

# Ethical Standards Commissioner

## STRATEGIC PLAN 2021-24

Ethical, empathetic, effective

How we'll fulfil  
our role in  
public life in  
Scotland

ESC

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Following consultation, this plan will be laid before the Scottish Parliament by the Commissioner for Ethical Standards in Public Life in Scotland as required by section 14 of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010.

## **ACTING COMMISSIONER'S FOREWORD**

The introduction of this revised strategic plan coincides with the sixth session of the Scottish Parliament. I have introduced it earlier than anticipated by the usual planning cycle to reflect our significantly altered operational context. The final months of the Parliament's fifth session saw a significant increase in complaints made to the office about the ethical conduct of individuals in public life. Those same months coincided with a decision by the external auditor and Audit Scotland to extend the scope of the external audit to include a full wider scope review into the work of this office. These were difficult months coming, as they were, towards the end of a year in which people had endured loss, hardship and exceptional stress as a result of a global pandemic.

The public's trust in those whom they elect to serve is of paramount importance to a healthy democracy. When public trust is eroded, so is public confidence in the individuals and institutions privileged enough to fulfil positions in public life. Trust, it is said, arrives on foot but departs on horseback. This plan sets out the steps that this office intends to take to contribute to the restoration of the public's trust in us and in those individuals and institutions.

Our role is to investigate, without fear or favour, whether complaints about lobbying, the conduct of MSPs, local authority councillors and public body board members are well-founded. We report on our findings to other bodies, such as the Scottish Parliament itself in the case of MSPs and the Standards Commission for Scotland in the case of councillors and board members, which then take a view on whether inappropriate conduct identified is worthy of sanction. We are therefore part of a system of checks and balances intended to both promote good conduct and to hold individuals to account when that conduct falls short of what is expected. Each part of this system has to work effectively in order for the public to have trust in it.

We also oversee the system made to appoint chairs and board members to the majority of the boards of public bodies in Scotland. Whilst not elected, these individuals are responsible for well over a third of all public expenditure in Scotland and the delivery of vital services in areas such as health, education and justice to each and every one of us. These appointments must be made on merit; the good governance of these bodies relies on it. Our role is to promote good practice in the making of these appointments and to report publicly when such practice isn't followed. Such reports present the Scottish Government and ourselves with opportunities to learn and improve on the appointments process.

The plan aims to inform MSPs, local authority councillors, public body board members and, of course, the people of Scotland, upon whose trust every elected individual and public authority relies, about what we plan to do in the coming years and, just as importantly, how we plan to do it. Views on our plans from all of these quarters are welcomed.



Ian Bruce  
Acting Ethical Standards Commissioner  
28 May 2021

## OUR PURPOSE, VALUES AND STRATEGIC OBJECTIVES

We have concluded that our previous plan lacked a clear statement about how we will go about fulfilling our purpose and our objectives. The introduction of a statement of our values seeks to address this gap.

### Our Purpose

To conduct, without fear or favour, investigations into the ethical conduct of individuals in public life in Scotland and to report honestly and transparently on our findings

To provide appropriate oversight of public appointments and assurance to the public that such roles are filled on merit, following a fair and open appointments process

### Our Values

We will conduct all of our activities in an ethical way, characterised by effective stewardship of public money, accountability, honesty, integrity, propriety, fairness and transparency

We will treat each individual and organisation that comes into contact with us with empathy, kindness and respect, recognising that their trust in us must be earned

When we get things wrong we will admit our failings and learn from them in order to improve on our performance

### Our Strategic Objectives

We will aim to ensure that we have the staff and resources in place that are needed to deliver all of our objectives

We will operate an effective complaints system that delivers successful and trusted outcomes

We will, through appropriate regulation, contribute to the establishment and maintenance of effective boards that are reflective of the communities that they serve

We will provide assurance to the public and our stakeholders that our objectives are being met in accordance with our purpose and our values and that our governance is effective

## OVERVIEW OF THE ACTING COMMISSIONER'S PLANS

Some of the key changes we plan to deliver are:

**Greater assurance on quality than currently provided** via targets, indicators and review systems all of which will be consulted on and published

**Improved governance** designed to oversee and ensure delivery of our strategic objectives

**Recruiting and developing staff** to ensure consistent high quality of our professional skills base

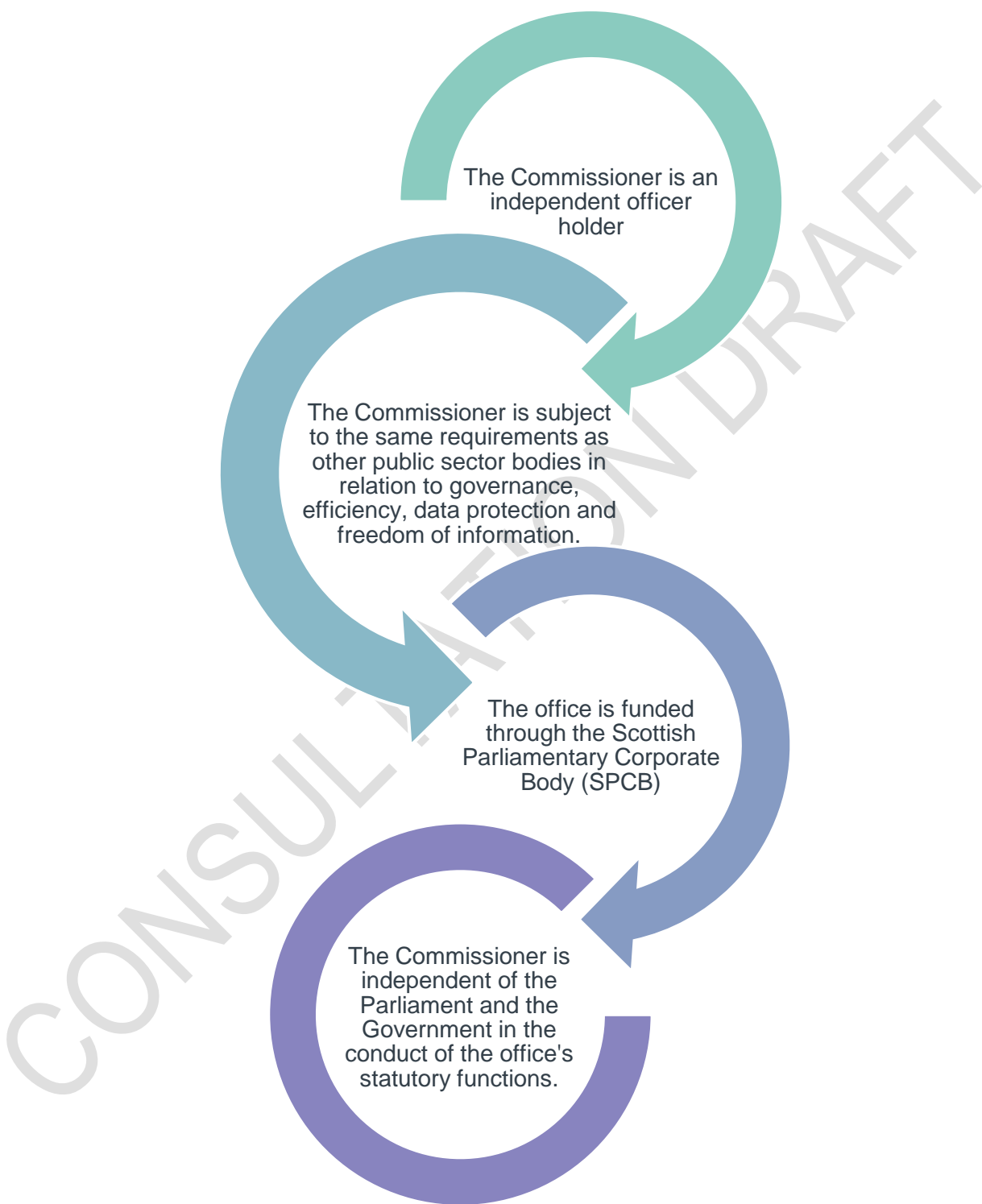
**Better complaints handling** via a streamlined, high quality service

**More meaningful engagement** with MSPs, local authority councillors and public body board members to inform and shape our work and our performance

**Codifying** a coherent, comprehensive suite of procedures which we'll publish so people know what to expect

**Revising the Code and guidance** on Ministerial Appointments to Public Bodies in Scotland and promoting and supporting its implementation

**ABOUT THE COMMISSIONER'S OFFICE**



## **OPERATIONAL CONTEXT**

The introduction of this plan coincides with a new session of the Scottish Parliament and presents an opportunity to encourage conversations about the ethical conduct that the public anticipates from MSPs.

With the easing of lockdown measures, put in place as a result of a global pandemic, we will have to consider whether our traditional operating model for acquitting our statutory functions remains appropriate. Staff have been working almost exclusively remotely and that will have ramifications for the office's approach to working in the future. Increased flexibility in working patterns and practices can realise benefits both for staff and for those who come into contact with us.

Our office operates in a demand driven environment, with the volume of public appointment rounds and incoming complaints both fluctuating over time.

The scope of our remit is set to expand over the early years of this strategic plan. This expansion relates to changes to the Code of Conduct for MSPs to include complaints from MSP staff and parliamentary staff, of bullying, harassment (including sexual harassment) and other inappropriate behaviour with no time bar on historic incidents. Suitable expertise will be required to cater for complaints arising under this newly expanded scope, which has the potential for considerable operational impact.

The extent to which complaint volumes increase as a result of this scope expansion may further impact what has been a marked increase in total complaints over recent years.

## **CONTRIBUTION TO NATIONAL PERFORMANCE FRAMEWORK**

The Commissioner's activities are relevant to the people, prevention, performance and partnership elements of the [Scottish Government's reform agenda for public services](#).

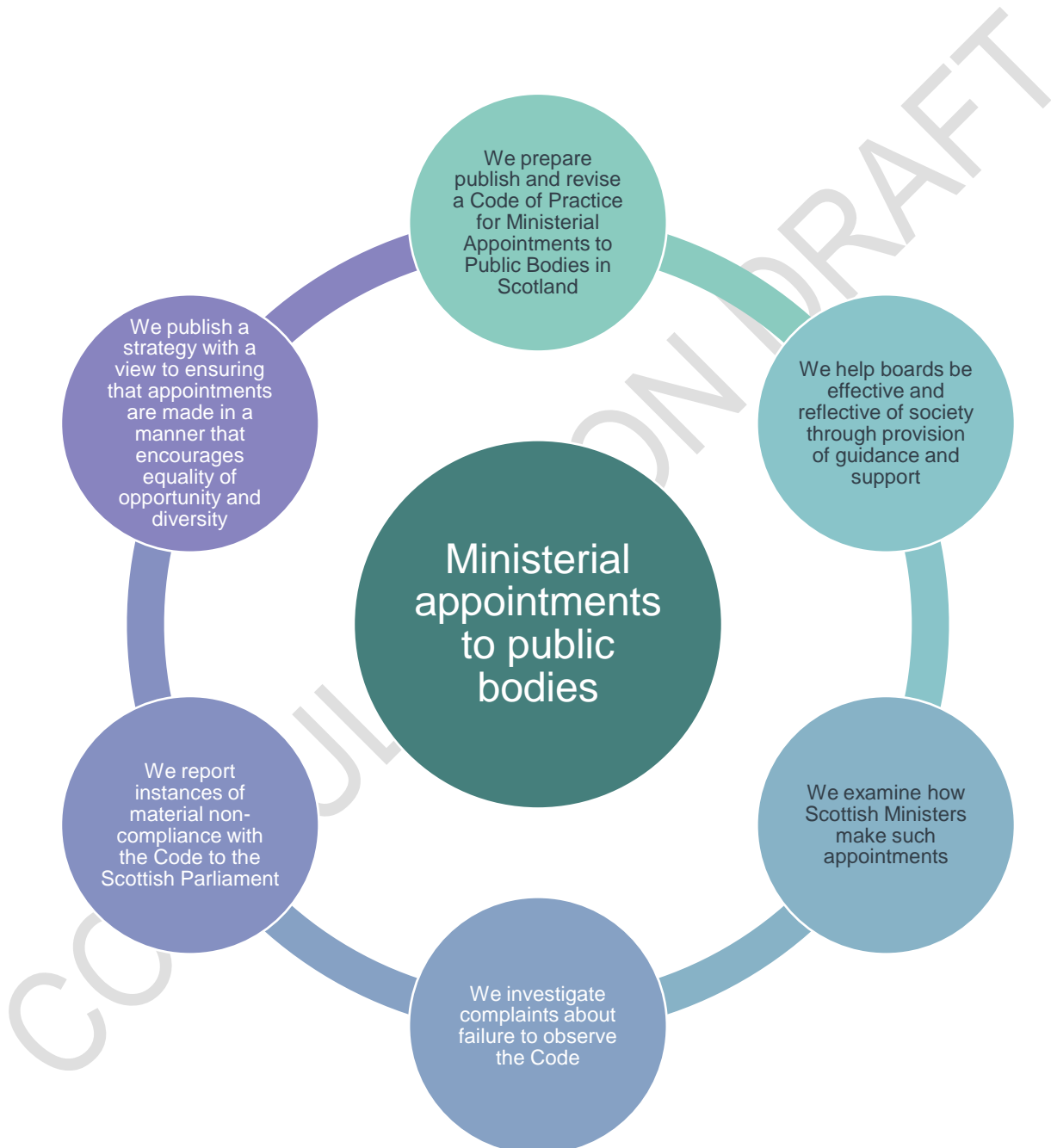
- The existence of an independent body responsible for investigating and reporting on alleged breaches of the various codes of conduct contributes to prevention and to performance, and to the maintenance of public confidence in the ethical standards observed by many institutions which are responsible for the development and implementation of public policy and for the delivery of public services.
- The Commissioner's public appointments work, and in particular the role of the Public Appointments Advisers' (PAAs') and the Commissioner's engagement with the Scottish Government officials tasked with enhancing board appointments and governance, contributes to the people, performance and partnership elements of the reform agenda, and to the wider [human rights](#) outcome by promoting equality of opportunity and diversity in the public appointments process. Assurance that appointments are made on merit and that the process secures diverse boards also contributes to performance against the framework. Good governance of our public bodies will not be attained without diverse boards populated by people who are effective in their roles.

## OUR STATUTORY FUNCTIONS

The Commissioner has a broad range of statutory functions which can be summarised as:

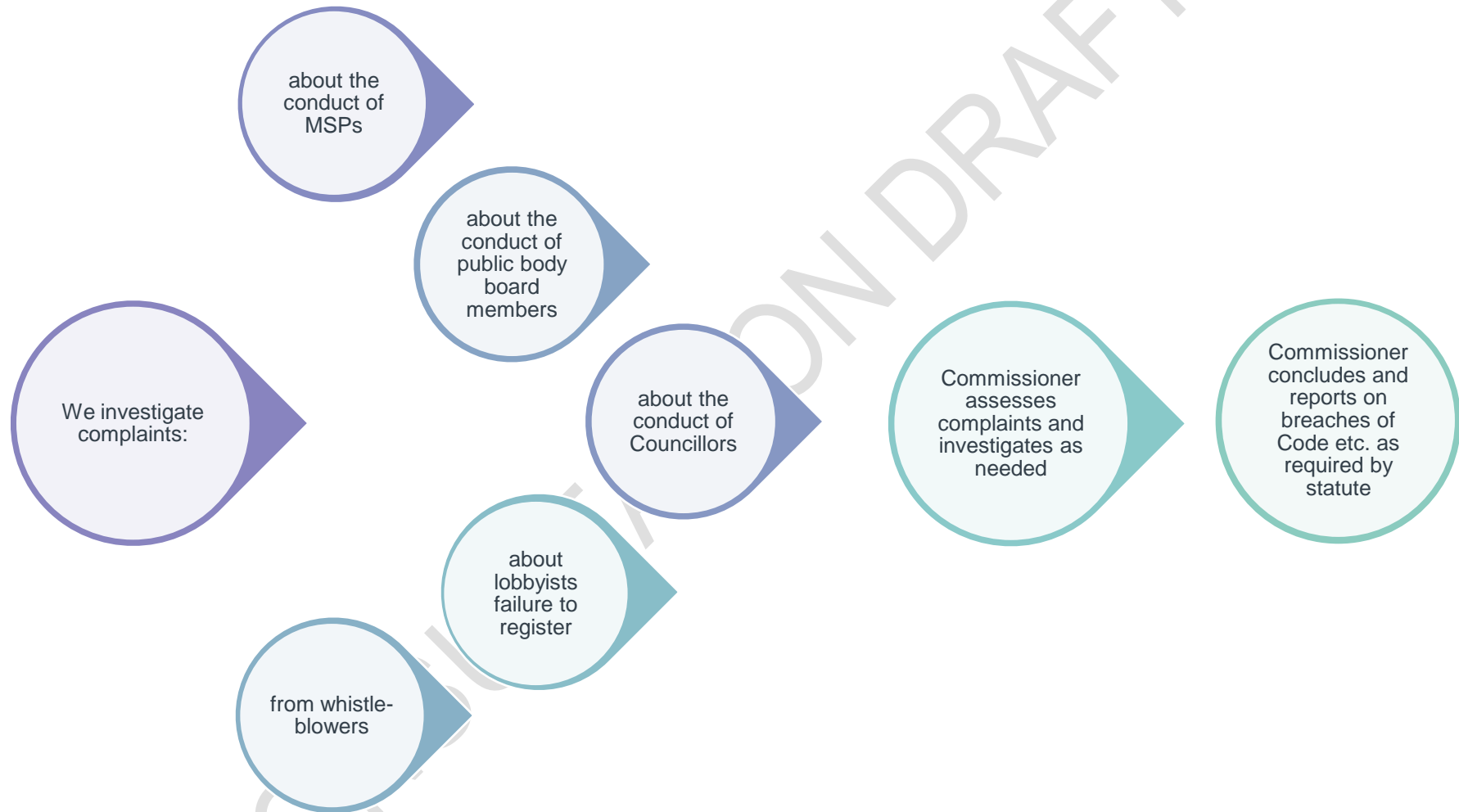
- regulation of ministerial appointments to public bodies
- complaints handling

### REGULATION OF MINISTERIAL APPOINTMENTS TO PUBLIC BODIES





## COMPLAINTS HANDLING



The Commissioner's remit is statutory. All relevant statutes are listed in Appendix 1.

## OUR STRATEGIC OBJECTIVES

We aim to ensure that we have the staff and resources in place that are needed to deliver all of our objectives. We value people and recognise that unless we have staff who are valued and supported to maintain their wellbeing, feel happy in and proud of our work and the way in which we do it, we will have failed. Actions under this heading are set out in page 13 of this plan.

We will operate an effective complaints system that delivers trusted outcomes

- We will consult all relevant stakeholders on our current complaint handling procedures and revise them and publish them in the form of an investigations manual which takes account of the views received
- We will adapt our procedures to take account of stakeholder views and engender trust in the way that we work
- We will publish our procedures as revised so that everyone knows what to expect
- We will ensure that all staff are trained to fulfil their roles effectively, including on the revised Codes of Conduct for Councillors and Members of Public Bodies

We will, through appropriate regulation, contribute to the establishment and maintenance of effective boards that are reflective of the communities that they serve

- We will publish for consultation a draft revised Code of Practice for appointments with a greater focus on outcomes, accountability and transparency
- We will take account of all stakeholder views in order to finalise the Code
- We will provide guidance and support to everyone engaged in the appointments process with a view to their implementing the new Code's provisions effectively

We will provide assurance to the public and our stakeholders that our objectives are being met in accordance with our purpose and our values and that our governance is effective

- We will put new and more effective governance measures in place, inclusive of independent elements, to ensure for ourselves and to assure others, by way of public reporting, that we are achieving our objectives in line with our purpose and our values and in line with the resources made available to us
- We will adopt quality assurance monitoring of key performance indicators, including surveys of the views of those with whom we come into contact, and report publicly on the results. We will use those results to improve on what we do
- We will report publicly on the difference that the new Code of Practice is making to the appointments process, for good or for bad, with a view to improving on practices

## HOW WE WILL REPORT ON PROGRESS

We will report progress against the strategic plan through our:

- Annual Report and Accounts
- Regular publication of minutes of Senior Management Team meetings at which progress will be discussed and recorded.

The annual report and minutes will set out achievement against the published business plan.

The biennial business plan sets out the activities of the organisation and how they support the delivery of our strategic objectives. The plan is a mixture of regular business as usual activity as well as actions to deliver specific pieces of work. It may include operational performance indicators, targets, monitoring mechanisms and quality standards for the organisation. These are reviewed annually on a rolling basis.

Progress will also be reported via:

- Reports and evidence to the relevant subject committees of the Scottish Parliament
- Specific reports required by legislation and national guidance
- Special reports
- Publications of documents such as minutes from senior management team meetings and governance reports
- Ad hoc reports

The results of our engagement with a range of stakeholders using surveys and other methods will also be reported on.

## COSTS

We recognise that public sector resources are limited and understand that we must review, scrutinise and report publicly on our work to ensure best value and continuous improvement.

The following table shows current expenditure projected over the period of this plan, assuming no change in real terms. This budget is the minimum required to deliver current statutory functions to published standards and timescales. The projections will be varied to take account of any recommendations arising from the wider scope review referred to in the Acting Commissioner's foreword.

	2021/22	2022/23	2023/24
	Approved Budget £'000s	Indicative Budget £'000s	Indicative Budget £'000s
<b>Staff Costs</b>	651	695	727
<b>Staff Related Costs</b>	13	14	14
<b>Property Costs</b>	90	91	92
<b>Professional Fees</b>	140	140	141
<b>Running Costs</b>	50	53	54
<b>Sub-total</b>	<b>944</b>	<b>993</b>	<b>1,028</b>
<b>Capital Expenditure</b>	2	4	4
<b>TOTALS</b>	<b>946</b>	<b>997</b>	<b>1,032</b>

These budgets take account of the fact that the majority of our work is demand led. They will be refined each year to reflect any significant changes and agreed with the Scottish Parliamentary Corporate Body. Changes to the budget may be driven by external forces, such as pay increases, adjustments to pension contribution rates, the impact of the UK's exit from the European Union and the aftermath of a global pandemic as well as additional statutory functions and regulatory requirements. Funding for additional specific projects supporting this strategic plan will be sought as part of the annual budget exercise. An indication of these costs is given in the following table. Where possible, we will absorb these costs in the existing budget.

## TIMEFRAME – TO BE COMPLETED FURTHER TO CONSULTATION

Strategic Objectives	2021-22	2022-23	2023-24
<b>We will aim to ensure that we have the staff and resources in place that are needed to deliver all of our objectives</b>			
We will aim to ensure that we have the staff required with the relevant skills, knowledge, experience and values to acquit our functions: we will review our current structure and staffing arrangements and identify those areas that require to be revised in order for us to work most effectively	TBC	TBC	TBC
We will aim to ensure that all staff are trained and developed to fulfil their roles effectively, including on the revised Codes of Conduct for Councillors and Members of Public Bodies	TBC	TBC	TBC
We will regularly survey staff and act on the results of such surveys with a view to ensuring their wellbeing	TBC	TBC	TBC
We will introduce a suite of new and revised policies that have staff wellbeing at their heart	TBC	TBC	TBC
<b>We will operate an effective complaints system that delivers trusted outcomes</b>			
We will consult all relevant stakeholders on our current complaint handling procedures and revise them and publish them in the form of an investigations manual to take account of the views received	TBC	TBC	TBC
We will adapt our procedures to take account of stakeholder views and engender trust in the way that we work	TBC	TBC	TBC
We will publish our procedures as revised so that everyone knows what to expect	TBC	TBC	TBC

Strategic Objectives contd	2021-22	2022-23	2023-24
<b>We will, through appropriate regulation, contribute to the establishment and maintenance of effective boards that are reflective of the communities that they serve</b>			
We will publish for consultation a draft revised Code of Practice for appointments with a greater focus on outcomes, accountability and transparency	TBC	TBC	TBC
We will take account of all stakeholder views in order to finalise the Code	TBC	TBC	TBC
We will provide guidance and support to everyone engaged in the appointments process with a view to their implementing the new Code's provisions effectively	TBC	TBC	TBC
<b>We will provide assurance to the public and our stakeholders that our objectives are being met in accordance with our purpose and our values and that our governance is effective</b>			
We will put new and more effective governance measures in place, inclusive of independent elements, to ensure for ourselves and to assure others, by way of public reporting, that we are achieving our objectives in line with our purpose and our values and in line with the resources made available to us	TBC	TBC	TBC
We will adopt quality assurance monitoring of key performance indicators, including surveys of the views of those with whom we come into contact, and report publicly on the results. We will use those results to improve on what we do	TBC	TBC	TBC
We will report publicly on the difference that the new Code of Practice is making to the appointments process, for good or for bad, with a view to improving on practices	TBC	TBC	TBC

## APPENDIX 1

### STATUTORY PROVISIONS

The Commissioner's functions in relation to public standards were originally set out in

- a) the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the Ethical Standards Act), and
- b) the Scottish Parliamentary Standards Commissioner Act 2002 (the Parliamentary Standards Act).

The Commissioner's functions in relation to public appointments were set out in the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (the Public Appointments Act).

Revisions to the institutional arrangements and performance requirements were set out in the Scottish Parliamentary Commissions and Commissioners etc Act 2010, and in The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (Scottish Statutory Instrument 2013/197)

The remit was extended by the Interests of Members of the Scottish Parliament (Amendment) Act 2016 and by the Lobbying (Scotland) Act 2016.

## APPENDIX 2

### WHAT WE DO

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

Standards of behaviour are set out in codes of conduct for MSPs, councillors and board members.

Where the Commissioner has concluded his investigation, he will report to

- the Standards Commission for Scotland, in the case of councillors and board and
- to the Scottish Parliament, in the case of MSPs and where in his view a breach of the relevant provisions has occurred.

The Commissioner also investigates complaints about lobbyists, where they fail to register or supply certain information to the Scottish Parliament. Any breach is reported to the Scottish Parliament.

2. We regulate how the Scottish Ministers make appointments to the boards of regulated public bodies. The Commissioner has the power to:
  - prepare and publish and, as necessary, revise a Code of Practice for Ministerial Appointments to Public Bodies in Scotland
  - issue guidance on the Code
  - examine how the Scottish Ministers are making appointments and in particular assess whether they are following the Code of Practice, and
  - report any serious instances of non-compliance to the Scottish Parliament

We must also 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.

Details of the legislation underpinning these functions are available on our website.



CONSULTATION DRAFT