

Patient Safety Commissioner for Scotland Bill

Financial Memorandum

Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Patient Safety Commissioner for Scotland Bill, introduced in the Scottish Parliament on 6 October 2022.
2. The following other accompanying documents are published separately:
 - Explanatory Notes (SP Bill 19–EN);
 - A Delegated Powers Memorandum (SP Bill 19–DPM);
 - a Policy Memorandum (SP Bill 19–PM); and
 - statements on legislative competence made by the Presiding Officer and the Scottish Government (SP Bill 19–LC).
3. The Scottish Government has prepared this Financial Memorandum to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

Background

4. In February 2018, in response to patient campaigns, the UK Secretary of State for Health and Social Care announced an independent review into how the healthcare system in England responds to reports about harmful side effects from the use of medicines and medical devices. The subsequent report made a number of recommendations, including:

'Recommendation 2: The appointment of a Patient Safety Commissioner who would be an independent public leader with a statutory responsibility. The Commissioner would champion the value of listening to patients and promoting users' perspectives in seeking improvements to patient safety around the use of medicines and medical devices.'

5. Although the review focused on England, the issues it covered were widely recognised to be relevant to all four UK nations, and people from Scotland also gave evidence to the review. The Scottish Government accepted all the recommendations

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contained in the report and agreed to implement them where it had devolved legislative competence to do this.

6. The purpose of the Bill is to establish a new Parliamentary Commissioner, the Patient Safety Commissioner for Scotland, independent of the NHS and government, who will:

- promote and improve patient safety by amplifying the patient voice within the patient safety system;
- develop a system-wide view of the healthcare system in Scotland and use it to identify wider safety issues; and
- promote better coordination across the patient safety landscape in Scotland in responding to concerns about safety issues.

7. The Patient Safety Commissioner will work with health service providers and existing organisations which deal with patient feedback and complaints, advocating for patients to be listened to at the right level within the organisation and for communication with patients to be regular and clear. The Commissioner will involve the public in their work, which will require public promotion of their role and how to contact them, as well as ongoing consultation with patients, patient groups and the wider public.

8. The Patient Safety Commissioner will also need input from specialists. Responses to our public consultation suggested the Commissioner could require support from experts including lawyers, clinicians, analysts, academics, and experts on ethics and equalities. While it will be for the Commissioner to determine the in-house staff they require in agreement with the Scottish Parliamentary Corporate Body (SPCB), they should also be supported by an advisory group which will be established by the first appointed Commissioner. As well as patient representation, the advisory group will allow the Commissioner to obtain specialist and professional guidance that is not able to be provided by their core staff. The membership of the advisory group should consist of 50% patients and representatives of patients. While the advisory group will give the Commissioner advice on matters relating to their work, for example from a clinical, legal, ethical and patient point of view, the Commissioner should also engage with stakeholders, patients and members of the public in other ways, such as stakeholder workshops and public consultation exercises.

9. The Patient Safety Commissioner will work with organisations which carry out, manage, regulate and investigate healthcare services, and will be able to request that they share information on patient safety to help with analysis, research and investigations. The Commissioner will be able to request information relating to a specific investigation from organisations or individual members of their staff, and must treat any information shared with due confidentiality. Memoranda of Understanding may be needed between the Commissioner and these organisations to govern this information sharing. The Commissioner will publish a report into each investigation, setting out recommendations which the relevant organisations must respond to.

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10. The Scottish Parliament will recruit the Patient Safety Commissioner. To ensure independence from government and the NHS, the Commissioner will be appointed by His Majesty the King, on the nomination of the Scottish Parliament.

11. The Commissioner's post is expected to be full-time (1.0 FTE), supported by four members of staff (4.0 FTE). This is based on the arrangements for existing Parliamentary Commissioner offices and consideration of the Commissioner's key duties: promotion of patient safety, research and horizon-scanning, investigations and administration.

12. The estimated costs of the Patient Safety Commissioner are based on costs incurred by comparator bodies, and informed by advice from SPCB officials. Therefore, the setup costs and running costs estimated in Tables A and B respectively can be predicted with a reasonable degree of certainty. VAT will not be reclaimable by the Commissioner and is therefore added to the costs set out here. The cost to local authorities and other bodies is estimated at nil to minimal. While there is provision in the Bill for the Commissioner to charge reasonable sums for anything in connection with the exercise of their functions, for providing training for example, it is not estimated that these sums will be significant (and they are not expected to cumulatively amount to £500,000 or more in any given financial year).

Costs on the Scottish Administration

Office of the Patient Safety Commissioner

13. The costs are presented in two sections: set-up costs and annual running costs. For the purposes of the Financial Memorandum, it is assumed that the Patient Safety Commissioner will be appointed in early 2024 and their staff will be recruited in autumn 2024. Therefore, with the exception of recruitment costs for the Commissioner, the set-up costs are expected to be incurred mainly in financial year 2024/25. Given that the office is expected to become operational in autumn 2024, the year one running costs will straddle financial years 2024/25 and 2025/26 with a small amount of salary costs for the Commissioner towards the end of 2023/24. The cost per financial year is set out in Table C.

14. Although the Patient Safety Commissioner will be an independent officeholder, in exercising their statutory functions, they will be accountable to the Scottish Parliament, and the creation of the Commissioner will result in additional costs on the Scottish Parliament budget. Current practice requires that the set-up and year one running costs fall to be paid by the Scottish Government, with the ongoing running costs to the Scottish Parliament to be considered as part of the annual Scottish Government budget process.

Set-up costs

15. The figures set out in Table A show the estimated set-up costs for the Patient Safety Commissioner in 2023/24 and 2024/25, totalling £150,234.

Table A: Estimated set-up costs for the Patient Safety Commissioner, inclusive of VAT where applicable

Set-up costs	£
Recruitment costs	8,000
Accommodation: fit-out and legal fees	79,200
IT, mobile and website set-up	59,034
Marketing/Payroll and HR set-up	4,000
Total costs	150,234

The Commissioner and staff

16. Recruitment costs of up to £8,000 (including VAT; £3,000 for recruitment of the Patient Safety Commissioner in 2023/24 and £5,000 for recruitment of other staff in 2024/25) have been allowed for in the set-up costs to cover the recruitment of the Commissioner (1.0 FTE) and four full time equivalent members of staff (see paragraphs 25 and 26 for further information on staffing levels). The costs include advertising, assessor's fees, warrant costs and HR support costs, and are based on recent similar exercises for parliamentary office-holders and staff undertaken by the SPCB – therefore they have a low margin of uncertainty. The recruitment of the Commissioner will be undertaken by a cross-party selection panel chaired by the Presiding Officer, and the recruitment of the Commissioner's staff will be undertaken by the Commissioner with assistance from recruitment specialists. The £8,000 cost estimate may rise by £1,000 to £1,500 depending on how much specialist recruitment advice the Commissioner requires.

17. The location of the Patient Safety Commissioner's office will be a matter for the Commissioner to decide during the set-up period, subject to any direction given by SPCB (see section 19 of the Bill). It is expected that the office of Commissioner would move into its own accommodation in the first quarter of 2024/25. The accommodation costs in Table A reflect fit out costs of £61,200 (including VAT) for remedial building works and the purchase of furniture (based on a cost of £30 per square metre and a 1,700 square feet space requirement, as estimated by the Scottish Government Estates Division). As it is not presently possible to predict what sort of office accommodation will be available at the time the Commissioner's office is being set up, a generous allowance has been made for remedial works. Professional and legal fees of up to £18,000 (including VAT) to search for suitable property, to agree terms and to complete legal agreements would also be incurred (as estimated by officials from the SPCB). These cost estimates are expected to be the maximum costs, based on rental of private premises in Edinburgh. Every effort will be made to reduce these costs by co-locating with other public bodies in modernised premises or finding accommodation outwith the city.

18. In the light of the move to home and hybrid working which has been necessitated by the Covid-19 pandemic since March 2020, which has mostly resulted in successful working outwith the traditional office environment, it is worth noting that this mode of working may be considered for the office of the Patient

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Safety Commissioner. This would result in much reduced accommodation costs, but must be balanced against appropriateness for the business.

19. However it is possible that working solely from home can be detrimental to the mental and physical health of staff, who may miss the social aspects of office working, may live alone or may not have adequate space in their home for a safe dedicated workstation. In addition having no physical office space for the Patient Safety Commissioner would mean the vast majority of communication with stakeholders would have to take place online, which risks alienating or excluding individuals who are unable to use digital means due to low income, disability or other factors.

IT set-up/website

20. It is envisaged that the office of the Patient Safety Commissioner may wish to use the Scottish Government IT system, "SCOTS", as is the case with the Scottish Human Rights Commission, the Police Investigations and Review Commissioner, the Scottish Biometrics Commissioner and the Scottish Public Services Ombudsman. This is a secure system which provides the necessary level of separation between the Scottish Government and the client systems. The outline costs in Table A are generous and have been estimated by the Scottish Government Online Communication Team on the basis of a complete installation of SCOTS into a non-SCOTS building, as well as hardware and software costs. If the Patient Safety Commissioner were to be located in an existing SCOTS networked building, the installation costs would be minimal. Specifically, the costs include: wiring; IT systems; telephony; laptops and peripherals; and two colour printers – coming to a total of £28,794 (including VAT) which represents the maximum cost likely to be incurred. Website design and installation is estimated at £30,240 (including VAT) based on estimates provided by the Scottish Government Online Communication Team and other Parliamentary Commissioners.

21. If the Patient Safety Commissioner wished to install an alternative IT system, the assumption is that the costs would not exceed those for the SCOTS system.

Marketing/payroll/HR services

22. The launch of the proposed model for the Patient Safety Commissioner will require a marketing/branding exercise to raise awareness about the new office which would be undertaken by the Commissioner and staff. The office will also require to enter into a contract for payroll services and the set-up of HR support (which would include the preparation of staff contracts and a staff handbook). The total costs are estimated at £4,000 (inclusive of VAT) on the basis of comparator organisations.

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Ongoing costs

23. Table B below estimates the annual running costs for the Patient Safety Commissioner at £644,065. These costs will be met in year one by the Scottish Government. From year two onwards, the costs will be met by the Scottish Parliament. Year one running costs are expected to be incurred partly in financial year 2024/25 and partly in 2025/26.

Table B: Estimated ongoing costs for the Patient Safety Commissioner, inclusive of VAT where appropriate

Annual running costs (based on 2025/26)	£
Commissioner's remuneration	126,119
Staff salaries	216,628
Accommodation	184,288
IT maintenance	6,600
Website maintenance	18,000
Mobile devices	840
Payroll / HR services	4,000
Travel & subsistence	6,840
Advisory group expenses	38,000
Other administrative costs	13,750
Professional fees	29,000
Total costs	644,065

Commissioner's remuneration and staff salaries

24. The appointment of the Patient Safety Commissioner will be taken forward by the Parliament in accordance with the Parliament's Standing Orders¹. The SPCB will set the terms and conditions of appointment which will provide for the Commissioner to be appointed for a fixed term – up to a maximum of eight years. The initial tasks of the Commissioner will be to establish their office, including recruiting staff and identifying suitable office premises. The recruitment of staff will be the responsibility of the Commissioner. The working hours of the Commissioner and the staffing complement are based on comparison with existing Parliamentary Commissioners in Scotland, their staff and functions.

25. It is currently envisaged that the remuneration will reflect those terms and conditions afforded to current office-holders accountable to the Scottish Parliament. It is estimated that a Patient Safety Commissioner would require to be contracted for a maximum of 1.0 FTE against a full-time salary cost of £86,769 which with employer's on-costs totals £126,119.

¹ See rule 3.11 of the Standing Orders, which deals with the nomination of individuals for appointment by His Majesty.

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26. The full staffing complement at the office of the Patient Safety Commissioner is expected to be around four full time equivalent staff members. For estimate purposes, it is expected that the Commissioner will appoint 1 FTE member of administrative staff at a cost of £31,668 plus on-costs; and three FTE members of policy staff at a cost of £40,242 plus on-costs each. The estimated salaries are based on the SPCB pay scale for 2022/23, uplifted by 3% per annum to bring out an estimate for financial year 2025/26. These costs include employer's costs (NI and pension), bringing the total for staff salaries to approximately £216,628.

27. Although the Patient Safety Commissioner and their staff will not be civil servants, it is anticipated by SPCB officials that they will join the civil service pension scheme, in common with other SPCB-supported office-holders. The salaries included within Table B include employer's pension contributions at current rates.

Accommodation

28. Because it is not presently possible to forecast the availability of shared public sector accommodation (and see the note on home and hybrid working in paragraph 18), it is assumed, for cost estimate purposes, that a privately rented shared building is required. Rent, rates and service charge of £117,720 (including VAT) would be payable in central Edinburgh on a per annum basis. This represents the maximum estimate in a range which has a lower end of around £57,900 (including VAT) for similar accommodation out of the city.

29. An estimate of potential dilapidation costs for returning the building to its original state on conclusion of the lease is £61,200 (including VAT) - based on a rate of £30 per square foot of office space in Edinburgh (where an estimated 1,700 square feet are required) plus VAT. A lower rate per square foot may be available for buildings outside central Edinburgh. For example, for a basic office outside Edinburgh in the central belt, a recent rate was £20 per square foot. However, it should be borne in mind that for dilapidations, each building needs to be considered on its own merits, depending on the lease term, standard of maintenance and alterations that the tenant has carried out (including data installations). The rate of £30 per square foot included in the costs is therefore a generous estimate.

IT support and website maintenance

30. As noted at paragraph 20 above, it is envisaged that the office of the Patient Safety Commissioner may wish to use the SCOTS IT system. Following installation, annual SCOTS maintenance charges are levied on a per laptop basis. Annual SCOTS maintenance costs have been estimated by Scottish Government IT specialists at a total of £6,600 (including VAT), based on 2022/23 costs. These figures include dedicated networking costs. IT maintenance charges are generally set at a "per user per quarter" rate which, for a SCOTS system, can vary between £800 to £1,100 plus VAT. The total cost here is therefore based on the higher range.

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31. It is difficult to be exact about website maintenance costs as these will vary, depending on the complexity of the website – for example, according to 2020-21 accounts, the Scottish Public Services Ombudsman spent £15,044 on their website, while the Scottish Commission for Human Rights spent £3,000. We therefore estimate the higher of these two costs, £18,000 including VAT.

32. If the Patient Safety Commissioner wished to use a non-SCOTS system, the assumption would be that its cost would not exceed that of SCOTS.

Mobile devices

33. For five mobile phone devices there will be a £70 monthly cost for a 24 month contract with threat protection. This cost is based on figures provided by the Scottish Government's mobile phone supplier.

Advisory group

34. The Patient Safety Commissioner will be required to establish an advisory group to give necessary specialist advice (such as legal, clinical, ethical, analytical, academic, third sector and equalities) as well as to ensure patients are represented and engaged in the work. The group must be formed of 50% patients and representatives of patients. It will be reasonable to offer members who are not in employment a payment to cover their costs and time spent on activities associated with their roles, to ensure that those who are unwaged are able to participate in the advisory group and have their voices heard to the same extent as others, addressing an issue identified in the health inequalities impact assessment.

35. While it will be for the Commissioner to decide on the size and membership of the advisory group, frequency of meetings and level of remuneration (with agreement from SPCB where appropriate), cost estimates can be based on existing Parliamentary Commissioner advisory groups, with a slight inflation of group members to account for the importance of involving patients in the Commissioner's work. Assuming 20 members – so 10 patient representative members who may be more likely to be unable to work due to their medical condition – meeting quarterly, with a payment for those who are unemployed of £300 per day for group meetings and activity (for instance 2-3 days per quarter in total) plus travel expenses of around £50 per meeting, we could estimate a maximum cost of £26,000-38,000. However it is unlikely that all patient members will be unemployed, and holding meetings virtually, if it is suitable for all attendees, will reduce the need for travel costs to be paid.

Payroll / HR services

36. The office of the Patient Safety Commissioner will require to enter into a contract for payroll services and ongoing HR support. It is estimated that the total ongoing costs will be £4,000 per annum, inclusive of VAT. This is based on a recent estimate from a private payroll provider and a private HR company used by comparable organisations.

Travel and subsistence

37. To perform its function effectively, the Patient Safety Commissioner will be required to travel around Scotland to speak to stakeholders and ensure visibility across the geographical spread of the country. Based on costs suggested by SPCB based on other Parliamentary Commissioners and around five such visits per year, an estimate of £6,840 per annum including VAT has been estimated for travel and expenses for the Commissioner and their staff.

Other administration costs and professional fees

38. Administration costs of £13,750 inclusive of VAT have been estimated – to include staff training, stationery, publicity and hospitality. The estimate is based on advice from SPCB in relation to costs incurred by other parliamentary commissioners. The professional fees include external audit fees, legal fees and professional research, and are estimated at £29,000 inclusive of VAT, based again on advice from SPCB. It may be necessary to review this cost once the extent of the Commissioner's functions has been agreed by the Parliament.

Costs summary

39. Table C sets out the estimated split of costs over the two financial years 2024/25 and 2025/26. In financial year 2024/25, there will be a mix of setup and running costs; in financial year 2025/26, only running costs will be incurred. The split of the costs is based on an assumption around the timing of the Patient Safety Commissioner appointment and the occupation date of the Commissioner's office premises. It is assumed that the Commissioner will be in place in early 2024 and that they will have staff in place and will be occupying premises in the third quarter of 2024/25. If there is a delay to staff appointments or occupying the premises, then the 2024/25 costs would be less.

Table C: Estimated split of total costs for the Patient Safety Commissioner over financial years 2023/24 and 2025/26, inclusive of VAT where appropriate

Cost type	2023/24	2024/25	2025/26
Recruitment costs	3,000	5,000	-
Accommodation: fit-out and legal fees	-	79,200	-
IT, mobile and website set-up	-	59,034	-
Marketing/payroll and HR set-up	-	4,000	-
Commissioner's remuneration	38,556	119,625	126,119
Staff salaries	-	108,314	216,628
Accommodation	-	178,920	184,288
IT maintenance	-	6,600	6,600
Website maintenance	-	18,000	18,000
Mobile devices	-	840	840
Payroll/HR services	-	4,000	4,000
Travel & subsistence	-	6,840	6,840
Advisory group expenses	-	38,000	38,000
Other administrative costs	-	13,750	13,750
Professional fees	-	29,000	29,000
Total costs	41,556	671,123	644,065

Costs on local authorities

40. The Bill is not expected to have any financial implications for local authorities as they do not provide healthcare services.

Costs on other bodies, individuals and businesses

41. The Bill is expected to have minimal or no financial impact on other bodies, individuals or businesses.

42. As well as amplifying the patient voice, the intention behind the establishment of the Patient Safety Commissioner is to reduce the risk of adverse patient safety incidents. In response to the Commissioner's promotion of patient safety healthcare, providers will wish to ensure their practices and procedures follow existing good practice, standards and guidelines which they should in any case already be observing. Any business as usual changes that need to be made should be covered by existing budgets.

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43. Any costs associated with recommendations made by the Patient Safety Commissioner as a result of an investigation are difficult to quantify, as they will depend very much on the scale of the safety concern and the scope of the remedial action required – however the establishment of the Commissioner is intended to reduce the likelihood of such a major problem from occurring, therefore costs are predicted to be minimal.

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