, we identified the greatest potential for fraud was in relation to the requirement to operate within the expenditure resource limits set by the Scottish Parliamentary Corporate Body. The risk is that the expenditure in relation to year-end transactions may be subject to potential manipulation in an attempt to align with its tolerance target or achieve a breakeven position. In response to this risk, we obtained independent confirmation of the resource limits allocated by the Scottish Parliamentary Corporate Body and, tested a sample of accruals, prepayments and invoices received around the year-end to assess whether they have been recorded in the correct period.

In common with all audits under ISAs (UK), we are also required to perform specific procedures to respond to the risk of management override. In addressing the risk of fraud through management override of controls, we tested the appropriateness of journal entries and other adjustments; assessed whether the judgements made in making accounting estimates are indicative of a potential bias; and evaluated the business rationale of any significant transactions that are unusual or outside the normal course of business.

In addition to the above, our procedures to respond to the risks identified included the following:

- reviewing financial statement disclosures by testing to supporting documentation to assess compliance with provisions of relevant laws and regulations described as having a direct effect on the financial statements;
- performing analytical procedures to identify any unusual or unexpected relationships that may indicate risks of material misstatement due to fraud;
- enquiring of management and external legal counsel concerning actual and potential litigation and claims, and instances of non-compliance with laws and regulations; and
- reading minutes of meetings of those charged with governance.

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

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

Reporting 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. In addition to our responsibilities to detect material misstatements in the financial statements in respect of irregularities, 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.

Reporting on other requirements

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

We have audited the parts of the Remuneration and Staff Report described as audited. 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.

Statutory other information

The Accountable Officer is responsible for the statutory other information in the annual report and accounts. The statutory other information comprises the Performance Report and the Accountability Report excluding the audited part of the Remuneration and Staff Report.

Our responsibility is to read all the statutory other information and, in doing so, consider whether the statutory 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 this gives rise to a material misstatement in the financial statements themselves. If, based on the work we have performed, we conclude that there is a material misstatement of this statutory other information, we are required to report that fact. We have nothing to report in this regard.

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

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

In 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.

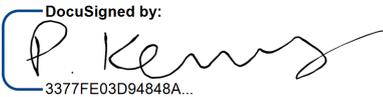
We have nothing to report in respect of these matters.

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.

DocuSigned by:

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

19 October 2021

FINANCIAL STATEMENTS

STATEMENT OF COMPREHENSIVE NET EXPENDITURE FOR THE YEAR ENDED 31 MARCH 2021

	Notes	2021 £'000	2020 £'000
Staff costs	6	703	634
Other administration costs	6	292	257
Depreciation	6	31	19
Net administration costs		1,026	910
Comprehensive net expenditure		1,026	910

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 83 to 93 form an integral part of these financial statements.

STATEMENT OF FINANCIAL POSITION AS AT 31 MARCH 2021

	Notes	2021 £'000	2020 £'000
Non-current Assets			
Tangible assets	2.1	33	35
Intangible assets	2.2	28	48
Total non-current Assets		61	83
Current assets			
Trade and other receivables	3	14	16
Cash and cash equivalents	4	111	109
Total current assets		125	125
TOTAL ASSETS		186	208
Current liabilities			
Trade and other payables	5	(196)	(107)
Total current liabilities		(196)	(107)
TOTAL ASSETS LESS CURRENT LIABILITIES		(10)	101
Taxpayers' Equity			
General Fund		(10)	101
Total taxpayers' equity		(10)	101

The accompanying notes on pages 83 to 93 form an integral part of these financial statements.

Authorisation

DocuSigned by:

 A9D97CC82566456...

Karen Elder
Accountable Officer

Date: 19 October 2021

STATEMENT OF CASH FLOW FOR YEAR ENDED 31 MARCH 2021

	Notes	2021 £'000	2020 £'000
Cash flows from operating activities			
Net administration costs		(1,026)	(910)
Adjustment for non-cash items:			
Depreciation	6	31	19
Decrease/(Increase) in Trade and Other Receivables	3	2	(1)
Increase/(Decrease) in Trade and Other Payables	5	89	(62)
Net cash outflow from operating activities		(904)	(954)
Cash flows from investing activities			
Purchase of Tangible Assets	2.1	(9)	(35)
Purchase of Intangible Assets	2.2	0	(3)
Net cash outflow from investing activities		(9)	(38)
Cash flows from financing activities			
From the Scottish Parliamentary Corporate Body (SPCB)		915	1,010
Net financing		915	1,010
Net increase in cash and cash equivalents in the period		2	18
Cash and cash equivalents at the beginning of the period	4	109	91
Cash and cash equivalents at end of the period	4	111	109

STATEMENT OF CHANGES IN TAXPAYERS' EQUITY
FOR YEAR ENDED 31 MARCH 2021

	General Fund 2021 £'000	General Fund 2020 £'000
Balance at 1 April	101	1
Comprehensive net expenditure for the year	(1,026)	(910)
Funding from the SPCB	915	1,010
Balance at 31 March	(10)	101

NOTES TO THE FINANCIAL STATEMENTS

1 ACCOUNTING POLICIES

These financial statements have been prepared in accordance with the *Government Financial Reporting Manual (FReM)* in compliance with the Accounts Direction issued by Scottish Ministers. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of 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 year in which they were incurred, rather than when the cash payment is made.

1.2 Critical Judgements in Applying Accounting Policies

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

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

1.3 Key Sources of Estimation Uncertainty

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

1.4 Tangible Assets

1.4.1 Capitalisation

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

1.4.2 Valuation

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

1.4.3 Depreciation

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

1.4.4 Estimated useful life of assets

The estimated useful life of assets are as follows:

Fixtures, Fittings & Equipment	5 years
IT Equipment	5 years

1.5 Intangible Assets

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

1.6 Funding

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

1.7 Cash and cash equivalents

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

1.8 Leases

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

1.9 Value Added Tax

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

1.10 Adoption of New and Revised Standards

- **Standards, amendments and interpretations effective in the current year**
In the current year, the Commissioner has applied a number of amendments to IFRS Standards and Interpretations that are effective for an annual period that begins on or after 1 January 2020. Their adoption has not had any material impact on the disclosures or on the amounts reported in these financial statements:

- Amendments to References to the Conceptual Framework in IFRS Standards
- **Amendment to IFRS 9:** Applying IFRS 9 with IFRS 4
- **Amendment to IFRS 3:** Definition of a Business
- **Amendments to IAS 1 and IAS 8:** Definition of Material
- **Amendments to IAS 39, IFRS 4, IFRS 7 and IFRS 9:** Interest Rate Benchmark Reform (Phase 1)
- Annual Improvements to IFRS Standards 2015-2017 Cycle.

- **Standards, amendments and interpretations early adopted this year**

There are no new standards, amendments or interpretations early adopted this year.

- **Standards, amendments and interpretations issued but not adopted this year**

At the date of authorisation of these financial statements, the Commissioner has not applied the following new and revised IFRS Standards that have been issued but are not yet effective:

- **IFRS 16:** Leases. HM Treasury have agreed to defer implementation until 1 April 2022
- **IFRS 17:** Insurance Contracts. Applicable for periods beginning on or after 1 January 2023
- **Amendment to IAS 1:** Classification of Liabilities as Current or Non-Current. Applicable for periods beginning on or after 1 January 2023
- **Amendment to IAS 1:** Disclosure of Accounting Policies. Applicable for periods beginning on or after 1 January 2023
- **Amendment to IAS 8:** Definition of Accounting Estimates. Applicable for periods beginning on or after 1 January 2023
- **Amendments to IAS 16:** Property, Plant and Equipment proceeds before intended use. Applicable for periods beginning on or after 1 January 2022
- **Amendments to IAS 37:** Onerous Contracts, cost of fulfilling a contract. Applicable for periods beginning on or after 1 January 2022
- **Amendments to IAS 39, IFRS 4, IFRS 7 and IFRS 9:** Interest Rate Benchmark Reform (Phase 2). Applicable for periods beginning on or after 1 January 2021
- Annual Improvements to IFRS Standards 2018-2020 Cycle. Applicable for periods beginning on or after 1 January 2022

The Commissioner does not expect the adoption of the Standards listed above to have a material impact on the financial statements in future periods.

IFRS 16 Leases supersedes IAS 17 Leases and is being applied by HM Treasury in the Government Financial Reporting Manual (FReM) from 1 April 2022. IFRS 16 introduces a single lessee accounting model that results in a more faithful representation of a lessee's assets and liabilities, and provides enhanced disclosures to improve transparency of reporting on capital employed.

Under IFRS 16, lessees are required to recognise assets and liabilities for leases with a term of more than 12 months, unless the underlying asset is of low value.

The Commissioner has considered the current accommodation position and does not consider a lease to exist, as arrangements are governed by a Memorandum of Terms of Occupation (MoTO). The existing MoTO expired on 31 March 2021 and was renewed as of 1 April 2021. After the initial year, this allows for termination with six month's written notice. Therefore, capitalisation is not required.

2 NON CURRENT ASSETS

2.1 Tangible Assets

2020/21	Fixtures, Fittings & Equipment	IT Equipment	Total
	£'000	£'000	£'000
Cost			
At 1 April 2020	3	44	47
Additions	-	9	9
Disposals	-	-	-
At 31 March 2021	3	53	56
Depreciation			
At 1 April 2020	3	9	12
Charge for Year	-	11	11
Disposals	-	-	-
At 31 March 2021	3	20	23
Net Book Value at 31 March 2021	-	33	33
Net Book Value at 31 March 2020	-	35	35

The Commissioner purchased £8,525 of additional assets in 2020/21 (2019/20: £35,197). These assets consisted of laptops and sundry IT equipment to allow staff to follow Covid-19 regulations and work remotely.

2.1 Tangible Assets contd

2019/20	Fixtures, Fittings & Equipment £'000	IT Equipment £'000	Total £'000
Cost			
At 1 April 2019	3	32	35
Additions	-	35	35
Disposals	-	(23)	(23)
At 31 March 2020	3	44	47
Depreciation			
At 1 April 2019	3	26	29
Charge for Year	-	5	5
Disposals	-	(22)	(22)
At 31 March 2020	3	9	12
Net Book Value at 31 March 2020	-	35	35
Net Book Value at 31 March 2019	-	6	6

The Commissioner purchased £35,197 of additional assets in 2019/20 (2018/19: £2,582). The addition comprised new IT equipment, including a new server.

2.2 Intangible Assets

2020/21	Software	Total
	£'000	£'000
Cost		
At 1 April 2020	62	62
Additions	0	0
Disposals	0	0
At 31 March 2021	62	62
Amortisation		
At 1 April 2020	14	14
Charge for Year	20	20
Disposals	0	0
At 31 March 2021	34	34
Net Book Value at 31 March 2021	28	28
Net Book Value at 31 March 2020	48	48

The Commissioner did not purchase any intangible assets in 2020/21 (2019/20: £2,675).

2019/20	Software	Total
	£'000	£'000
Cost		
At 1 April 2019	62	62
Additions	3	3
Disposals	(3)	(3)
At 31 March 2020	62	62
Amortisation		
At 1 April 2019	3	3
Charge for Year	14	14
Disposals	(3)	(3)
At 31 March 2020	14	14
Net Book Value at 31 March 2020	48	48
Net Book Value at 31 March 2019	59	59

3 TRADE AND OTHER RECEIVABLES

	2020/21 £'000	2019/20 £'000
Prepayments	14	16
	14	16

4 CASH AND CASH EQUIVALENTS

	2020/21 £'000	2019/20 £'000
Balance at 1 April	109	91
Net Change in cash and cash equivalent balances	2	18
Balance at 31 March	111	109
Cash Held at Commercial Banks	111	109

5 TRADE AND OTHER PAYABLES

	2020/21 £'000	2019/20 £'000
Trade and other payables	(69)	(37)
PAYE and National Insurance	(10)	(10)
Pension Contributions	(10)	(10)
Accruals	(107)	(50)
	(196)	(107)

6 EXPENDITURE BREAKDOWN

	2020/21	2019/20
	£'000	£'000
Staff Costs		
Commissioner	113	106
Investigating Officers	0	97
Other Staff	590	431
	703	634
Other Administration Costs		
Auditor & financial advisers	31	13
Hospitality	0	1
IT	33	31
Legal advisers	18	6
Office costs	14	14
Other professional fees	0	0
PAA costs	103	103
Printing	3	2
Property	89	81
Training & recruitment	1	3
Travel & expenses	0	3
	292	257
Depreciation	31	19
	1,026	910

Further analysis of staff costs is located in the Staff Report on page 69.

The £31,318 for Auditor & financial advisers includes £30,868 for external auditor's remuneration. When preparing the audit plan for 2020/21, the external auditor identified a number of significant risks to the organisation and as a consequence undertook a wider scope audit for the period. This increased the cost of audit by £18,000. The balance of £450 covers accounting services provided by a third party. During the year, the Commissioner did not purchase any non-audit services from its auditor.

During the financial year, £9,000 was used to purchase non-current assets as detailed in note 2 to the financial statements (2019/20: £38,000). These assets consisted of laptops and sundry IT equipment to allow staff to follow Covid-19 regulations and work remotely.

7 LEASING COMMITMENTS

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

	Land & Buildings	
	<u>As at 31</u>	<u>As at 31</u>
	<u>March 2021</u>	<u>March 2020</u>
	£'000	£'000
Operating leases which expire:		
Within one year	91	89
One to five years	Nil	Nil
	91	89

The existing MOTO ran for five years from 1 April 2016 to 31 March 2021. Accommodation fees are recharged at cost as agreed each year. The actual cost in 2020/21 was £89,300 (2019/20: £81,400). The increase reflects the final adjustment to capital charges following a revaluation of the building in 2017.

The Commissioner entered in to a new MoTO which will run from 1 April 2021 to 31 March 2022. The cost for the year is estimated to be £91,300.

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

8 CAPITAL COMMITMENTS

There were no contracted capital commitments as at 31 March 2021 (2020: Nil).

9 CONTINGENT LIABILITIES

The Commissioner had no contingent liabilities as at 31 March 2021 (2020: Nil).

10 RELATED PARTY TRANSACTIONS

The Commissioner's role was constituted by legislation enacted by the Scottish Parliament which provides funding via the SPCB. The SPCB is regarded as a related body. The SPCB provided funding of £915,000 during the year (2020/21: £1,010,000).

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

11 POST STATEMENT OF FINANCIAL POSITION EVENTS

The Commissioner has been on a period of extended absence since March 2020 with an Acting Commissioner and Accountable Officer appointed as of 20 April 2021. This has had no material impact on the financial statements for 2020/21. It is as yet unclear what the full impact in 2021/22 and going forward will be.

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

APPENDICES

APPENDIX 1: ACCOUNTS DIRECTION



COMMISSION FOR ETHICAL STANDARDS IN PUBLIC LIFE IN SCOTLAND

DIRECTION BY THE SCOTTISH MINISTERS

1. The Scottish Ministers, in pursuance of section 22 of the Scottish Parliamentary Commissions and Commissioners etc Act 2010, hereby give the following direction.
2. The Commission is required to prepare annual accounts.
3. The Statement of accounts for the financial year ended 31 March 2012, and subsequent years, shall comply with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (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

APPENDIX TWO: APPOINTMENTS MADE IN 2020

Body	DG	Position	●	●	Level
Bord na Gaidhlig	E	Chair	2	1	H
Bord na Gaidhlig	E	Member	4	1	H
Borders Regional College	EJ	Chair	6	0	H
Care Inspectorate Board (Social Care and Social Work Improvement Scotland)	HSC	Member	20	2	H
Community Justice Scotland	EJ	Member	36	2	H
David MacBrayne Ltd	E	Chair	22	0	H
Dumfries and Galloway College	EJ	Chair	8	0	H
Healthcare Improvement Scotland	HSC	Member	18	1	H
Highlands and Islands Enterprise	E	Chair	14	1	H
National Museums Scotland	E	Chair	10	1	H
Historic Environment Scotland	E	Member	34	4	L
National Galleries of Scotland	E	Member	41	4	L
NHS Ayrshire and Arran	HSC	Member	45	3	H
NHS Ayrshire and Arran ¹	HSC	Chair	18	3	H
NHS Forth Valley	HSC	Chair			H
NHS Orkney	HSC	Chair			H
NHS Borders	HSC	Member	31	1	L
NHS Greater Glasgow & Clyde	HSC	Member	69	3	H
NHS Highland	HSC	Member	54	3	H
NHS Lanarkshire	HSC	Member	34	1	H
NHS Lothian	HSC	Member	86	2	H
NHS 24	HSC	Member	48	1	L
NHS Golden Jubilee Board (National Waiting Times Centre Board)	HSC	Member	14	1	L
NHS National Services Scotland	HSC	Member	49	2	L
NHS Tayside	HSC	Chair	8	2	H
NHS Tayside	HSC	Member	13	2	H
NHS Golden Jubilee Foundation Board (National Waiting Times Centre Board) ²	HSC	Whistleblowing Champion Member	24	3	H
Healthcare Improvement Scotland	HSC	Whistleblowing Champion Member			H
NHS National Services Scotland	HSC	Whistleblowing Champion Member			H
NHS Western Isles	HSC	Whistleblowing Champion Member			H
Public Health Scotland	HSC	Member	171	7	H
Scottish Law Commission	EJ	Member	13	2	M
Scottish National Investment Bank	E	Member	231	8	H
South of Scotland Enterprise	E	Member	116	6	H
The State Hospitals Board for Scotland	HSC	Member	54	3	H
West College Scotland	ECJ	Chair	14	1	H
Totals			1,307	71	

¹ The figures supplied gave the aggregate number of applications and appointments for all of three of these NHS board chair posts. We have disaggregated the appointments figure to show which boards appointments were made to.

² The figures supplied gave the aggregate number of applications and appointments for all of the nonexecutive whistleblowing champions. We have disaggregated the appointments figure to show which boards appointments were made to.

Key for table

Applications: ● Appointments: ●

Column: DG

DG - Director General with sponsorship responsibility

C – DG for General Communities
E – DG for General Economy
EJ - DG for General Education and Justice
HSC – Chief Exec of NHS Scotland
SE - DG for Scottish Exchequer
Cor – DG for General Corporate

Column: Level

L - low
M - Medium
MSG – PAA involvement during planning requested
H - High
HSG - Set at high at the request of the Scottish Government

Contact details

Ethical Standards Commissioner
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HE

0300 011 0550

info@ethicalstandards.org.uk