



The Scottish Parliament
Pàrlamaid na h-Alba

Rt Hon Alison Johnstone MSP
Presiding Officer

By email only

Public Audit Committee
Room T3.60
The Scottish Parliament
EDINBURGH
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24 April 2023

Dear Presiding Officer,

The 2021/22 audit of the Commissioner for Ethical Standards in Public Life in Scotland.

At its meeting on [2 March 2023](#), the Public Audit Committee took evidence from the Auditor General for Scotland (AGS) on the above [section 22 report](#). The Committee subsequently took evidence from the Commissioner for Ethical Standards in Public Life in Scotland (the Commissioner) on [30 March 2023](#). At this meeting, the Committee agreed to write to the Scottish Parliamentary Corporate Body (SPCB) to seek further information on issues raised in the section 22 report and during the evidence sessions.

The Committee notes the hard work that has been undertaken by the Commissioner and his office to address the serious failings identified in the [2020/21 audit report](#). The Committee is also encouraged that relationships are being restored between the Commissioner's Office and key stakeholders, including the SPCB and the Standards Commission for Scotland.

The Committee further notes that the independent auditor's report for the Commissioner for Ethical Standards in Public Life in Scotland for 2021/22 stated—

“There remain areas where the SPCB and the Commissioner for Ethical Standards in Public Life need to work together to address some of the specific governance issues identified”.

The Committee would therefore welcome a response from the SPCB on the points outlined below.

Governance

The Committee recognises the importance of maintaining the independence of Parliamentary-funded office holders such as the Commissioner. The Committee agrees with the AGS that it is a matter for Parliament to strike the “right balance between operational independence for its commissioners and providing a clearer and more effective channel for accountability and oversight”.

For the future, it is vital that the Commissioner’s Office has effective scrutiny and challenge functions in place. To that end, the Committee notes the recent [written agreement](#) between the Parliament’s Committees and the SPCB relating to Parliamentary-funded office holders. The Committee notes that the written agreement includes information on the role of the SPCB and how it will satisfy itself with regard to its specific governance role.

The Commissioner confirmed during oral evidence that he has engaged with the SPCB in relation to the joint recommendations made to both his office and the SPCB as set out in the [2020/21 annual audit report](#).

Recommendation 5.2 in the 2020/21 annual audit report stated—

“We recommend that the governance structures in place for this type of organisation are reviewed the Commissioner’s Office needs to engage with the SPCB and Parliament to identify improvements. This should include improved communications between the different organisations who are involved in the governance of the organisation and stakeholders.”

The Commissioner described his work with the SPCB to address recommendation 5.2, as being ‘still a work in progress’. The Commissioner also confirmed that the SPCB has so far provided him with terms of reference, terms and conditions of appointment, a framework document and KPIs that he is required to meet. The Commissioner also explained the measures he has put in place to provide assurance, in relation to the recommendations that he is able to implement for his office.

Please provide the Committee with an update on the action that has been taken by the SPCB in response to recommendation 5.2 originally made in the 2020/21 annual audit report.

Reporting concerns

Recommendation 5.1 in the 2020/21 annual audit report stated that the Commissioner's Office should engage with the SPCB and the Parliament to determine the reporting route for concerns about a commissioner. During evidence, Audit Scotland suggested the need to establish a 'clear reporting route' for situations where there were concerns about the internal operation of the Commissioner's Office, which did not meet the normal whistleblowing thresholds. The Commissioner confirmed that new reporting routes were being introduced should staff and stakeholders have any concerns about the way in which he is operating.

Please provide the Committee with an update on the progress that has been made by the SPCB towards implementing recommendation 5.1 originally made in the 2020/21 annual audit report.

Code of conduct for office holders

We also heard from the Commissioner that the introduction of a new code of conduct for all officeholders was being considered by the SPCB, which he hoped to discuss with the SPCB in due course.

Please provide an update on the work that is being progressed regarding a new code of conduct for all officeholders.

I would be grateful to if you could provide a response by **15 May 2023**.

Yours sincerely,



**Richard Leonard MSP,
Convener**