



Commissioner for Ethical Standards  
in Public Life in Scotland



Annual Report  
and Accounts  
2015/16

**CONTENTS** **PAGE**

<b>1. Performance Report</b>	<b>3</b>
<b>Overview</b>	4
Commissioner's statement	4
Our purpose	5
Key issues and risks	5
Performance summary	6
<b>Performance analysis</b>	8
The Strategic Plan	8
Complaints about conduct	9
Public appointments	19
Corporate and financial performance	31
Future performance	35
Corporate responsibility	38
<b>2. Accountability Report</b>	<b>39</b>
<b>Corporate governance</b>	40
Commissioner's report	40
Statement of Accounting Officer's responsibilities	41
Governance statement	42
<b>Remuneration and staff reports</b>	45
Remuneration report	45
Staff report	46
<b>Audit report</b>	49
The audit process	49
Independent auditor's report	50
<b>3. Financial Statements</b>	<b>52</b>
Statement of Comprehensive Net Expenditure	53
Statement of Financial Position	54
Statement of Cash Flows	55
Statement of Changes in Taxpayers' Equity	56
Notes to the Accounts	57
<b>4. Appendices</b>	<b>63</b>
Appendix 1: Accounts Direction	64

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# 1. PERFORMANCE REPORT





## OVERVIEW

### COMMISSIONER'S STATEMENT

This report relates to the last year of the 2012 - 2016 strategic plan and looks forward to the first period of the 2016 - 2020 plan. It also represents a move towards combining the annual report with the annual report and accounts. Although this combined document is less discursive than previous annual reports, any additional information which can be published is available on the website at [www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk).

The volume and complexity of conduct complaints remained high during the reporting year. The new strategic plan has identified as a top priority the need to source a complaints management system (CMS) to replace the database on which the complaints investigation team currently relies. Thanks to additional funding from the Scottish Parliamentary Corporate Body (SPCB), and with technical support from the Government's Digital Transformation Service, we have already been able to develop a business case and draft specification.

In relation to public appointments, I am pleased to report that the partnership approach developed with staff in the Scottish Government's public appointments team is paying dividends. This is evident in practice, through earlier engagement with appointment rounds and significantly, in terms of outcomes, in the diversity of those appointed by ministers in 2015.

In order to improve our resilience in future years, we have recruited three part time Investigating Officers and contracted with five Public Appointments Advisers (PAAs), all of whom have completed their induction training.

Performance is summarised and analysed in the following pages of this report. These demonstrate that our overall expenditure was contained within the total of the budget originally set as supplemented by contingency funding allocated by the SPCB. As anticipated in the strategic plan for the period 2016 – 2020, which was published in March, we will continue to seek ways of improving the efficiency of our complaints investigation procedures and to develop the partnership approach to ministerial public appointments, without compromising our regulatory independence or the quality of our output. These will be ensured by the continuing commitment to excellence of those who work in the office, conduct investigations, or provide advice and support to the appointments process.

## OUR PURPOSE

The Commissioner's primary functions are to investigate complaints about the conduct of local authority councillors, members of public bodies and Members of the Scottish Parliament and to scrutinise the making of appointments by the Scottish Ministers to the boards of regulated public bodies.

The statutory functions of the Commissioner in relation to conduct are:

- to investigate complaints alleging contravention of the relevant Code of Conduct by
  - Councillors
  - Members of Public Bodies
  - Members of the Scottish Parliament (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.

The statutory functions of the Commissioner in relation to public appointments are:

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

The Commissioner's functions and responsibilities are set out in:

- a) [The Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) (the Ethical Standards Act)
- b) [The Scottish Parliamentary Standards Commissioner Act 2002](#) (the Parliamentary Standards Act)
- c) [The Public Appointments and Public Bodies etc. \(Scotland\) Act 2003](#) (the Public Appointments Act),
- d) [The Scottish Parliamentary Commissions and Commissioners etc. Act 2010](#), and
- e) [The Public Services Reform \(Commissioner for Ethical Standards in Public Life in Scotland etc.\) Order 2013](#).

## KEY ISSUES AND RISKS

The Commissioner has identified that these are the key risks for the office in 2016/17:

- a) the database for managing complaints about conduct fails;
- b) key staff members leave the organisation;
- c) insufficient evidence of improvements to the public appointments process and the diversity of board members;
- d) loss of confidence in the ethical standards framework.

Further information about management of these risks and those for 2015/16 is given in the Governance Statement.

## PERFORMANCE SUMMARY

### COMPLAINTS ABOUT CONDUCT

We are required by statute to publish statistics about the number of complaints received, investigated, reported or withdrawn. However, there may be circumstances in which a number of **complaints** relate to the same event or circumstances, when it makes more sense for them to be considered together as a single case. Comparison of the number and complexity of **cases** is, therefore, a better indicator of workload and of performance. We began to report on cases in 2015/16. We do not have this information for all statistics collected in previous years. In some respects, therefore, the 2015/16 figures are a baseline against which more meaningful comparison will be possible in future years.

The number of cases received in 2015/16 represents an increase of 19% over the previous year. This led to a significant increase in the volume of investigation and in administration over the course of the year. The number concluded during the year also increased, albeit by a smaller percentage (12%).

Table 2 gives a breakdown of complaints alleging a breach of the Codes for Councillors and Members of Public Bodies by category. Whilst the number of complaints relating to failure to register or declare an interest appears to be on a downward trend, there has been a significant increase in the number of complaints alleging failure to show respect to councillors, to officials or to members of the public. Amongst these, there is a small but growing number of complaints about comments made on social media.

The Councillors' Code does not deal explicitly with this issue as it was drafted before social media usage became widespread. The new guidance issued by the Standards Commission for Scotland in March 2016 addresses the issue. However, the position would be clearer if the Code itself were to be adjusted to reflect current practice.

The percentage of complaints which are based solely on the key principles of the Councillors' Code remains high, at around 19%. As the key principles cannot in themselves be breached, this means that resources are expended in preparing, submitting, exploring and ultimately rejecting complaints which cannot be fully investigated. This is clearly wasteful. However, for so long as the key principles have pride of place at the start of the Code, it is likely to continue.

There was an increase over the year in the number of complaints about possible breaches of the Code of Conduct for Members of the Scottish Parliament, from 20 to 30. Of these, all but four were outside my jurisdiction and were referred for investigation to the Presiding Officer or to the First Minister, in terms of the Ministerial Code, or in a small number of cases were not pursued by the complainant. Of the four which were investigated by me, one was dismissed, two resulted in a report to the Parliament's Standards Procedures and Public Appointments Committee and one was not concluded by the date of dissolution on 23 March.

## PUBLIC APPOINTMENTS

In relation to public appointments, there was an increase in the number of appointment rounds which were started in the year, but a reduction in the number completed. This is because we are informed about appointment rounds at a much earlier stage, through working in partnership with the public appointments team in the Scottish Government.

The Public Appointments Manager participated in the working group tasked with one of the strands of the Government's Public Boards and Corporate Diversity Programme. This led to improvements in the appointment process, in terms of planning, greater clarity in the way in which ministers' requirements have been understood and expressed in the criteria for appointment, and more varied approaches to assessment, designed effectively to test the requirements.

Some of the refinements, including the development of a lessons learned process, have been reflected in revised guidance on the application of the Code of Practice for Ministerial Public Appointments which I issued in January.

In terms of outcomes, there has been an increase in the percentage of female applicants who have been deemed most able and therefore appointed by Ministers. For the first time, more women have been appointed than men. This is a most welcome step towards improving diversity, albeit that there remain significant sectors of Scottish society which are largely unrepresented on public boards.

One complaint regarding a public appointment was investigated. I concluded that the circumstances did not represent a material breach of the requirements of the Code. Another three complaints were not admissible.

## PERFORMANCE ANALYSIS

### THE STRATEGIC PLAN

The work of the office has been planned and organised in accordance with the Strategic Plan for the four year period 2012 – 2016, which sets out the Commissioner's main objectives. The plan is available at [www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk).

The strategic objectives are:

- 
1. Provide a fair, effective and efficient investigative service of excellence in relation to the ethical standards of conduct of MSPs, councillors and members of public bodies.

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  2. Deliver risk-based, resource-effective scrutiny of the ministerial public appointments process and encourage continuous improvement through proportionate regulation and supportive guidance.

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  3. Create a leading standards body with effective performance and resource management.

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## COMPLAINTS ABOUT CONDUCT

1. Provide a fair, effective and efficient investigative service of excellence in relation to the ethical standards of conduct of MSPs, councillors and members of public bodies.

## COMPLAINTS ABOUT COUNCILLORS AND MEMBERS OF PUBLIC BODIES

### Complaints received in 2015/16

Table 1 shows the number of complaints received by the Commissioner during the year compared with the two previous years.

Table 1

Complaints against	2015/16	2014/15	2013/14
Councillors	202	680	298
Members of devolved public bodies	39 <sup>††</sup>	3	3
Other (outwith jurisdiction)	4	9	10
<b>Total number of complaints received*</b>	<b>245</b>	<b>692<sup>†</sup></b>	<b>311</b>
<b>Total number of cases received**</b>	<b>132</b>	<b>111</b>	<b>146</b>

\* Where a complaint is made against more than one councillor, the number of complaints will reflect the number of councillors complained of; for example, a complaint involving three councillors would be three complaints, as there are potentially three separate outcomes.

\*\* A case relates to a number of complaints which have been investigated together as the subject matter of the complaints is the same or closely related.

† 524 complaints were related to one case.

†† 8 cases.

### Complaints by category

Table 2 outlines the various categories of complaints received during the year, compared with previous years.

Table 2

Description*	2015/16	2014/15	2013/14
Failure to register an interest	4	4	14
Failure to declare an interest	19	26	43
Disrespect of councillors/officials/employees	75	33	23
Financial misconduct	0	3	7
Breach of confidentiality	9	4	8
Misconduct relating to lobbying	19	3	3
Misconduct on individual applications	46	44	97
Misuse of council facilities**	0	525	0
Other complaints†	22	11	67
Breach of the Key Principles	47	30	39
Outwith jurisdiction	4	9	10
<b>TOTALS</b>	<b>245</b>	<b>692</b>	<b>311</b>

\* The primary area of the complaint is noted. However, the complaint may also involve other secondary categories.

\*\* This is a new category, effective from 2014/15. 524 complaints were related to one issue.

† "Other complaints" include a councillor's personal conduct, failure to correspond/unsatisfactory action.

### Origin of complaints

Table 3 shows the origin of complaints received during the year compared with previous years.

Table 3

Complainant	2015/16	2014/15	2013/14
Member of the public	202	663	257
Councillor	36	20	44
Officer of a Local Authority	5	3	5
Anonymous	1	3	0
Member of a Devolved Public Body	0	1	0
MSP	1	2	5
<b>TOTALS</b>	<b>245</b>	<b>692</b>	<b>311</b>

### Complaints related to planning

Table 4 shows complaints related to Planning.

Table 4

Planning complaints received from	2015/16	2014/15	2013/14
Member of the public - with known material interest	50	49	104
Member of the public - with no known material interest	32	27	26
Councillor	3	4	9
Officer of a local authority	0	0	0
MSP	0	0	0
Anonymous	0	1	0
<b>TOTALS</b>	<b>85</b>	<b>81</b>	<b>139</b>

Complaints about Planning may be drawn from a number of complaint categories including failure to register or declare an interest, misconduct relating to lobbying and misconduct on individual applications (as referred to in Table 2).

**Complaints progressed and dealt with in 2015/16**

Table 5 shows complaints progressed and dealt with in 2015/16.

Table 5

Complaints progressed and dealt with	2015/16
Complaints outstanding as at 31 March 2015	76
Complaints received during 2015/16	245
Complaints completed during 2015/16	214
Complaints outstanding as at 31 March 2016	107

**Outcome of complaints completed**

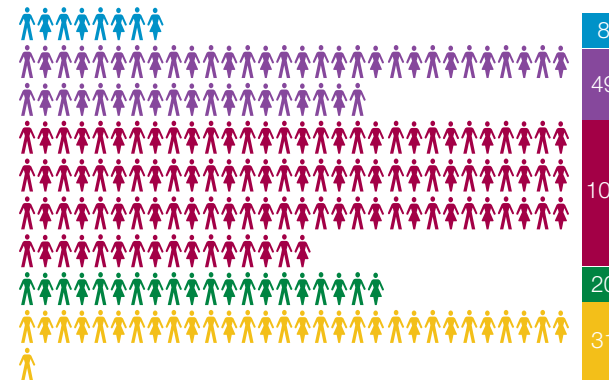
Table 6 shows the findings in relation to complaints completed during the year compared with previous years. Two hundred and fourteen complaints were completed this year - 111 cases.

- A full investigation was carried out in respect of 57 complaints (27%) - 29 cases (26%).
- Eight complaints (3.7%) - 7 cases (6%) resulted in a report being submitted by the Commissioner to the Standards Commission for Scotland with a finding that there had been a breach of the Code.
- Following investigation, 49 complaints (23%) which were investigated as 22 cases (20%), were concluded with a finding of no breach of the Code.
- There were 106 complaints (49.5%) - 70 cases (63.1%) which, after initial investigation, were subject to no further action. In all cases, the initial investigation involved the assessment and consideration of the complaint by gathering information from parties involved in the complaint. These complaints were found not to amount to a possible breach of the Code because of limited substance or merit.
- Twenty complaints (9.4%) - eight cases (7%) were found to be outwith jurisdiction.
- Thirty-one complaints (14.5%) - four cases (3.6%) were withdrawn.

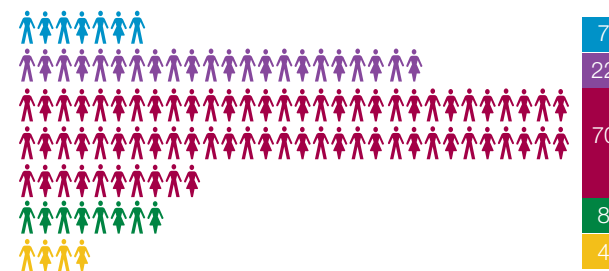
Table 6

Outcome	2015/16		2014/15		2013/14
	Complaints	Cases	Complaints	Cases	
Breach	8	7	540	12	5
No breach	49	22	17	14	67
Not pursued further	106	70	123	67	200
Outwith jurisdiction	20	8	10	5	13
Withdrawn	31	4	2	1	6
<b>TOTAL complaints</b>	<b>214</b>		<b>692</b>		<b>291</b>
<b>TOTAL cases</b>		<b>111</b>		<b>99</b>	<b>146</b>

Complaints completed 2015/16



Cases completed 2015/16



Key

- Breach
- No breach
- Not pursued further
- Outwith jurisdiction
- Withdrawn

### Outcome of cases completed

Table 7 shows the findings in relation to cases completed during the year.

Table 7

	Breach	No breach	Not pursued further			Outwith jurisdiction	Withdrawn	Totals
			Following initial investigation	No enquiries	Anonymous			
Introduction/Key Principles				15		1	2	18
Outwith 12 months				1				1
Personal conduct/not acting as Councillor			1	2		1	1	5
Insufficient/no evidence to support allegation		17	26	4	1			48
Code not engaged/no misconduct		5	13	6		2	1	27
Not about a Councillor or Member						4		4
Breach	7							7
Discontinued			1 <sup>†</sup>					1
<b>Totals</b>	<b>7</b>	<b>22</b>	<b>41</b>	<b>28</b>	<b>1</b>	<b>8</b>	<b>4</b>	<b>111</b>

<sup>†</sup> Respondent deceased

### Case summaries

The Commissioner may publish a web summary of his decision on a complaint when it is considered the decision would be of wider public interest. Case summaries are published in the Public Standards/Decisions section of the website, [www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk).

### Breaches of the Councillors' Code of Conduct

Table 8 shows cases where the Commissioner found contraventions of the Councillors' Code of Conduct and the outcome of hearings by the Standards Commission.

Table 8

Complaint number	Council / Public Body	Nature of Breach	Hearing date	Hearing decision	Sanction imposed
LA/AC/1537/ A & multiple	Aberdeen City Council	Misuse of council facilities	11-13 Feb 2015 15/16 Apr 2015	No breach	n/a
LA/Fi/1501/1516/ 1518/1536	Fife Council	Lobbying, non-declaration of non-financial interests	14 Jul 2015	Breach	2 month suspension from Planning meetings
LA/EL/1654	East Lothian Council	Failure to maintain register of interests	13 Nov 2015	Breach	3 month suspension from all council and committee meetings
LA/AC/1720	Aberdeen City Council	Disclosure of confidential information to a third party	12 Jan 2016	Breach	Censure
LA/C/1640	Clackmannanshire Council	Engaged in Operational Management	16/17 Feb 2015 7 Mar 2015 14/15 Apr 2016*	Breach	6 month suspension from all council and committee meetings
LA/An/1772	Angus Council	Failed to declare a financial interest	15/16 Mar 2016	Breach	2 month suspension from all council and committee meetings

\* The Commissioner's report was submitted in 2015/16 and the final hearing was held in 2016/17.

## COMPLAINTS ABOUT MSPS

### Complaints received

Table 9 shows the number of complaints received by the Commissioner about MSPs during the year compared with previous years.

Table 9

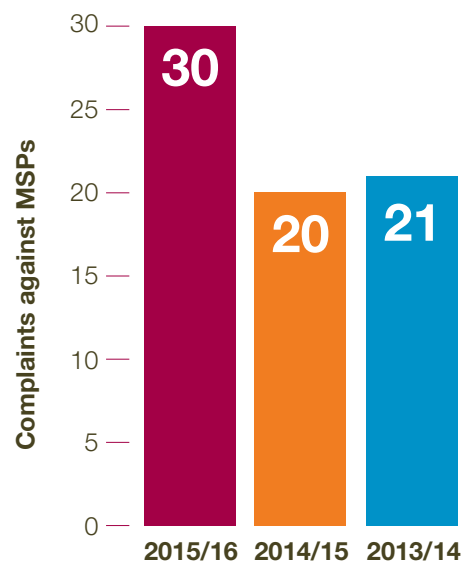


Table 10 outlines the various categories of complaints received during the year compared with previous years.

Table 10

Description	2015/16	2014/15	2013/14
Misrepresentation of MSP's role	0	0	0
Registration/declaration of interests	10	2	0
Lobbying and access to MSPs	1	0	0
General conduct	7	10	10
Confidentiality requirements	3	0	0
Awareness of MSP's staff	0	0	0
Engagement and liaison with constituents	9	6	10
Allowances and expenses/Use of Parliamentary facilities	0	2	1
<b>TOTALS</b>	<b>30</b>	<b>20</b>	<b>21</b>

### Handling MSP complaints

Upon the receipt of a complaint about an MSP, the Commissioner assesses the admissibility of that complaint: this is known as Stage 1. Table 11 gives details of the number of complaints dealt with during the year at Stage 1 and whether they were admissible or not. Certain categories of complaints about MSPs' conduct are excluded from the Commissioner's jurisdiction by paragraph 9.1.6 of volume 2 of the Code. Complaints concerning alleged actions by MSPs in their capacity as Ministers are referred to the First Minister for investigation under the Ministerial Code of Conduct.

Table 11

Admissibility of complaints (Stage 1)	2015/16	2014/15	2013/14
Admissible	3	1	0
Inadmissible	26	19	18
Withdrawn	0	0	3
Still at Stage 1 at 31 March	1	0	0
<b>TOTALS</b>	<b>30</b>	<b>20</b>	<b>21</b>

Table 12 gives the number of complaints decided as admissible (at Stage 1) and which therefore proceeded to further investigation and report to Parliament in Stage 2.

Table 12

Admissible complaints	2015/16	2014/15	2013/14
Completed Stage 2	3	1	0
Still at Stage 2 at 31 March	1	0	0
<b>TOTALS</b>	<b>4</b>	<b>1</b>	<b>0</b>

### Inadmissible complaints

Table 13 gives details of the grounds on which complaints were found to be inadmissible.

Table 13

Inadmissible complaints	2015/16
Not pursued - following initial investigation	7
Not pursued - no enquiries	4
Outwith jurisdiction	
Referred to Presiding Officer	7
Referred to First minister	3
Referred to SPCB	0
Referred to SPPA	0
No referral	5
<b>TOTAL</b>	<b>26</b>



### **Timescale for 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. Decisions on the admissibility of all of the complaints received and dealt with in 2015/16 were reached within the two month period.

### **Timescale for 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 proceeded to Stage 2 and were reported within timescale. One complaint was still in progress at the end of the reporting year and was reported to the Parliament after the election in May 2016.

## **PERFORMANCE TARGETS**

Development objectives are set out in the Commissioner's Business Plan 2015/16 in relation to the handling of complaints. The targets and objectives are set out below.

### **Initial assessment of complaints (Councillors and Members of Public Bodies)**

Table 14 provides details of performance against the target for the initial assessment of the complaint.

Table 14

Target	Actual	Details
100%	85%	Initial assessment within 15 working days

**Time taken to complete investigations  
(Councillors, Members of Public Bodies and MSPs)**

The Commissioner considers it to be of the greatest importance that complaints should be dealt with as quickly as possible, consistent with a full and thorough investigation of the complaints. This will continue to be a high priority.

Rigorous performance targets have been set and achieved as follows: Tables 15a and 15b provide details of the target in relation to the length of time it has taken to complete investigations within 2015/16, the criteria used and the actual performance achieved.

Table 15a  
Time taken to complete investigations - councillors and members of public bodies

Target	Actual	Details
60%	67%	Completion within 3 months or less
75%	87%	Completion within 6 months or less
95%	93%*	Completion within 9 months or less

\* Eight complaints (8 cases) took between 10 and 16 months to complete.

Table 15b  
Time taken to complete investigations - MSPs

Target	Actual	Details
75%	100%	Completion of Stage 1 (admissibility) within 2 months
95%	N/A	Completion of Stage 1 (admissibility) within 3 months
100%	N/A	Completion of Stage 1 (admissibility) within 6 months
75%	100%	Completion of Stage 2 (Breach Report) within 6 months
95%	N/A	Completion of Stage 2 (Breach Report) within 9 months
100%	N/A	Completion of Stage 2 (Breach Report) within 12 months

## PUBLIC APPOINTMENTS

2. Deliver risk-based, resource-effective scrutiny of the ministerial public appointments process and encourage continuous improvement through proportionate regulation and supportive guidance.

The means to achieve this objective are expressed under the following broad headings in the business plan for 2015/16. The Commissioner:

- a) Monitors and reports on his scrutiny of regulated appointments.
- b) Ensures that scrutiny is risk-based, proportionate and resource-effective.
- c) Reviews and adjusts the regulatory framework to ensure it reflects best practice in regulation.
- d) Takes appropriate action when appointment rounds are conducted or appointments are made in a manner that does not comply with the Code.
- e) Issues guidance on Code interpretation and compliance to support continuous improvement.
- f) Monitors, measures and reports on the achievement of Diversity Delivers targets and on stakeholder satisfaction with the public appointments process.

This last heading represents key performance measures. They are agreed with the Scottish Parliament.

Significant actions completed in the reporting year included:

- Publication of a report into a thematic review of operation of the 2013 Code inclusive of recommendations intended to improve the appointments system and make public appointments more accessible to a wider range of people.
- Substantive revision to the guidance on application of the code.
- Co-production, piloting and roll-out of a competency framework for board members.
- The introduction of a more strategic approach to planning for public appointments.
- A successful tendering exercise to appoint five new Public Appointments Advisers (PAAs). As well as securing people with the right attributes to fulfil the role, the exercise redressed underrepresentation by protected characteristics.
- A range of outreach activities, to encourage applications from under-represented groups.

The significant actions not completed in the year were:

- Running the annual applicant survey.
- Conducting a further stage of the thematic review into operation of the 2013 Code.

The first action was not completed as the Commissioner agreed with the Scottish Government to change the methodology for gathering applicant views. In the case of the second, one of the key recommendations from the prior stage of the thematic review was that the Scottish Government should design and implement a lessons learned process. As the lessons learned process was not implemented prior to the year end, a review to assess its efficacy would have been premature.

The Commissioner considers that these actions demonstrate a commitment to meeting the equality duties and to resource-effective, proportionate regulation. Many of the actions will also have assisted the Scottish Government and public bodies to better meet their equality duties in accordance with the Scottish Government's national performance framework.

## A) MONITORING, REPORTING AND PROVIDING GUIDANCE

### **Monitor and report on scrutiny of regulated appointments**

The Commissioner regulated 652 posts on the boards of 92 public bodies at the year end.

A list of these bodies is available at [www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk).

**Table 16**  
Number of bodies and positions regulated

<b>At 31 March</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>
No. of bodies regulated	92	91	87
No. of posts regulated	652	637	584
<b>Avg. no. of regulated positions per board</b>	<b>7.1</b>	<b>7</b>	<b>6.7</b>

Table 17 records appointment activity.

**Table 17**  
Appointment activity

<b>New appointment rounds</b>	<b>2015/16</b>	<b>2014/15</b>	<b>2013/14</b>
Started in year	58	42	51
Carried forward from previous year	13*	18	17
Total active in year	71	60	68
Incomplete at year end	27	13*	16
<b>Total completed in year</b>	<b>44</b>	<b>47</b>	<b>52</b>

\*Adjusted

Scrutiny levels are based on the Commissioner's assessment of proportionality and risk. On high level rounds a PAA is allocated to be a member of the selection panel. On medium level rounds, the involvement of the PAA is limited to overseeing planning for the round. The Commissioner does not provide contemporaneous scrutiny of low level rounds.

Scrutiny levels for all rounds run during the reporting year are set out in table 18.

**Table 18**

<b>Scrutiny of appointment rounds</b>	<b>2015/16</b>	<b>HIGH</b>	<b>HIGH (SG request)</b>	<b>MEDIUM</b>	<b>MEDIUM (SG request)</b>	<b>LOW</b>
Started in year	58	16	8	17	7	10
Carried forward from previous year	13	6	4	3	0	0
Total active in year	71	22	12	20	7	10
Incomplete at year end	27	7	6	4	4	6
<b>Total completed in year</b>	<b>44</b>	<b>15</b>	<b>6</b>	<b>16</b>	<b>3</b>	<b>4</b>

The Commissioner has agreed to requests from the Scottish Government for PAAs to participate as full panel members, on the basis of additional expertise and assurance. The Commissioner's view is that, although there are resource implications for his office in doing so, this approach makes a significant contribution to continuous improvement and adds to public confidence.

Appointment information is provided to the Commissioner by the Scottish Government on the basis of a calendar rather than financial year. A list of all appointments made by the Scottish Ministers in 2015 is available at [www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk).

Ninety seven appointments were made to 39 public bodies during the year following 1,765 applications.

#### **Enquiries and reports arising from scrutiny**

There were 386 substantive enquiries and reports submitted to the office during the reporting year (2014/15: 374).

#### **Requests for advice on the Code of Practice**

There were 110 requests for advice on the Code of Practice (2014/15: 107). The most common requests related to application and assessment methods (19%), followed by public confidence related queries (13%), for example concerning possible conflicts of interest.

#### **Exception requests and options discussions**

The Scottish Ministers can approach the Commissioner and make a case for specific provisions of the Code to be set aside. During the year, there were 30 such enquiries (2014/15: 21). The Commissioner was content for the provisions of the Code to be varied on 17 occasions during the course of the year:

- changes to the panel composition were allowed for five times
- terms were extended or individuals reappointed beyond the eight year maximum in three cases
- additional appointments were requested for four bodies
- changes were made to the application and assessment methods twice
- an emergency appointment was made once
- a vacancy was filled from a reserve list of people considered suitable but not appointed at the conclusion of two recent competitions.

- B) ENSURING THAT SCRUTINY IS RISK-BASED, PROPORTIONATE AND RESOURCE-EFFECTIVE AND
- C) REVIEW AND ADJUST THE REGULATORY FRAMEWORK TO ENSURE IT REFLECTS BEST PRACTICE IN REGULATION.

The Commissioner reviewed his guidance on application of the Code of Practice during the course of the year and proposed revisions to take into account his analysis of the way in which it had been applied since its introduction in 2013. The Scottish Ministers were consulted on the proposals for change.

The revised guidance was issued in January 2016 and included changes agreed with the Scottish Ministers to the factors considered when determining scrutiny levels for appointment rounds. Other adjustments build on partnership working with the Scottish Government and a shared commitment to good and improving practice.

**D) TAKE APPROPRIATE ACTION WHEN APPOINTMENT ROUNDS ARE CONDUCTED OR APPOINTMENTS ARE MADE IN A MANNER THAT DOES NOT COMPLY WITH THE CODE.**

Of the 386 substantive enquiries and reports received during the year, those reporting non-compliance with the Code are summarised in table 19.

**Table 19**  
Reports to the Commissioner

Issues raised	2015/16	2014/15*	2013/14*
Report a complaint about an appointment round	4	4	1
Report a concern about an appointment round or a failure in administration	76	56	76
Report about non-compliance with the Code of Practice	6	4	12

\* Reports in this year related to two different Codes of Practice.

**Complaints about appointment rounds**

Of the four complaints received this year, only one was substantive and admissible. It was investigated to a conclusion with the full cooperation of the Scottish Government and a report on the investigation and findings was provided to the Scottish Government and to the complainant. The investigation did not lead to a finding of material non-compliance with the Code. The Commissioner noted and the Scottish Government agreed that there was scope for improvement in the way in which the applicant had been informed about the outcome of his application and in the way in which the investigation into the complaint had been handled.

**Reports of non-compliance with the Code of Practice**

Table 20 lists the reports of non-compliance with the Code. Advisers, the Commissioner or his staff were required to intervene in these cases to ensure that the non-compliance did not become material. This was achieved through an open dialogue with the officials involved to agree what action should be taken in mitigation.

There were no instances of material non-compliance with the Code.

**Table 20**  
Reports of non-compliance with the Code of Practice

Reports of non-compliance by type	2015/16	2014/15	2013/14
Administrative failure	4	1	4
Planning non-compliant	0	1	0
Assessment and records of assessment	1	0	5
Miscellaneous	1	2	3
<b>TOTALS</b>	<b>6</b>	<b>4</b>	<b>12</b>

## E) ISSUE GUIDANCE ON CODE INTERPRETATION AND COMPLIANCE TO SUPPORT CONTINUOUS IMPROVEMENT.

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 guidance more generally with a view to improving on practices and increasing understanding. General guidance issued in the course of this year encompassed issues such as bias mitigation and assessment methods.

In July 2015 the Commissioner published his report into a thematic review of operation of the 2013 Code of Practice. The report included both overarching and process-specific findings and recommendations for the Scottish Ministers that provided further guidance on how the Code should be adhered to in practice. These were intended to facilitate changes that can be made to the system that will effectively embed learning and foster improvement over time. A number of the recommendations have been incorporated into an action plan by the Scottish Government.

In January 2016 the Commissioner issued updated and revised statutory guidance on application of the 2013 Code of Practice (see under headings a) and b) above). As well as revised arrangements for determining oversight levels, the document drew together a more comprehensive set of guidelines on how the Code was to be interpreted.

During the course of the year the Commissioner's team of staff and PAAs have been working in partnership with Scottish Government officials on a wide range of activities set out in an agreed action plan.

The Commissioner continues to be cautiously optimistic about the commitment of the Scottish Government to making improvements. Notably, it appears that the approaches taken are making a difference to the make-up of Scotland's public body boards.

The outcome of all the measures taken by the Commissioner during the course of the year is included in the next section of this report.

## F) MONITOR, MEASURE AND REPORT ON THE ACHIEVEMENT OF DIVERSITY DELIVERS TARGETS AND ON STAKEHOLDER SATISFACTION WITH THE PUBLIC APPOINTMENTS PROCESS.

Much of the material relating to these measures is provided to the Commissioner by the Scottish Government and relates to calendar years.



### Performance against the timescales targets

Stakeholders have historically raised concerns about the time taken for appointment rounds and reappointments. The Commissioner therefore included indicative timescales in guidance on application of the Code.

#### ✓ All of the indicative targets were surpassed in 2015.

Tables 21 - 23 provide information on the time taken for appointment rounds and for appointment and reappointment decisions to be made.

Table 21

Time taken to appoint – planning to appointment decision

	2015	2014	2013	TARGET
Number of rounds	51	55	45	
Average time taken (weeks)	15.5	18	15	Up to 16 and no more than 20 weeks

Table 22  
Time taken for appointment round stages  
Average time taken for appointment round stages

Stage		2015	2014	2013
From	To	No. of weeks	No. of weeks	No. of weeks
Closing date for applications	Date when all applicants are informed about the final appointment decision	10.1	11	9
Date of interviews	Date when all applicants are informed about the final appointment decision	2.6	6	5
Selection panel report	Ministerial decision	1.7	2	3
Date on which the round is planned	Date on which the minister makes his or her appointment decision (overall time for purposes of target)	14.6	18	15
Date on which the round is planned	Date on which applicants are informed of the appointment decision	15.5	18.5	15

Table 23  
Time taken for reappointments

	2015	2014	2013	Target from October 2013 (Min. no. of weeks)
Amount of notice given to re-appointees before term of appointment due to end (weeks)	20	16	21	13
Number of people reappointed	69	91	36	

**Performance against the applications target**

More diverse boards rely on an increase in the diversity of the applicant pool and this in turn requires more people who are new to the appointments process to apply. The Commissioner agreed with the Scottish Government in 2012 that it would start to capture this data. Scottish Government figures on first time versus repeat applicants have been included in the annual report since that time. In 2015 the Scottish Government reviewed the quality of its applicant data and established that, in respect of this particular measure, it was not reliable. As a consequence, it is not being reported on this year. The Commissioner is now in discussion with the Scottish Government with a view to reintroducing a reliable measure of this KPI as soon as practicable.

**Ministerial interviews with applicants**

Although there is no specific target for ministerial interviews with the applicants considered suitable for appointment, it is one measure of the extent to which ministers are engaged with the appointments process. During 2015, Ministers met potential appointees on four occasions (2014: 21 occasions).

**Applicant views on the process**

The Commissioner agreed with the Scottish Government not to run an applicant survey during the course of this reporting year. The Commissioner’s office has instead worked with officials to redesign the survey content and the methodology for gaining applicant views. From April 2016 onwards, the Commissioner’s office will survey applicants on a round-by-round basis immediately following the conclusion of each competition. Electronic surveys will be supplemented by focus groups.

The revised approach is intended to increase response rates and generate more relevant quantitative and qualitative feedback.

**Satisfaction with the appointments process and the contribution of the adviser - body and panel chair views**

Public body and panel chairs have been asked to provide their views on PAA contribution and on the appointments process using a simple 1 to 5 scale. The results are as set out in table 24.

Table 24  
Average satisfaction scores – three year comparison

Average satisfaction level	2015/16	2014/15	2013/14
PAA’s contribution*	4.64	4.70	4.60
Appointments process*	4.05	4.07	3.70

\*5 is very satisfied, 1 is very dissatisfied

Panel member satisfaction with PAA advice and involvement has exceeded 4.5, which is mid-way between satisfied and very satisfied. On average, panel members are very slightly more than satisfied with the appointments process, and so there is work to do to increase their satisfaction levels.

**Performance against the diversity targets**

Table 25 shows the extent to which Scotland's board members reflect the population as a whole at the end of 2015 and table 26 shows how it has changed over time.

**Table 25**  
Demographic profile of board membership

Target Group	Profile of board members† at the end of 2015	Scottish Population (2011 Census)
Female	42.0%	51.5%
Disabled	11.8%	19.6%
Black and minority ethnic	3.5%	4.0%
Aged 49 and under	17.6%	54.3%*
Lesbian, gay and bisexual	3.0%	6.0%**

† All board members inclusive of the chair unless otherwise stated. Percentages do not include those who did not make a declaration.  
 \* 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

**Table 26**  
How the demographic profile of boards is changing

Target Group	All board members (inclusive of chairs)				Scottish Population (2011 Census)
	2015/16	2014/15	2013/14	2004/05	
Female	42.0%	38.4%	35.0%	34.5%	51.5%
Disabled	11.8%	15.3%	13.1%	2.4%	19.6%
Black and minority ethnic	3.5%	2.9%	2.2%	2.8%	4.0%

The Commissioner has not set a target for representation by protected characteristics on boards. It is however recognised that this baseline must be tracked in order to assess whether the Diversity Delivers targets for applications from underrepresented groups are making a difference to board demographics.

Reference to tables 25 and 26 shows that female and BME representation are at their highest since recording began. However, neither women nor BME appointees are represented on boards to the same extent as the make-up of the population. There has been an apparent drop in current appointees who declare a disability.

The Scottish Government has advised the Commissioner that, as a result of the increased focus on diversity, the quality of data held on appointees is improving as more accurate data is being captured. This may in part account for the apparent decrease in board members who declare a disability. Nevertheless, redressing underrepresentation of people who share this protected characteristic will clearly have to be an area of greater focus for the Scottish Government in the year ahead.

Table 27 shows the percentage of applications in 2013, 2014 and 2015 by each target group as set out in Diversity Delivers, the Commissioner’s strategy for achieving more diverse boards.

**Table 27**  
Performance against Diversity Delivers targets

Target Group	Target	2015		2014		2013		Scottish Population*
	• %	• %	● %	• %	● %	• %	● %	
Female	40.0	40.8	53.6	37.9	45.6	34.1	34.5	51.5
Disabled	15.0	12.7	10.3	10.4	7.2	12.6	10.9	19.6
Black and minority ethnic	8.0	5.3	5.2	4.9	^	3.8	^	4.0
Aged 49 and under	40.0	27.4	24.7	29.4	24.0	24.6	20.0	54.3**
Lesbian, gay, bisexual or other sexuality	6.0	4.1	5.2	3.9	^	2.6	^	6.0***

**Key:** Applications • Appointed ●  
 ^ Values for less than 5 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  
 \*\* Scottish population aged 18 to 49 as a percentage of whole population 18 and over  
 \*\*\* Estimated based on information from Stonewall Scotland website

A number of applicants choose not to provide demographic data. These applicants are counted towards the overall percentage in table 27 such that, for example, the percentage of male and female applicants added together with those who made no declaration equals 100%.

✓ **The target for applications from women was exceeded for the first time.**

Additionally, due to the success rate of women who do apply, this led to a significant change in the current demographic baseline of boards in relation to gender.

No other target was met during the year although there were improvements in application numbers from all currently underrepresented groups other than from those under the age of 50. This group, as well as people who declare a disability, appeared to fare less well during the appointment process. The Commissioner has conducted a more in-depth analysis in order to recommend areas of focus for his office and the Scottish Government for the year ahead. The recommendations are included in the section of this report which discusses future performance.

✓ **There have been successes in relation to gender and BME representation and the target for applications from women has been exceeded for the first time.**

› **No other targets were met and so attraction of applications from a number of currently underrepresented groups will require revision to outreach activity in the year ahead.**

#### **Independent panel members**

Of the 71 appointments rounds active during the course of the year, the Scottish Government confirmed that 43 of the selection panels included independent members. The Commissioner welcomes the involvement of independent panel members, but has not set a target for this.

### CORPORATE AND FINANCIAL PERFORMANCE

3. Create a leading standards body with effective performance and resource management.

#### PERFORMANCE AGAINST TARGETS

The Strategic Plan is supported by an annual business plan. The Commissioner formally reports on the activities undertaken each year to ensure that the following strategic objective is met.

The Commissioner will effectively manage performance and resources on the basis of continuous improvement and best value to sustain services in an environment of reduced public sector funding.

Table 28

Annual Business Plan Action	Achieved
i Ensure expenditure in the current financial year is managed within the approved budget and appropriate management information provided.	•
ii Establish baseline costs of investigations.	✓
iii Explore funding options for new or improved IT systems.	✓
iv Review the operation of the Advisory Audit Board.	✓
v Publish audited annual accounts.	✓
vi Prepare budget for the following financial year following the framework agreed with the Scottish Parliament.	✓
vii Review the business plan and consider budget pressures.	✓
viii Develop the 2016 – 2020 strategic plan.	✓
ix Draft the business plan for 2016/17.	X
x Business plan for 2015/16 concluded and plans for 2016/17 finalised.	•
xi Review staffing and PAA levels to ensure they are appropriate and recruit/tender where necessary.	✓
Tender for additional PAA services.	✓
Recruit additional Investigating Officers.	✓
xii Ensure staff contracts/PAA Service Level Agreements reflect current legislation, terms and conditions and revised policies.	✓
xiii Develop and deliver induction training for new staff.	✓
xiv Review staff performance and identify training needs.	✓
xv Review PAA performance, identify training needs and renew SLA as appropriate.	✓
xvi Ensure contracts for goods and services provide best value.	✓
xvii Tender for IT services.	X
xviii Tender for legal services.	•
xix Implement a new records management system and prepare a Records Management Plan.	✓
xx Respond positively to the full application of the Freedom of Information regime.	✓
xxi Develop method for improving remote access to IT systems.	✓

Key: Achieved ✓ Partially achieved • Not achieved X

Further detail about management of the budget is given in the Financial Position section.

The Commissioner is required to produce a Strategic Plan for each four-year period. The Commissioner's first Strategic Plan ended in March 2016 and one of the key tasks for 2015/16 was to prepare a new Strategic Plan for 2016 – 2020. This plan was finalised and laid before the Scottish Parliament in March 2016. As the Strategic Plan is essential to preparing the annual business plan, development of the business plan for 2016/17 was postponed until the Strategic Plan was laid.

The tender for IT support services was postponed due to workload in other areas and the need to ensure stability whilst new remote access options were investigated and the telephone system upgraded. Tendering is a priority for 2016/17.

The Commissioner considered tendering for legal services. An important aim of awarding this type of contract is to allow any legal advisor to build up detailed knowledge of the Commissioner's work allowing them to represent the office at hearings held by the Standards Commission for Scotland. It is now the Commissioner's policy that either he or a member of staff represents the office at hearings. Therefore, it is unlikely that external advisors will have the opportunity to develop this knowledge and would have to revisit the Commissioner's requirements on a case by case basis. There seemed to be no cost or operational benefit in awarding a contract. If required, legal advisors will be asked to quote on a case by case basis which also allows for any conflicts of interest to be explored.

## FINANCIAL POSITION

### Background

The Commissioner is an independent office-holder and receives all of his funding directly from the 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 also includes 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 £811,000 to the Commissioner for financial year 2015/16 (2014/15: £785,000).

In October 2015, it was anticipated that additional funding would be required to develop a specification for a replacement case management system. The Scottish Parliament awarded a further £14,000 as contingency funding. In the event, £5,000 was required.

In February 2016, following initial discussions in March 2015, the Scottish Parliament awarded a further £37,000 as contingency funding to cover increased costs for investigating complaints about conduct.

The Commissioner's office earned no income in 2015/16 (2014/15: Nil).

Total funding awarded for the year, including contingency funding, was £862,000 (2014/15: £833,800).



### Expenditure

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

Including adjustments for accruals and prepayments, expenditure is £852,000 (2014/15: £781,000).

Table 29

Expenditure breakdown	2015/16 £'000	2014/15 £'000
<b>Staffing Costs</b>		
Commissioner	101	97
Investigating Officers	194	150
Other Staff	335	315
	<b>630</b>	<b>562</b>
<b>Other Administrative Costs</b>		
Auditors & financial advisers	11	12
Hospitality	2	1
IT	20	12
Legal advisers	5	15
Office costs	14	18
PAA costs	83	56
Printing	4	5
Property	64	56
Research	0	0
Training & recruitment	2	1
Travel & expenses	11	14
	<b>216</b>	<b>190</b>
Relocation costs	0	20
Depreciation	6	9
<b>TOTALS</b>	<b>852</b>	<b>781</b>

The £11,000 for Auditors & financial advisers includes £10,500 for external auditor's remuneration, the balance being for accounting services. The external auditor received no fees in relation to non-audit work.

During the financial year, £4,000 was used to purchase non-current assets (2014/15: £9,000) as detailed in note 2 to the accounts.

### Performance against budget

The SPCB awarded the Commissioner a budget of £862,000 (2014/15: £833,800). In the event, only £853,000 was required (2014/15: £786,000).

The Commissioner's financial position for the year ended 31 March 2016 is as follows:

Table 30

	2015/16			2014/15
	Budget £'000	Expenditure £'000	Variance £'000	Expenditure £'000
Net operating costs	853	852	1	781
Capital additions	0	4	(4)	9
<b>Total expenditure</b>	<b>853</b>	<b>856</b>	<b>(3)</b>	<b>790</b>
Adjustments				
Non-cash items	0	(6)	6	(9)
Working Capital (incl. cash)	0	3	(3)	5
<b>Cash Funding from SPCB</b>	<b>853</b>	<b>853</b>	<b>0</b>	<b>786</b>

### Payment of creditors

The Commissioner is 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 due to be paid within 30 days of receipt of the goods or services. The Commissioner's payment performance for 2015/16 was 98% (2014/15: 99%).

## **FUTURE PERFORMANCE**

The sourcing and implementation of an appropriate case management system will be a priority for 2016/17, in order to form a stable basis for future performance improvements in relation to the investigation of complaints about breaches of codes of conduct.

The Commissioner has taken steps to release one of the job share investigation managers to lead on this project. The availability of additional support within the office will be dependent in part on the volume of complaints received, as equal priority must be given to maintaining the quality of investigation and reporting.

Work has begun on a review of investigation procedures, with the introduction of new arrangements for initial investigation of complaints. Investigating Officers will generally only become involved once the complaint has been clarified and any initial questions about jurisdiction have been addressed.

This will be reflected in service standards, which are due to be published once the capacity of the complaints management system is known and the investigation procedures have been reviewed. It is hoped that the CMS will allow for an online survey of user experience to be introduced in 2017/18.

In addition, the Commissioner will tender for ICT support during 2016/17.

More detail about the Commissioner's plans can be found in the Strategic Plan 2016 – 2020 and the Annual Business Plan 2016/17. Both documents are available on the website and include references to preparations for the extension of the Commissioner's remit following the passage of the Interests of Members of the Scottish Parliament Act and the Lobbying (Scotland) Act.

## PUBLIC APPOINTMENTS

The Commissioner's strategy for appointments is "public boards which are effective, and reflective of society".

For the 2016/17 reporting year, the key actions in relation to public appointments activity are set out below.

Continuing to work with officials in the Scottish Government to develop, co-ordinate and implement actions to improve on board diversity. In the reporting year and assuming continued cooperation towards a shared aim this will involve:

- the design of a new driver diagram with a revised aim to include broader board diversity and improved board performance
- working with the same officials to draft a revised action plan intended to meet the aim set out in the new driver diagram, to improve succession planning for public bodies and the collection of management information linked to lessons learned
- working in partnership with officials to implement agreed actions in the plan that are appropriate for the Commissioner's staff and/or PAAs to fulfil.

It is proposed that stage 3 of the thematic review conducted in the reporting year will be commenced in 2016/17, reviewing the effectiveness of the revised Code of Practice introduced in October 2013, specifically with reference to the effectiveness of the recently introduced lessons learned process, the framework for good practice, and an assessment of the extent of the impact of culture change on prospective applicants for positions on public boards.

The Commissioner will also make specific recommendations for the Scottish Government to consider based on the findings referred to earlier in this report. These are to:

- take steps to increase applicant numbers from women for chair positions.
- take steps to increase applicant numbers from disabled people. Analyse why disabled people are not being interviewed at the same levels as non-disabled people for, in particular, chair positions. Address any barriers identified.
- assess why BME applicants for chair positions are not progressing in the appointment process. Address any barriers identified. Take steps to increase the number of applications from members of the BME community.
- take steps to increase applicant numbers from people under the age of 50. Assess why such applicants for chair positions fare more poorly in the appointment process than those aged over 50 at the shortlisting stage and at interview. Address any barriers identified.
- take steps to increase applicant numbers from people who declare that their sexual orientation is non-heterosexual. Assess why such applicants for chair positions fare more poorly than those who declare that they are heterosexual at the shortlisting stage and at interview. Address any barriers identified.
- encourage all DG areas, other than Strategy and External Affairs, to take steps to increase applications from women. Encourage all DG areas to assess what steps Strategy and External Affairs took to increase applications from women.
- seek to establish in partnership with the Commissioner's office why there has been a drop in the number of appointees who declare as disabled. Take practical steps to reverse this downward trend.
- continue with the successful work already being undertaken to redress the underrepresentation of women on boards.

The Commissioner and his team will continue to work in partnership with the Scottish Government public appointments team to implement the agreed approach to forward planning. Additionally, the Commissioner's team will seek to complete the following actions:

- make improvements to the current database used to track appointment activity to better track and capture stakeholder satisfaction
- work with officials on enhancing and/or introducing effective succession-planning for boards
- work with officials to revise the way in which panel and applicant views are garnered and used in order to ensure that they are increasingly satisfied with the appointment process
- work with officials to scope out a project with the intent of assessing in due course the impact that more diverse appointments are having on board performance
- initiate stage 3 of the thematic review of the 2013 Code's operation to include a review of progress against the recommendations made in the report published in July 2015.

The Commissioner also commits to maintaining performance against the same range of business as usual activities described earlier in this report including the reintroduction and roll out of the revised applicant survey.

The revised strategic and business plans for public appointments are intended to continue to demonstrate the Commissioner's commitment to meeting his duties under the Equality Act and to resource-effective, sustainable and proportionate regulation. Many of the actions will also assist the Scottish Government and public bodies to better meet the equality duties and better work in accordance with the Scottish Government's national performance framework.

The factors that may affect the Commissioner's performance are common to many regulators. The body subject to regulation, in this case the Scottish Ministers, must be committed to compliance and be able to allocate the resources required to achieve it. It is also important that the regulated body and regulator recognise each other's role and, ideally, share an agreed aim.

## CORPORATE RESPONSIBILITY

### ENVIRONMENTAL MATTERS

The Commissioner recognises that his activities may have both positive and negative impacts in Scotland and further afield. Through his policies and procedures, the Commissioner encourages the use of public transport wherever practicable. The records management system reduces reliance on paper copies and subject to levels of activity reduces consumption. The introduction of a complaints management system should make it possible to achieve further reductions in paper usage.

### SOCIAL, COMMUNITY AND HUMAN RIGHTS ISSUES

The Code of Practice for Ministerial Appointments to Public Bodies adopted in October 2013 includes a principle of "Diversity and Equality", which along with other code revisions is intended to make the appointment process more attractive and accessible to groups who are under-represented on the boards of public bodies. All of the Commissioner's activities are intended to ensure the application of high levels of ethical standards to the conduct of elected members and those appointed to public office by Ministers and to ensure fairness, transparency and equality of opportunity in the appointment process.

### EQUAL OPPORTUNITIES

The Commissioner supports the principle of equal opportunities in employment and operating practices. This means he is committed to pursuing positive action in the organisation's policies and practices to ensure that no individual is discriminated against, either directly or indirectly, unlawfully or unjustifiably because of their personal status in relation to race, ethnic or national origin, religion, age, gender, sexual or marital status or disability.

### AUTHORISATION

A handwritten signature in blue ink, appearing to read "Bill Thomson".

Bill Thomson  
Commissioner for Ethical Standards  
in Public Life in Scotland

Date: 4 August 2016

## 2. ACCOUNTABILITY REPORT



## CORPORATE GOVERNANCE

### COMMISSIONER'S REPORT

#### OFFICE-HOLDERS

The Commissioner for Ethical Standards in Public Life in Scotland

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

Bill Thomson was appointed as Commissioner and Accountable Officer for a period of five years, with effect from 1 April 2014.

#### MANAGEMENT TEAM

The Commissioner leads a management team which oversees the operation and development of the office. During 2015/16, this comprised:

Name	Position
Ian Bruce	Public Appointments Manager
Karen Elder	Business Manager
Helen Hayne and Brenda McKinney	Investigations Manager (Job share)
David Sillars	Senior Investigating Officer

#### ADVISORY AUDIT BOARD

In addition, the Commissioner has an Advisory Audit Board (AAB), to provide advice on governance and financial issues. Members of the Commissioner's AAB are drawn from the SPCB's Advisory Audit Board. During 2015/16, the Commissioner was assisted by Jean Couper CBE and Isobel Sharp CBE.

#### REGISTER OF INTERESTS

The Commissioner maintains a register of company directorships and other significant interests held by the Commissioner and staff. This is available on request. During 2015/16 no interests were assessed as significant.

#### PERSONAL DATA RELATED INCIDENTS

There were no lapses of data security during the period.



## STATEMENT OF ACCOUNTABLE OFFICER'S RESPONSIBILITIES

Under section 22 of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 the Scottish Ministers have directed the Commissioner to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction.

The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Commissioner and of his net resource outturn, application of resources, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Commissioner is required to comply with the requirements of the Financial Reporting Manual (FRoM) 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 FRoM, have been followed, and disclose and explain any material departures in the accounts
- prepare the accounts on a "going concern" basis.

The SPCB has appointed the Commissioner, Bill Thomson, as Accountable Officer. The responsibilities of the Accountable Officer, including responsibility for the propriety and regularity of the public finances for which the Commissioner is answerable, for keeping proper records and for safeguarding the Commissioner's assets, are set out in the Memorandum to the Accountable Officer of the Commissioner for Ethical Standards in Public Life in Scotland issued by the SPCB in March 2014.

## GOVERNANCE STATEMENT

As Accountable Officer, the Commissioner is responsible for ensuring that appropriate and adequate internal controls are in place to safeguard the public funds under his control and to support the office in successfully achieving its objectives.

### GOVERNANCE FRAMEWORK AND OPERATION DURING THE YEAR

This report and accounts covers the period 1 April 2015 to 31 March 2016.

Bill Thomson was appointed Commissioner for Ethical Standards in Public Life in Scotland and Accountable Officer from 1 April 2014.

The Commissioner led a management team which oversaw the operation and development of the office. The team consisted of the Commissioner, the Business Manager, the Public Appointments Manager, the Senior Investigating Officer and the two Investigations Managers. The management team met formally every two months to discuss and record key issues affecting the operation of the office. These meetings were minuted, with actions assigned to specific team members.

During 2015/16, the office worked to its Strategic Plan 2012 – 2016 supported by an annual business plan. The annual business plan outlined the objectives for the year. Both documents are published online and progress against the objectives is described in the Performance section of this document.

The annual business plan forms the basis of the performance management system. Each year, staff members 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.

### ENSURING FINANCES ARE MANAGED EFFECTIVELY, EFFICIENTLY AND ECONOMICALLY

The Commissioner operates a set of standing orders. These describe the key operating requirements of the Commissioner's office. This is accompanied by a scheme of delegation which outlines the type and level of authority delegated to specific staff members. These provide clear guidelines for the Commissioner's financial management and are supported by a set of financial instructions.

The Commissioner is funded through the Scottish Parliament and, each year, submits an evidence-based budget bid for scrutiny and approval. The budget is based on the requirements of the strategic and annual business plans as well as projections of anticipated appointment activity and prior year performance. Each budget element is reviewed to ensure the office is achieving best value that is continuously improving, serving stakeholders and meeting objectives whilst achieving value for money. As an example, the Commissioner has acted to reduce the amount of paper used and printing carried out by the office reducing this budget by £4,000.

Performance against budget is analysed and reviewed on a monthly basis. Key issues are raised with the Accountable Officer, as they occur and at management team meetings. This allows any financial concerns to be identified and resolved promptly.

As well as the SPCB, external oversight is also provided by Audit Scotland, who audit the annual accounts. In addition, the Commissioner meets with an Advisory Audit Board, to provide advice on governance and financial issues.

#### ENSURING STAFF ARE MANAGED EFFECTIVELY

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. The Commissioner also maintains a register of interests and gifts and hospitality. The office regularly reviews policies and procedures and standard practice is to consult and inform staff about any revisions. This ensures that staff members are regularly updated and fully aware of the rights and responsibilities they have.

#### RISK MANAGEMENT ARRANGEMENTS, MAIN RISKS DURING PERIOD AND EMERGING RISKS

The system of internal control is designed to manage rather than eliminate the risks of failure to achieve the Commissioner's policies, aims and objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness.

The office maintains a risk management policy and risk register. This details the risks which may stop or hinder the organisation achieving its objectives and outlines the measures required or undertaken to reduce those risks. The risk register is updated to reflect any risks associated with the objectives laid out in the strategic or annual business plans or other key issues as they arise. Any tasks associated with managing risks are fed back into staff objectives.

The key risks during 2015/16 were:

- a) The current IT system for managing complaints about conduct fails. The Commissioner secured additional funding from the SPCB to develop a specification and business case for a replacement system drawing assistance from the Scottish Government's Digital Transformation Service.
- b) Key staff members leave the organisation – three additional Investigating Officers were recruited and five additional PAAs were appointed.
- c) Insufficient evidence of improvements to the public appointments process and the diversity of board members. The Commissioner and his team worked proactively with Scottish Government officials during the course of the year to ensure that plans were in place to improve not just the process but the whole system of appointments. This involved engaging with the Scottish Ministers and officials at every level about the need to address a lack of board diversity. It also involved agreeing and assisting with the design and implementation of an action plan with tangible steps that would be taken to address the current imbalance. Progress had gained clear momentum by the end of the reporting year.

- d) Loss of confidence in the ethical standards framework. The Commissioner undertook engagement with parliamentary committees, the Standards Commission, professional bodies, and other regulators across the UK and Ireland to explore suggestions for improvement.

The Commissioner has identified that these remain the key risks for the organisation in 2016/17 and put in place mitigating actions:

- a) the database for managing complaints about conduct fails – preparations are well advanced to go to tender for a case management system, subject to approval by the SPCB
- b) key staff members leave the organisation - recruitment of Investigating Officers and PAAs, and casework co-ordinators providing cover for Investigations Manager(s)
- c) insufficient evidence of improvements to the public appointments process and the diversity of board members – continuing to work in partnership with the Scottish Government's public appointments staff
- d) loss of confidence in the ethical standards framework – continuing engagements with the Standards Commission, parliamentary committees and professional bodies; user survey to be introduced.

### EFFECTIVENESS OF GOVERNANCE ARRANGEMENTS

To ensure effectiveness the Commissioner reviews his scheme of internal control every two months. This assessment is informed by:

- the work of the AAB in its consideration of risk and internal control measures
- reports and comments made by the external auditors
- the work of the management team
- review of the Commissioner's objectives as set out in the strategic and annual business plans
- review of the systems and procedures in place to manage staff, finances and risks.

Compliance with generally accepted best practice principles and relevant guidance on corporate governance has been assessed using an internal control checklist. The checklist is based upon that provided within the Scottish Public Finance Manual, and a proportionate approach has been adopted, reflecting the relatively small size and simple structure of the office.

Completion of the internal control checklist confirmed that effective controls and systems are in place.

### AUTHORISATION

A handwritten signature in blue ink, appearing to read 'Bill Thomson'.

Bill Thomson  
Commissioner for Ethical Standards  
in Public Life in Scotland

Date: 4 August 2016

## REMUNERATION AND STAFF REPORTS

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

### REMUNERATION REPORT

The Commissioner for Ethical Standards in Public Life in Scotland is appointed by the SPCB with the agreement of the Scottish Parliament. The Commissioner's remuneration is set by the SPCB.

Bill Thomson was appointed Commissioner with effect from 1 April 2014 for a period of five years.

During the period 1 April 2015 to 31 March 2016 the Commissioner was employed on a full-time basis and drew a single salary. The Commissioner's salary and pension entitlements are set out in the table below.

### SINGLE TOTAL FIGURE OF REMUNERATION

Table 31  
Commissioner – Bill Thomson

	Salary £,000	Bonus payments £,000	Benefits in kind To nearest £100	Pension benefits £,000	TOTAL £,000
2015/16	70-75	Nil	Nil	16*	90-95
2014/15	70-75	Nil	Nil	16*	85-90

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

The 'Salary' category covers both pensionable and non-pensionable amounts. It includes gross salary and, if awarded, overtime, recruitment and retention allowances, taxable allowances and any ex-gratia payments. It does not include employer National Insurance or pension contributions.

The monetary value of benefits in kind covers any benefits provided to the Commissioner and treated by Her Majesty's Revenue and Customs as taxable.

### PENSION ARRANGEMENTS

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

The Commissioner has opted not to join the Civil Service Pension Schemes and arrangements have been made for the equivalent pension contributions to be paid into a defined contribution/money purchase scheme. The employer contribution rate for 2015/16 was 22.1% and contributions of £16,295 were made for 2015/16 (2014/15 £16,073).

### REMUNERATION RATIO

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

The banded remuneration of the highest paid director (the Commissioner) in 2015/16 was £70-75,000 (2014/15: £70-75,000). This was 1.55 times (2014/15: 1.88) the median remuneration of the workforce, which was £46,924 (2014/15: £38,598). The ratio has decreased over the past year following the recruitment of additional Investigating Officers. The full-time equivalent salary for these staff members sits in the band £40,827 - £62,199, driving the ratio down. However, these employees are not full-time but work part-time and variable hours so actual pay is lower.

In 2015/16, no employees (2014/15: Nil) received remuneration in excess of the Commissioner.

Table 32

	2015/16	2014/15
Band of highest earner's total remuneration (£,000)	70-75	70-75
Median total remuneration	46,924	38,598
<b>Ratio</b>	<b>1.55</b>	<b>1.88</b>

### STAFF REPORT

#### EMPLOYEE NUMBERS AND GENDER BREAKDOWN

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

Table 33

	2015/16	2014/15
	FTE	FTE
Commissioner	1.0	1.0
Employees	9.4	8.7
	<b>10.4</b>	<b>9.7</b>

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

Table 34

	2016		2015	
	Female	Male	Female	Male
Commissioner	0	1	0	1
Senior Managers*	0	0	0	0
Employees	10	7	8	7
<b>TOTALS</b>	<b>10</b>	<b>8</b>	<b>8</b>	<b>8</b>

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

### AVERAGE SICKNESS ABSENCE

The average sickness absence per person was as follows:

Table 35

	2015/16 Days	2014/15 Days	2013/14 Days
Commissioner and employees	13.8	1.5	2.9

The average rose sharply this year due to a small number of periods of unusually lengthy sickness absence. Staff members on variable hours contracts provided cover for these absences.

### EMPLOYEE COSTS

Table 36

	2015/16			2014/15
	Total £'000	Commissioner £'000	Employees £'000	Total £'000
Salaries	496	76	420	444
Social security costs	41	9	32	37
Pension costs	93	16	77	81
<b>TOTALS</b>	<b>630</b>	<b>101</b>	<b>529</b>	<b>562</b>

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

### PROVISION OF INFORMATION TO EMPLOYEES

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

### PENSION ARRANGEMENTS

Pension benefits are provided through the Civil Service pension arrangements.

The Civil Service pension arrangements are unfunded multi-employer defined benefit schemes in which the Commissioner's office is unable to identify its share of the underlying assets and liabilities. A full actuarial valuation was carried out as at 31 March 2012. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation (<http://www.civilservicepensionscheme.org.uk/about-us/scheme-valuations/>).

For 2015/16, employers' contributions of £77,250 were payable to the Civil Service pension arrangements (2014/15 £64,691) at one of four rates in the range 20.0 to 24.5 per cent (2014/15: 16.7 to 24.3 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 salary bands and contribution rates were revised for 2015/16 and will remain unchanged until 2016/17. 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 2016 amounted to £9,701 (2014/15: £7,499).

Employees can opt to open a partnership pension account, a stakeholder pension with an employers' contribution. Employers' contributions of nil (2014/15: £3,686) were paid to an appointed stakeholder pension provider. Employers' contributions are age-related and range from 8.0 to 14.75 per cent (2014/15: 3.0 to 12.5 per cent) of pensionable pay. Employers also match employees' contributions up to 3 per cent of pensionable pay. In addition, employers' contributions of nil (0.5 per cent; 2014/15: £190, 0.8 per cent) of pensionable pay, were payable to the Civil Service pension arrangements to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees. Contributions due to the partnership pension providers at the reporting period date were nil. Contributions prepaid at that date were nil.

No persons (2014/15: No persons) retired early on ill-health grounds; the total additional accrued pension liabilities in the year amounted to nil (2014/15: Nil).

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

#### AUTHORISATION

A handwritten signature in blue ink, appearing to read 'Bill Thomson'.

Bill Thomson  
Commissioner for Ethical Standards  
in Public Life in Scotland

Date: 4 August 2016



## AUDIT REPORT

### THE AUDIT PROCESS

#### REQUIREMENT FOR ACCOUNTS

The accounts for the financial year ended 31 March 2016 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).

#### DISCLOSURE OF INFORMATION TO AUDITORS

As Accountable Officer with effect from 1 April 2014, the Commissioner is not aware of any relevant information of which the auditors are unaware. The Commissioner has taken all necessary steps to ensure that he is aware of any relevant information and to establish that the auditors are 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 Audit Scotland as external auditor.

#### AUDITORS FEES

The external auditor's remuneration for the year was £10,500 (2014/15: £11,615). External audit received no fees in relation to non-audit work.

### AUTHORISATION

A handwritten signature in blue ink, appearing to read 'Bill Thomson'.

Bill Thomson  
Commissioner for Ethical Standards  
in Public Life in Scotland

Date: 4 August 2016

## INDEPENDENT AUDITOR'S REPORT

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

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I have audited the financial statements of the Commissioner for Ethical Standards in Public Life in Scotland for the year ended 31 March 2016 under the Scottish Parliamentary Commissions and Commissioners etc. Act 2010. The financial statements comprise the Statement of Comprehensive Net Expenditure, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and the related notes. 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 2015/16 Government Financial Reporting Manual (the 2015/16 FReM).

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 125 of the Code of Audit Practice approved by the Auditor General for Scotland, I do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.

### **Respective responsibilities of Accountable Officer and auditor**

As explained more fully in the Statement of the Accountable Officer's Responsibilities the Accountable Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and is also responsible for ensuring the regularity of expenditure and income. My responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland) as required

by the Code of Audit Practice approved by the Auditor General for Scotland. Those standards require me to comply with the Auditing Practices Board's Ethical Standards for Auditors. I am also responsible for giving an opinion on the regularity of expenditure and income in accordance with the Public Finance and Accountability (Scotland) Act 2000.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the body's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Accountable Officer; and the overall presentation of the financial statements. It also involves obtaining evidence about the regularity of expenditure and income. In addition, I read all the financial and non-financial information in the Annual Report and Accounts to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements, irregularities, or inconsistencies I consider the implications for my report.

## INDEPENDENT AUDITOR'S REPORT

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

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### Opinion on financial statements

In my opinion the 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 2016 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 2015/16 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.

### Opinion on regularity

In my 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.

### Opinion on other prescribed matters

In my opinion:

- the part of the Remuneration and Staff Report to be audited has been properly 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 Performance Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

### Matters on which I am required to report by exception

I am required to report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements and the part of the Remuneration and Staff Report to be audited are not in agreement with the accounting records; or
- I have not received all the information and explanations I require for my audit; or
- the Governance Statement does not comply with guidance from the Scottish Ministers.

I have nothing to report in respect of these matters.

A handwritten signature in blue ink that reads 'Gillian Woolman'.

Gillian Woolman MA FCA CPFA  
Assistant Director  
Audit Scotland  
102 West Port  
Edinburgh  
EH3 9DH

4 August 2016

## 3. FINANCIAL STATEMENTS



STATEMENT OF COMPREHENSIVE NET EXPENDITURE  
FOR THE YEAR ENDED 31 MARCH 2016

	Notes	2016 £'000	2015 £'000
<b>Administrative Costs</b>			
Staff Costs	Table 29	630	562
Other Administration Costs	Table 29	216	190
Relocation Costs		0	20
Depreciation	2	6	9
<b>Net Administration Costs</b>		<b>852</b>	<b>781</b>
<b>Total Comprehensive Expenditure</b>		<b>852</b>	<b>781</b>

All amounts relate to continuing activities. There have been no gains or losses other than those recognised in the Statement of Comprehensive Net Expenditure.

The accompanying notes on pages 57 to 62 form an integral part of these accounts.

STATEMENT OF FINANCIAL POSITION  
AS AT 31 MARCH 2016

	Notes	2016 £'000	2015 £'000
<b>Non Current Assets</b>			
Property, Plant and Equipment	2	8	10
<b>Total Non Current Assets</b>		<b>8</b>	<b>10</b>
<b>Current Assets</b>			
Trade and Other Receivables	3	3	4
Cash and Cash Equivalents	4	97	67
<b>Total Current Assets</b>		<b>100</b>	<b>71</b>
<b>TOTAL ASSETS</b>		<b>108</b>	<b>81</b>
<b>Current Liabilities</b>			
Trade and Other Payables	5	(83)	(57)
<b>Total Current Liabilities</b>		<b>(83)</b>	<b>(57)</b>
<b>Non-current assets plus net current assets/liabilities</b>		<b>25</b>	<b>24</b>
<b>ASSETS LESS LIABILITIES</b>		<b>25</b>	<b>24</b>
<b>Taxpayers' Equity</b>			
General Fund		25	24
<b>Total Taxpayers' Equity</b>		<b>25</b>	<b>24</b>

The accompanying notes on pages 57 to 62 form an integral part of these accounts.

AUTHORISATION



Bill Thomson Date: 4 August 2016  
Commissioner for Ethical Standards in Public Life in Scotland

STATEMENT OF CASH FLOWS  
FOR YEAR ENDED 31 MARCH 2016

	<b>2016</b>	<b>2015</b>
	£'000	£'000
<b>Cash flows from operating activities</b>		
Net operating costs	(852)	(781)
Adjustment for non-cash items:		
Depreciation	6	9
Decrease/(Increase) in trade and other receivables	1	(2)
Increase/(Decrease) in trade and other payables	26	(4)
Net cash outflow from operating activities	(819)	(778)
<b>Cash flows from investing activities</b>		
Purchase of property, plant and equipment	(4)	(8)
	(4)	(8)
<b>Cash flows from financing activities</b>		
From the Scottish Parliamentary Corporate Body	853	786*
Net increase/(decrease) in cash and cash equivalents in the period	30	0
Cash and cash equivalents at the beginning of period	67	67
Cash and cash equivalents at end of period	97	67
<b>Net cash requirement</b>		
Cash flows from financing activities	853	786*
(Increase) in cash	(30)	0
<b>Net cash requirement</b>	823	786

\* This figure is rounded up from £785,407

STATEMENT OF CHANGES IN TAXPAYERS' EQUITY  
FOR YEAR ENDED 31 MARCH 2016

	<b>General Fund 2016 £'000</b>	<b>General Fund 2015 £'000</b>
<b>Balance at 1 April</b>	<b>24</b>	<b>19</b>
Net Operating Costs for the Year	(852)	(781)
Funding from the SPCB	853	786*
<b>Balance at 31 March</b>	<b>25</b>	<b>24</b>

\* This figure is rounded up from £785,407



## NOTES TO THE ACCOUNTS

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### 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 the Scottish Ministers. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRSs) 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.

#### 1.2 Property, Plant and Equipment

##### 1.2.1 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.

##### 1.2.2 Valuation

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

##### 1.2.3 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.

##### 1.2.4 Estimated useful life of assets

The estimated useful life of assets are as follows:

Furniture and equipment	5 years
Fixtures & Fittings	5 years
IT Equipment	3 years

## NOTES TO THE ACCOUNTS

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### 1.3 Intangible Non Current Assets

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

### 1.4 Funding

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

### 1.5 Leases

The Commissioner holds no material 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 9.

### 1.6 Value Added Tax

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

### 1.7 Financial Instruments

Financial assets are carried in the Statement of Financial Position at amortised cost. Their fair value can be assessed by calculating the present value of the cash flows that will take place over the remaining period of the instrument, using the following assumptions:

- no early repayment or impairment is recognised
- where an instrument will mature in the next 12 months, the carrying amount is assumed to approximate to fair value
- the fair value of trade and other receivables is taken to be the invoiced or billed amount.

#### 1.7.1 Credit risk

Credit risk arises from the short-term lending of surplus funds to banks, building societies and other third parties.

The Commissioner reviews the credit risk associated with financial institutions on a regular basis and more frequently if market conditions are volatile or other information is made available on the financial security of UK banks and building societies.

The Commissioner receives funding on a monthly basis and restricts cash holdings to a minimum.

## NOTES TO THE ACCOUNTS

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### 1.7.2 Liquidity risk

The Commissioner does not have any external borrowings.

### 1.7.3 Market risk

Changes in market interest rates influence the interest payable on borrowings and on interest receivable on surplus funds invested. The Commissioner does not rely on interest receivable as its key source of income.

## 2 PROPERTY, PLANT AND EQUIPMENT

### 2.1 Tangible Non Current Assets

	<b>Fixtures, Fittings &amp; Equipment</b>	<b>IT Equipment</b>	<b>Total</b>
	£'000	£'000	£'000
<b>Cost</b>			
At 1 April 2015	4	36	40
Additions	0	4	4
Disposals	(1)	(1)	(2)
At 31 March 2016	3	39	42
<b>Depreciation</b>			
At 1 April 2015	3	27	30
Charge for Year	1	5	6
Disposals	(1)	(1)	(2)
At 31 March 2016	3	31	34
<b>Net Book Value at 31 March 2016</b>	<b>0</b>	<b>8</b>	<b>8</b>
<b>Net Book Value at 31 March 2015</b>	<b>1</b>	<b>9</b>	<b>10</b>

The Commissioner purchased £4,392 of additional assets in 2015/16 (2014/15: £8,270). The additions comprised three items of IT equipment.

## NOTES TO THE ACCOUNTS

### 2.2 Intangible Non Current Assets

	<b>Software</b>	<b>Total</b>
	£'000	£'000
<b>Cost</b>		
At 1 April 2015	4	4
Additions	0	0
Disposals	0	0
At 31 March 2016	4	4
<b>Depreciation</b>		
At 1 April 2015	4	4
Charge for Year	0	0
Disposals	0	0
At 31 March 2016	4	4
<b>Net Book Value at 31 March 2016</b>	<b>0</b>	<b>0</b>
<b>Net Book Value at 31 March 2015</b>	<b>0</b>	<b>0</b>

The Commissioner purchased no additional intangible assets in 2015/16 (2014/15: Nil).

## NOTES TO THE ACCOUNTS

<b>3</b>	<b>RECEIVABLES</b>	<b>2016</b>	<b>2015</b>
		£'000	£'000
	Trade receivables	0	0
	Prepayments	3	4
		<b>3</b>	<b>4</b>
<b>4</b>	<b>CASH AND CASH EQUIVALENTS</b>	<b>2016</b>	<b>2015</b>
		£'000	£'000
	Balance at 1 April	67	67
	Net Change in cash and cash equivalent balances	30	0
	Balance at 31 March	<b>97</b>	<b>67</b>
	Cash Held at Commercial Banks	97	67
<b>5</b>	<b>PAYABLES</b>	<b>2016</b>	<b>2015</b>
		£'000	£'000
	Trade Payables	(24)	(17)
	PAYE and National Insurance	(12)	(7)
	Pension Contributions	(10)	(8)
	Accruals	(37)	(25)
		<b>(83)</b>	<b>(57)</b>
<b>6</b>	<b>LEASING COMMITMENTS</b>		
	At 31 March 2016 the Commissioner had annual commitments under non-cancellable operating leases as set out below.		
		<b>As at 31 March 2016</b>	<b>Land &amp; Buildings As at 31 March 2015</b>
		£'000	£'000
	Operating leases which expire:		
	Within one year	68	67
	Two to five years	280	N/A
		<b>348</b>	<b>67</b>

## NOTES TO THE ACCOUNTS

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The Commissioner leases office accommodation from the Scottish Legal Aid Board. The current lease runs for five years from 1 April 2016 to 31 March 2021. Either party may give one year's written notice. Accommodation fees are recharged at cost as agreed each year. The Commissioner's lease for the period 1 April 2016 to 31 March 2017 is £67,700. Costs for years two to five are estimated. The actual cost of the Commissioner's accommodation lease in 2015/16 was £64,300.

### 7 CAPITAL COMMITMENTS

There were no contracted capital commitments as at 31 March 2016 (2015: Nil).

### 8 CONTINGENT LIABILITIES

The Commissioner had no contingent liabilities as at 31 March 2016 (2015: £5,000).

### 9 RELATED PARTY TRANSACTIONS

The Commissioner was constituted by legislation enacted by the Scottish Parliament which provides funding via the SPCB. The SPCB is regarded as a related body. The SPCB provided funding of £853,000 during the year.

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

### 10 POST BALANCE SHEET EVENTS

No event has occurred since the date of the balance sheet which materially affects the financial statements.

## 4. APPENDICES



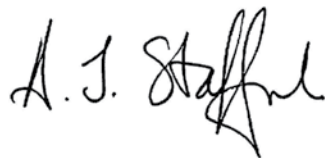
## APPENDIX 1: ACCOUNTS DIRECTION



### 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





## CONTACT DETAILS

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