

Ethical Standards Commissioner

OUR BIENNIAL BUSINESS PLAN 2021-2023

Ethical, empathetic, effective

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

ESC

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Our Purpose

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

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

Our Values

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

We will treat each individual and organisation that comes into contact with us with empathy, kindness and respect, recognising that their trust in us must be earned and we will ensure that our commitment to equality, diversity and inclusion informs all of our work

When we get things wrong we will admit our failings and demonstrate the lessons we have learned from them in order to improve on our performance

Our Strategic Objectives

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

We will operate an effective complaints system that delivers successful and trusted outcomes and provides opportunities for learning and will work in partnership with our stakeholders to promote high standards in public life

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

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

ACHIEVING OUR STRATEGIC OBJECTIVES

This biennial business plan outlines the work we will undertake in 2021-23 towards achieving our three over-arching strategic objectives for the period April 2021 to March 2024.

First and foremost, we will ensure that we have the staff and resources in place that are needed to deliver all of our objectives. We value people and recognise that unless we have staff who are valued and supported to maintain their wellbeing, feel happy in and proud of our work and the way in which we do it, we will have failed. Workforce planning and staff recruitment, support and development are therefore prerequisites for the achievement of our other objectives.

These objectives are:

- We will aim to ensure that we have the staff and resources in place that are needed to deliver all of our objectives
- We will operate an effective complaints system that delivers successful and trusted outcomes and provides opportunities for learning and will work in partnership with our stakeholders to promote high standards in public life
- We will, through appropriate regulation, contribute to the establishment and maintenance of effective and diverse boards that are reflective of the communities that they serve
- We will provide assurance to the public and our stakeholders that our objectives are being met in accordance with our purpose and our values and that our governance is effective

The full [Strategic Plan 2021 to 2024](#) is available on our [website](#).

Staff and resources	Milestones	Lead	Timeline	
S1	We will aim to ensure that we have the staff required with the relevant skills, knowledge, experience and values to acquit our functions; we will review our current structure and staffing arrangements and identify those areas that require to be revised in order for us to work most effectively			
i	Fill all vacancies currently being carried as a matter of priority.	See S1 iii below	AESC/SIO	August 2021
ii	Draft business case for SPCB to increase staff complement: Additional IO post Additional CSO post Full time hours for PAO post	Case drafted and agreed	AAO	June 2021
iii	Recruit to IO posts	Two IO vacancies filled, an additional IO appointed	AESC/SIO	August 2021
iv	Cover for PAM role as currently fulfilling role of AESC as well as MSP complaint handling.	PAO temporary promotion to PAM role for one year.	AESC	June 2021
v	Backfill PAO role through recruitment, secondment or agency	PAO appointed for one year.	AESC/APAM	August 2021
vi	Recruit to additional CSO post to provide support for AESC and SMT	CSO appointed	AESC/AAO	August 2021
vii	Induct all new staff into their roles.	Induction successfully completed	AAO/SIO/APAM	September 2021
viii	Complete draft action plans for all activity for next two years based on biennial business plan (see O ii) – map staff/resources/available skillsets to all activities Staff members and teams mapped to individual actions – ensure resilience/double cover as failsafe for staff departures and/or incapacity	Action plans drafted for two years completed (largely drawn from this plan). Actions mapped to available staff, building in resilience and cross-office working.	AESC/SMT	September and October 2021
	Assess operational efficiency of new staff complement against office needs at time and for future	Assessment conducted.	AESC/SMT	March 2022
	Reassess office needs to produce a final workforce plan	Final workforce plan produced	AESC/SMT	October 2022

Staff and resources		Milestones	Lead	Timeline
ix	Performance reviews conducted for all staff and actions for year ahead agreed.	All staff introduced to linkages between strategic business and action plans as well as financial implications of activities. Performance reviews conducted and individual action plans agreed.	AESC/SMT	September 2021 October 2021
S2	We will aim to ensure that all staff are trained and developed to fulfil their roles effectively, including on the revised Codes of Conduct for Councillors and Members of Public Bodies, good practice in complaint handling and equality diversity and inclusion in all of our practices.			
i	Formal training and development plans to be agreed with all staff in order for them to meet their individual objectives (see S1). Highlighted training includes presentation at hearings, management and governance, MSP complaint-handling, health, safety and wellbeing risk assessments, investigating complaints of harassment, Plain English and attention to detail. Incorporates C4 i	Plans agreed	AESC/SMT	September 2021 (current staff) March 2022 (new staff following probationary period)
ii	Training secured from relevant sources	Appropriate training researched, costed and obtained	AESC/SIO/SMT	September 2021
iii	Training rolled out	Staff trained to fulfil role with individual and office-wide records maintained.	AESC/SMT	October 2021
S3	We will regularly survey staff and act on the results of such surveys with a view to ensuring their wellbeing			
i	Surveys designed to cover: Flexible working preferences Views on the organisation Wellbeing levels	Surveys designed SMT agree content Surveys finalised	APAM	June 2021 for flexible working Six months after return to office and annually thereafter
ii	Survey results reviewed at SMT meetings.	Conclusions drawn Practices revised	AESC/SMT	Ongoing

Staff and resources	Milestones	Lead	Timeline	
S4	We will introduce a suite of new and revised policies that have staff wellbeing at their heart. We will ensure that staff are trained to fulfil their role in a way that is respectful of all individuals who contact us, regardless of their backgrounds.			
i	All staff introduced to and consulted on our values as an office to ensure understanding and of and adherence to these in all of our work.	Staff introduced to values Staff asked to provide views in formal and informal settings Staff demonstrate understanding of and adherence to our values	AESC/SMT AESC/SMT AESC/SMT	April 2021 From April 2021 From May 2021
ii	All HR related policies revised or updated to take account of our revised operational context (including pandemic) and to secure staff wellbeing	Suite of draft policies produced alongside reasons for introduction of new policies or amended existing ones.	PAO/AESC SMT	May 2021
iii	Staff consulted on all policies	Policies issued for views	PAO	May 2021
iv	Revised policies in place	Results of consultation fed back to staff Policies introduced Policies published	APAM	June 2021
v	Secure confidential counselling services for staff who wish to use them	Confidential counselling service in place Staff provided with means to access service	AAO/SIO	June 2021

MSP, Councillor and Public Body Complaints	Milestones	Lead	Timeline
C1	We will consult all relevant stakeholders on our current complaint handling procedures and revise them and publish them in the form of an investigations manual to take account of the views received. Parts of the manual will be produced in Easy Read, BSL and other languages to ensure accessibility.		
C2	We will adapt our procedures to take account of stakeholder views and engender trust in the way that we work		
i	Upgrading and updating of procedural documentation (templates, factsheets, flowcharts, checklists etc) for MSP, councillor and board member complaint handling	Interim changes to admissibility forms to be agreed with Standards Commission as a starting point (urgent). Template letters revised to align with organisation's values (urgent). All documentation updated, adopted and published, in the form of a draft investigations manual for consultation.	SIO/AESC May 2021 May 2021 and ongoing December 2021
ii	Adopt new procedures for interim period	Procedures adopted and staff trained on use.	SIO/IOs From May 2021
iii	Map key stakeholders	Full list of stakeholders established	AESC May 2021
iv	Make initial informal contact	Initial discussions conducted by way of remote meetings	AESC May/June 2021
v	Contact formally by way of introduction to AESC and plans for office	Email to all stakeholders with copy of strategic plan and broad proposals for investigations manual	AESC June 2021
vi	Issue manual to key stakeholders for comment.	Draft manual published on website Stakeholder views invited Responses incorporated	SIO December 2021 February 2022

MSP, Councillor and Public Body Complaints		Milestones	Lead	Timeline
vii	Develop an action plan documenting an appropriate suite of arrangements in anticipation of amending legislation (sexual misconduct plus removal of the time bar) coming into force	Initial liaison with relevant parties; development of outline proposal; SPCB interaction as necessary	AESC/SIO	October 2021
vii	Stakeholder views lead to adaptation and adoption of final revised strategic plan.	Views on broad proposals incorporated into revised strategic plan. Reasons for adoption or rejection of suggested changes recorded.	AESC	October 2021
C3	We will publish our procedures as revised so that everyone knows what to expect			
i	Publish revised investigations manual.		SIO	March 2022
ii	Have parts of manual that are of interest and relevance to the public translated into BSL, Easy Read and other languages		HCS/CST	December 2022
C4	We will aim to ensure that all staff are trained and developed to fulfil their roles effectively, including on the revised Codes of Conduct for Councillors and Members of Public Bodies, good practice in complaint handling and equality diversity and inclusion in all of our practices.			
i	See S2 i	See S2 i	See S2 i	See S2 i

Public Appointments	Milestones	Lead	Timeline	
A1	We will publish for consultation a draft revised Code of Practice for appointments with a greater focus on outcomes, accountability and transparency and an emphasis on learning lessons			
i	Publish analysis of consultation responses on prospective Code of Practice revisions alongside a draft of the revised Code for consultation.	Lay draft and consult Scottish Ministers, Scottish Parliament and key stakeholders on proposals from July 2021 to September 2021. Analyse responses by November 2021.	AESC/APAM	July 2021 then ongoing
A2	We will take account of all stakeholder views in order to finalise the Code			
i	Publish results of analysis	Results published and provided to all stakeholders	APAM AESC	December 2021
ii	Introduce revised Code	Publish	AESC	January 2022
iii	Have parts of Code that are of interest and relevance to the public translated into BSL, Easy Read and other languages		HCS/CST	December 2022
A3	We will provide guidance, training and support to everyone engaged in the appointments process with a view to their implementing the new Code's provisions effectively			
i	Draft statutory guidance	Publish	AESC/APAM	February 2022
ii	Run training for PAAs, PAT and panels on new Code's application		AESC/APAM	From February 2022
iii	New Code comes into effect		AESC	April 2022
iv	Continue to feed into lessons learned for the Scottish Government by running applicant surveys on a round by round basis and providing reports of feedback, whenever a request to run a survey is made.	Reports produced after appointment rounds.	APAM	Ongoing
A4	We will seek support to revise and republish Diversity Delivers, to include new recommendations for the achievement of greater board diversity			
i	Consult informally		AESC	September 2021
ii	Issue formal request		AESC	October 2021

	Governance and accountability	Milestones	Lead	Timeline
G1	We will put new and more effective governance measures in place, inclusive of independent elements, to ensure for ourselves and to assure others, by way of public reporting, that we are achieving our objectives in line with our purpose and our values and in line with the resources made available to us			
i	Full review of governance arrangements	Appointment of internal auditor Review of Advisory Audit Board remit and membership Review of whistle-blowing policy	AESC/SMT	November 2021 onwards November 2021 onwards November 2021
ii	Assess external arrangements following publication of wider scope review report and recommendations	Engage with SPCB and parliamentary committees Adopt reciprocal measures	AESC/AAO	November 2021 then ongoing
iii	Re-establish SMT meetings	Re-establish meetings and standard agenda items Agree agendas for year ahead to cover off additional items in policies etc. Publish minutes Consider meeting publicly on a quarterly basis	AESC/SMT	April 2021 October 2021 From April 2021 December 2021
iv	Revert to prior arrangements for risk assessment – updated to reflect the fact that substantive risks to ESC’s operation were not identified and addressed	Adopt risk management policy Populate risk register Include risk as item for SMT quarterly meetings Consult AAB and internal auditors on arrangements on an ongoing basis	AESC/AAO	October 2021 and ongoing
v	Commission an external independent review of all decisions made on complaints from August 2020. Report on findings.	Seek approval for contingency funding for review Commission review Report on findings	AESC/SIO	TBC – contingent on SPCB agreement and funding

Governance and accountability		Milestones	Lead	Timeline
vi	Review current schemes of delegation and revise to address contingencies such as availability of ESC/AESC to make decisions	Review scheme of delegation and identify areas where ESC/AESC authority required. Put alternatives in place to deal with contingency of no ESC/AESC availability to make decisions.	AAO/AESC	September 2022
vii	Consider whether standing orders can be revised to ensure collaborative decision making between ESC/SMT and wider organisation and preclude management override of controls.	Revise standing orders to give SMT a clear governance role set out in terms of reference for ESC and SMT members Ensure ESC bound by SMT decisions in legislation and/or by some other contractual means	AESC/SMT	April 2022 onwards and in advance of any recruitment for an ESC
viii	Review and formalise the budget process to ensure formal approval obtained from SMT as a whole on an annual rolling basis including recommending the budget for submission to the SPCB.	Review and revise current budget process. Agree revised process with SMT Schedule consideration of budget against agreed business plan annually.	AAO/AESC/ SMT	September 2021
ix	Prepare a medium-term financial plan to include alternative scenarios of expected income and expenditure in future years, associated assumptions for each scenario and quantifying the funding gaps. Take account of the impact of leaving the EU, the Covid-19 pandemic and other expected changes.	Scan horizon for range of scenarios and their potential impact on ESC operation Quantify potential impact of each on available resources Draft financial plan showing variances by scenario(s) and their potential impact on the office's ability to fulfil its functions.	AAO/AESC	August 2022

Governance and accountability	Milestones	Lead	Timeline
G2	We will adopt quality assurance monitoring of key performance indicators, such as timescales for investigation stages, including surveys of the views of those with whom we come into contact, and report publicly on the results. We will use those results to improve on what we do and ensure that our practices are equitable		
i	Draft performance management framework. Reintroduce previous KPIs and consult on these and other new ones to track progress of investigatory work.	Reintroduce prior KPIs by reference to annual reports Design new KPIs related to stakeholder views on our performance Consult stakeholders on appropriateness and relevance Analyse responses and adapt KPIs as appropriate.	SIO March 2022 March 2022 From April 2022 May 2022
ii	Include a survey that both complainers and respondents can complete on an anonymous basis to give views on how we investigate complaints	Design and roll out survey Set baseline based on initial results	SIO/CST August 2022
iii	Previous KPIs and new ones adopted and published	Adopt KPIs Put tracking measures in place and assess for efficacy/accuracy Report on progress internally against KPIs quarterly and externally annually	SIO/SMT August 2022
iv	Ensure statistics for previous two years are accurate and comparable with those produced under previous ESC.	Statistics verified internally and produced for inclusion in annual report and accounts for 2021/22	AAO/SIO July 2021
G3	We will report publicly on the difference that the new Code of Practice is making to the appointments process, for good or for bad, with a view to improving on practices. We will do so by publicising instances of good practice or innovative practice and learning as well as areas for improvement.		
i	Engage with the Scottish Parliament's subject committee about appointments practices with a view to making improvements and increasing transparency.	Agree suitable reporting arrangements Submit periodic reports	AESC From June 2022

Governance and accountability		Milestones	Lead	Timeline
ii	Publish good practice case studies on website		APAM	From December 2022
G4	We will work in partnership with the Scottish Government, the Scottish Parliament, the Standards Commission for Scotland and other stakeholders to promote good practice and to ensure that lessons are learned from the outcomes of our investigations. Our ongoing engagement with our stakeholders will be regular and meaningful.			
i	Meaningful re-engagement the Scottish Ministers, MSPs, public body board members, local authority councillors, monitoring officers and representative organisations such as COSLA, SOLAR and SOLACE to inform and shape our work and our performance.		AESC/SMT	From April 2021

Other Corporate activity	Milestones	Lead	Timeline
O1	We recognise that public sector resources are limited and understand that we must review, scrutinise and report publicly on our work to ensure best value and continuous improvement.		
i	Draft strategic plan for 2021-24	Draft plan Seek formal/informal feedback from staff and stakeholders Redraft based on feedback Incorporate wider scope review recommendations Publish for formal consultation	AESC/SMT June 2021 June 2021 June 2021 June 2021
ii	Draft biennial business plan for 2021-23	Draft plan Revise plan to take account of responses to strategic plan Schedule annual consideration of biennial plan on an ongoing basis	AESC/AO June 2021 October 2021 December 2021
iii	Annual Report and Accounts design formatting and online presentation project	Finalise online ARA template	HCS April 2021
iv	Decision on office accommodation needs	Finalise extension of MoTO	AESC/SMT April 2021
v	Review contractual arrangements for CMS	Finalise contract extension	AESC/HCS September 2021
vi	Develop plan for exit of Covid-19 lockdown restrictions Implement lockdown exit plan	Plan developed Plan implemented	AESC/SMT AESC/SMT October 2021 November 2021
vii	Risk assessment of EU exit on current and future activities	Update previous risk assessment Feed potential impacts into budget projections	AAO July 2021
viii	Review of records management arrangements in preparation for resubmission of our Records Management Plan to the National Records of Scotland	See RMP Review Project Plan	HCS February 2022
ix	Review and revise all outstanding policies that are currently beyond their published review date.	Review policies Update as appropriate Publish as updated	AAO/PAM September 2022

Other Corporate activity		Milestones	Lead	Timeline
x	Review entire website to ensure up to date	Assess all pages Address broken links Remove or update outdated items Assess material published against publication scheme	AAO	March 2022
xi	Prepare for publication of wider scope review and audit findings.	Respond formally to findings Prepare lines for media and stakeholder enquiries Prepare for prospective committee appearance Implement agreed recommendations	AESC/SMT	October 2021

APPENDIX 1

WHAT WE DO

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

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

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

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

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

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

We must also ensure that, as far as possible, appointments are made fairly and openly and allow everyone, where reasonably practicable, the opportunity to be considered for an appointment.

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

