

# Office of the Scottish Biometrics Commissioner

2021/22 Annual Audit Report



 AUDIT SCOTLAND

Prepared for the Office of the Scottish Biometrics Commissioner and the Auditor General for Scotland

October 2022

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# Key messages

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## 2021/22 annual report and accounts

- 1 The Office of the Scottish Biometrics Commissioner's financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework.
- 2 Expenditure and income were incurred in accordance with applicable enactments and guidance.

## Financial sustainability

- 3 The Office of the Scottish Biometrics Commissioner reported an underspend of £0.023m against budget in 2021/22.
- 4 The Office of the Scottish Biometrics Commissioner continues to develop its financial and monitoring arrangements.
- 5 There is a misalignment between the period of the Strategic Plan and the Annual Report and Accounts which complicates corporate reporting.

## Governance and Transparency

- 6 Disclosures in the Annual Governance Statement are consistent with the financial statements and the statement has been prepared in accordance with the relevant statutory guidance.
- 7 Significant progress has been made by the Office of the Scottish Biometrics Commissioner in developing their governance and transparency arrangements in 2021/22. Further work is planned for the financial year 2022/23.

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# Introduction

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**1.** This report summarises the findings from our 2021/22 audit of the Office of the Scottish Biometrics Commissioner.

**2.** The scope of our audit was set out in our 2021/22 Annual Audit Plan. The plan was agreed with the Commissioner and issued on 26<sup>th</sup> April 2022. Due to timings the plan was not formally presented to the Advisory Audit Board until its meeting on 17<sup>th</sup> August 2022. This report comprises the findings from:

- an audit of the Office of the Scottish Biometrics Commissioner's annual report and accounts.
- our consideration of financial sustainability.

**3.** The global coronavirus pandemic presented significant challenges to the Office of the Scottish Biometrics Commissioner during its establishment and the first year of operation. These challenges are documented in the Office of the Scottish Biometrics Commissioner's Annual Report and Accounts. Risks related to the pandemic were also included in our Annual Audit Plan. We have adapted our planned audit work to address any new emerging risks identified during the audit process.

## Adding value through the audit

**4.** We add value to the Office of the Scottish Biometrics Commissioner through the audit by:

- identifying and providing insight on significant risks, and making clear and relevant recommendations.
- sharing intelligence and good practice through our national reports ([Appendix 2](#)) and good practice guides.
- providing clear conclusions on the appropriateness, effectiveness and impact of corporate governance, performance management arrangements and financial sustainability.

**5.** We aim to help the Office of the Scottish Biometrics Commissioner promote improved standards of governance, better management and decision making and more effective use of resources.

## Responsibilities and reporting

**6.** The Office of the Scottish Biometrics Commissioner has primary responsibility for ensuring the proper financial stewardship of public funds. This includes

preparing an annual report and accounts that are in accordance with the accounts direction from Scottish Ministers.

**7.** The Office of the Scottish Biometrics Commissioner is also responsible for compliance with legislation and putting arrangements in place for governance, propriety and regularity that enable it to successfully deliver its objectives.

**8.** Our responsibilities as independent auditor are established by the Public Finance and Accountability (Scotland) Act 2000 and the [Code of Audit Practice 2016](#) and supplementary guidance and International Standards on Auditing in the UK. Our audit work on the Office of the Scottish Biometrics Commissioner's Best Value arrangements is focussed on the bodies use of resources to secure financial sustainability.

**9.** As public sector auditors we give independent opinions on the annual report and accounts. Additionally, we conclude on the appropriateness and effectiveness of the performance management arrangements, the suitability and effectiveness of corporate governance arrangements, the financial position, and arrangements for securing financial sustainability. Further details of the respective responsibilities of management and the auditor can be found in the [Code of Audit Practice 2016](#) and supplementary guidance.

**10.** The [Code of Audit Practice 2016](#) (the Code) includes provisions relating to the audit of small bodies. Where the application of the full wider audit scope is judged by auditors not to be appropriate to an audited body then the annual audit work can focus on the appropriateness of the disclosures in the governance statement and the financial sustainability of the body and its services. As highlighted in our 2021/22 Annual Audit Plan, due to the low volume and lack of complexity of the financial transactions, we applied the small body provisions of the Code to the 2021/22 audit of the Office of the Scottish Biometrics Commissioner.

**11.** This report raises matters from our audit. The weaknesses or risks identified are only those which have come to our attention during our normal audit work and may not be all that exist. Communicating these does not absolve management from its responsibility to address the issues we raise and to maintain adequate systems of control.

**12.** Our annual audit report contains an agreed action plan at [Appendix 1](#) setting out specific recommendations, responsible officers, and dates for implementation. It also includes outstanding actions from last year and progress against these.

## **Auditor Independence**

**13.** Auditors appointed by the Accounts Commission or Auditor General must comply with the Code of Audit Practice and relevant supporting guidance. When auditing the financial statements auditors must comply with professional standards issued by the Financial Reporting Council and those of the professional accountancy bodies.

**14.** We can confirm that we comply with the Financial Reporting Council's Ethical Standard. We have not undertaken any non-audit related services and therefore the 2021/22 audit fee of £8,082 as set out in our 2021/22 Annual Audit Plan remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.

**15.** This report is addressed to the Office of the Scottish Biometrics Commissioner and the Auditor General for Scotland and will be published on Audit Scotland's [website www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk) in due course.

### **Audit appointment from 2022/23**

**16.** The Auditor General for Scotland is responsible for the appointment of external auditors to central government bodies. External auditors are usually appointed for a five-year term either from Audit Scotland's Audit Services Group or a private firm of accountants.

**17.** The procurement process for the new round of audit appointments was completed in May 2022. From financial year 2022/23, Audit Scotland will continue to be the appointed auditor for the Office of the Scottish Biometrics Commissioner.

**18.** A new [Code of Audit Practice](#) applies to public sector audits for financial years starting on or after 1 April 2022. It replaces the Code issued in May 2016.

**19.** We would like to thank the Commissioner, Advisory Audit Board members and all staff at the Office of the Scottish Biometrics Commissioner for their co-operation and assistance over the past year.

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# Part 1. Audit of 2021/22 annual report and accounts

The principal means of accounting for the stewardship of resources and performance

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## Main judgements

The Office of the Scottish Biometrics Commissioner's financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework.

Expenditure and income were incurred in accordance with applicable enactments and guidance.

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## Our audit opinions on the annual report and accounts are unmodified

**20.** The annual report and accounts for the year ended 31 March 2022 were approved by the Scottish Biometrics Commissioner on 24th October 2022. As reported in the independent auditor's report:

- the financial statements give a true and fair view and were properly prepared in accordance with the financial reporting framework.
- expenditure and income are regular and in accordance with applicable enactments and guidance.
- the audited part of the remuneration and staff report, performance report and governance statement were all consistent with the financial statements and properly prepared in accordance with the relevant legislation and directions made by Scottish Ministers.

## The annual report and accounts were signed off in line with the deadline date

**21.** For 2021/22, the submission deadline for the audited annual report and accounts has been set at 31<sup>st</sup> October 2022.

**22.** The unaudited annual report and accounts were received in line with our agreed audit timetable on 1<sup>st</sup> June 2022. The completeness and accuracy of accounting records, and the extent of information and explanations that we required for our audit, were not affected by the Covid-19 outbreak.

**23.** The working papers provided to support the accounts were of a good standard and the audit team received good support from finance staff. This helped ensure the final accounts audit process ran as smoothly as possible.

### Overall materiality is £4,520

**24.** Our initial assessment of materiality was carried out during the planning phase of the audit. This was reviewed and revised on receipt of the unaudited annual report and accounts as summarised in [Exhibit 1](#). Overall materiality reduced from that outlined in our Annual Audit Plan. This was due to the budget on which our original materiality figures were based including expenditure on areas such as set-up costs and staffing that did not fully materialise. The revised materiality did not result in a change in our audit approach.

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#### Exhibit 1 Materiality values

Materiality level	Planning	Revised
Overall materiality	£10,820	£4,520
Performance materiality	£5,410	£2,260
Reporting threshold	£270	£113

Source: Annual Audit Plan 2021/22

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**25.** In determining performance materiality, we applied our cumulative knowledge and understanding of the Office of the Scottish Biometrics Commissioner and its control environment. We considered the complexity of the financial statements and risk factors due to this being the first year of operation. Performance materiality was set at 50% of planning materiality using our professional judgement.

### Significant findings to report on the annual report and accounts

**26.** International Standard on Auditing (UK) 260 requires us to communicate significant findings from the audit to those charged with governance, including our view about the qualitative aspects of the body's accounting practices. We have reported one issue as set out in [Exhibit 2](#). The finding and the agreed management action is also included in the action plan at [Appendix 1](#).



## Exhibit 2

### Significant findings from the audit of the financial statements

Issue	Resolution
<p><b>1. Performance Report</b></p> <p>The purpose of a performance report is to provide information on a body, its main objectives and strategies, and the principal risks that it faces. They are required to provide a fair, balanced and understandable analysis of a body's performance. They are also essential in helping stakeholders understand the financial statements.</p> <p>This is the first year a performance report has been prepared by the Office of the Scottish Biometrics Commissioner. In addition to the disclosures required by the Financial Reporting Manual (FReM), the Commissioner also must report on issues relevant to the use of biometric data for criminal justice and police purposes in line with section 32 of the Scottish Biometrics Commissioner Act 2020.</p> <p>In future years, the Office of the Scottish Biometrics Commissioner should consider streamlining the report and separating the requirements of the FReM with other reporting obligations.</p> <p>The Commissioner should consider Audit Scotland's <a href="#">Good practice note on improving the quality of central government annual report and accounts</a> when preparing the 2022/23 performance report.</p>	<p>From 2022/23 onwards, the Office of the Scottish Biometrics Commissioner will produce two separate annual reports to the Scottish Parliament to meet the reporting requirements of sections 31 and 32 of the Scottish Biometrics Commissioner Act 2020.</p> <p><b>Recommendation 1</b></p> <p>(refer <a href="#">Appendix 1</a>, action plan)</p>

Source: Audit Scotland

**27.** We have obtained audit assurances over the identified significant risks of material misstatement to the financial statements. [Exhibit 3](#) sets out the significant risks of material misstatement to the financial statements we identified in our 2021/22 Annual Audit Plan. It summarises the further audit procedures we performed during the year to obtain assurances over these risks and the conclusions from the work completed.

**Exhibit 3****Significant risks from the audit of the financial statements**

Audit risk	Assurance procedure	Results and conclusions
<p><b>1. Risk of material misstatement due to fraud caused by the management override of controls</b></p> <p>As stated in International Standard on Auditing (UK) 240, management is in a unique position to perpetrate fraud because of management's ability to override controls that otherwise appear to be operating effectively.</p>	<p>Detailed testing of journals.</p> <p>Testing to supporting documentation for a sample of transactions.</p> <p>Review of accounting estimates.</p> <p>Evaluation of significant transactions that are outside the normal course of business.</p> <p>Substantive testing of transactions after the year end to confirm transactions have been accounted for in the correct financial year.</p> <p>Testing of accounting adjustments at the year-end.</p>	<p>We did not identify any issues as a result of our audit work that would indicate management override of controls affecting the year-end position.</p> <p>We have reviewed the Office of the Scottish Biometrics Commissioner's accounting records and obtained evidence to ensure that transactions outside normal processes were accounted for correctly.</p> <p>We reviewed management estimates and year end re-allocations. We did not identify any areas of bias in key judgements made by management.</p>
<p><b>2. Risk of material misstatement caused by fraud in expenditure</b></p> <p>As set out in Practice Note 10 (revised), issued by the Financial Reporting Council, most public sector bodies are net expenditure bodies and the risk of fraud is more likely to occur in expenditure.</p>	<p>Review budget monitoring reports.</p> <p>Review expenditure cut-off procedures and substantive testing of pre and post year end balances.</p>	<p>We did not identify any issues as a result of our audit work that would indicate fraud in expenditure.</p>

**Other areas of audit focus**

**28.** We identified in our 2021/22 Annual Audit Plan areas where we considered there to be other risks of material misstatement to the financial statements. Based on our assessment of the likelihood and magnitude of the risk, we did not consider these to represent significant risks. The area of specific audit focus we identified was in accounts preparation due to this being the first year that the Office of the Scottish Biometrics Commissioner prepared an annual report and accounts.

**29.** A full set of accounts was presented for audit on time by the Office of the Scottish Biometrics Commissioner. Following review of the draft document, we

advised that the performance report should be streamlined to ensure compliance with the Financial Reporting Manual and to improve the readability for users. Management took this recommendation on board, and the performance report has now been updated. We have, however, raised a recommendation for further improvements in 2022/23 as documented in the action plan at [Appendix 1](#).

### **There were no identified misstatements**

**30.** There are no unadjusted errors to report.

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# Part 2. Financial sustainability

Financial sustainability looks forward to the medium and longer term to consider whether the body is planning effectively to continue to deliver its services

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## Main judgements

The Office of the Scottish Biometrics Commissioner reported an underspend of £0.023m against budget in 2021/22.

The Office of the Scottish Biometrics Commissioner continues to develop its financial and monitoring arrangements.

There is a misalignment between the period of the Strategic Plan and the Annual Report and Accounts which complicates corporate reporting.

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## The Office of the Scottish Biometrics Commissioner operated within its revised budget for 2021/22

**31.** The Office of the Scottish Biometrics Commissioner receives funding on a cash basis from the overall budget of the Scottish Parliamentary Corporate Body (SPCB). Funding from the SPCB is the Office of the Scottish Biometrics Commissioner's only source of income. Paragraph 29 of the Scottish Biometrics Commissioner Act 2020 states that the Commissioner must ensure that the Commissioner's resources will be used economically, efficiently, and effectively.

**32.** The Office of the Scottish Biometrics Commissioner's original budget was £0.619m, with £0.420m relating to the annual budget and the remainder allocated for costs associated with setting up the new organisation. The budget was later revised to £0.301m. This was primarily due to savings against forecast set-up costs and staffing costs that did not fully materialise in year.

**33.** The Office of the Scottish Biometrics Commissioner has reported an outturn of £0.278m against its revised budget for 2021/22, an underspend of £0.023m.

## Financial planning

**34.** We reviewed the financial planning systems and assessed how effective they are in identifying and addressing risks to financial sustainability across the medium and long term. We concluded that good progress has been made to date which includes a fully costed strategic plan. The Office of the Scottish Biometrics Commissioner will continue to develop their medium to longer term financial planning, however this is dependent on potential changes to the remit of the Commissioner.

**35.** The Office of the Scottish Biometrics Commissioner has finalised its first Strategic Plan for the period 2021–2025. This includes a high-level financial plan based on an assumed level of funding to deliver the strategic objectives and priorities. Management has advised that it will continue to develop financial and budget monitoring arrangements in 2022/23.

**36.** As identified in the Findings section of the Office of the Scottish Biometrics Commissioner’s Annual Report and Accounts, there is a misalignment between the period of the Strategic Plan and the Annual Report and Accounts. The Commissioner has advised that this complicates reporting and has recommended that the Scottish Government ‘progress a legal resolution to realign the provisions of Section 28 (period of Strategic Plan) and Section 29 (budget period)’<sup>1</sup>.

**37.** A further finding reported by the Office of the Scottish Biometrics Commissioner relates to the financial impact of any future expansion of the organisation’s role and remit. The Commissioner has recommended that the Scottish Government and Scottish Parliamentary Corporate Body consult him on potential future expansion plans. We will continue to monitor developments in this area.

<sup>1</sup> Scottish Biometrics Commissioner, Annual Report and Accounts 2021/22

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# Part 3. Governance and transparency

Governance and transparency are concerned with the effectiveness of scrutiny and governance arrangements, leadership and decision-making and transparent reporting of financial and performance information.

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## Main judgements

Disclosures in the Annual Governance Statement are consistent with the financial statements and the statement has been prepared in accordance with the relevant statutory guidance.

Significant progress has been made to develop appropriate governance and transparency arrangements, with further work planned during financial year 2022/23.

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### **Disclosures in the Annual Governance Statement are consistent with the financial statements and the statement has been prepared in accordance with the relevant statutory guidance**

**38.** HM Treasury's Financial Reporting Manual (the FReM) states that the Office of the Scottish Biometrics Commissioner must prepare an annual governance statement within the annual report and accounts. Guidance is set out within the Scottish Public Finance Manual (SPFM) for the content of the governance statements and provides assurances around the achievement of the organisation's strategic objectives.

**39.** We are satisfied that the Governance Statement for the year to 31 March 2022 has been prepared in line with applicable acts and the accounts directions and is consistent with other disclosures in the financial statements.

### **The Office of the Scottish Biometrics Commissioner's governance and transparency arrangements are appropriate**

**40.** The Office of the Scottish Biometrics Commissioner is a new body established by the Scottish Biometrics Commissioner Act 2020 (the Act). The Commissioner's general functions are to support and promote the adoption of lawful, effective and ethical practices in relation to the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes in Scotland by Police Scotland; the Scottish Police Authority; and the Police Investigations and Review Commissioner.

- 41.** The Commissioner is separate from the Scottish Government and carries out its functions independently of both Scottish Ministers and the Scottish Parliament.
- 42.** As set out in the Act, the Office of the Scottish Biometrics Commissioner has established both a professional advisory group and an Advisory Audit Board.
- 43.** The professional advisory group does not form part of the organisation's internal governance arrangements. It does, however, advise and inform the Commissioner on matters related to the organisation's functions.
- 44.** The Advisory Audit Board performs the function of an audit committee. It provides advice on the standard of corporate governance and internal control and oversees the management of risk and audit issues to advise the Commissioner on matters relating to good governance. The Advisory Audit Board is made up by two members who are appointed by the Scottish Parliamentary Corporate Body.
- 45.** During 2021/22, Advisory Audit Board meetings were held remotely using Microsoft Teams (or equivalent) although more recently there has been a move to a hybrid form of working with some members attending meetings in person.
- 46.** We have reviewed the minutes and papers submitted to the Board throughout the year. The papers are detailed and comprehensive to allow for effective decision making and scrutiny of performance. Committee papers are readily accessible on the Office of the Scottish Biometrics Commissioner's website.
- 47.** We attend the Advisory Audit Board meetings and papers are circulated to members in a timely manner in advance of meetings for review. Also, from our attendance at meetings we observed and concluded that members are engaged during meetings and provide effective scrutiny and challenge.
- 48.** [Exhibit 4](#) sets out the significant risk of wider code material misstatement we identified in our 2021/22 audit plan, our assurance procedures and the results and conclusions from our work. These risks influenced our overall audit strategy, the allocation of staff resources to the audit and informed where the efforts of the team were directed.

## Exhibit 4

### Risks identified from the auditor's wider responsibility under the Code of Audit Practice

Audit risk	Assurance procedure	Results and conclusions
<p><b>Governance and transparency</b></p> <p>An independent internal audit function has not been appointed and therefore there is a risk that governance, decision-making and scrutiny arrangements are not robust.</p> <p>No internal audit function appointed this year as the Commissioner's office was not fully staffed until January 2022. The Commissioner should ensure that suitable assurances can be provided for the purposes of the requirements of the Governance Statement.</p>	<p>We reviewed the procedures adopted by the Commissioner to obtain assurances for the Governance Statement.</p>	<p>The Scottish Biometrics Commissioner obtained appropriate assurances from the Scottish Public Services Ombudsman and the SPCB.</p> <p>A procurement process to appoint an internal auditor is planned during 2022/23. Management aim to have a service in place by the final quarter of 2022/23.</p> <p><b>Conclusion:</b> Satisfactory.</p>

**49.** Significant progress has been made to develop governance documents, including a Scheme of Governance. Work is ongoing to finalise the risk management policy and strategic risk register, and we note that a cyber security policy has yet to be developed. We will monitor progress in these areas in future years.

### National performance audit reports

**50.** Audit Scotland carries out a national performance audit programme on behalf of the Accounts Commission and the Auditor General for Scotland. [Appendix 2](#) highlights a number of the reports published in 2021/22.



# Appendix 1. Action plan 2021/22

## 2021/22 recommendations

Issue/risk	Recommendation	Agreed management action/timing
<p><b>1. Performance Report</b></p> <p>The purpose of a performance report is to provide information on a body, its main objectives and strategies, and the principal risks that it faces. They are required to provide a fair, balanced and understandable analysis of a body's performance. They are also essential in helping stakeholders understand the financial statements.</p> <p>This is the first year a performance report has been prepared by the Office of the Scottish Biometrics Commissioner. In addition to the disclosures required by the Financial Reporting Manual (FReM), the Commissioner also must report on issues relevant to the use of biometric data for criminal justice and police purposes in line with section 32 of the Scottish Biometrics Commissioner Act 2020.</p> <p><b>While we are satisfied that all FReM requirements were met, there is a risk that the format of the report does not allow users to easily identify significant issues and findings.</b></p>	<p>In future years, the Office of the Scottish Biometrics Commissioner should consider separating the requirements of the Financial Reporting Manual (FReM) with other reporting obligations in the Annual Report and Accounts.</p> <p>The Commissioner should also consider Audit Scotland's <a href="#">Good practice note on improving the quality of central government annual report and accounts</a> when preparing the 2022/23 performance report.</p> <p><a href="#">Paragraph 26</a></p>	<p>From 2022-23 onwards, the Office of the Scottish Biometrics Commissioner will produce two annual reports to the Scottish Parliament: The first will focus solely on the performance and finances of the organisation to meet the reporting requirements of section 31 of the Scottish Biometrics Commissioner Act 2020 (performance, accounts and audit). This report will be prepared by the Corporate Services Manager for approval by the Commissioner and will be the subject of external audit.</p> <p>Separately, an annual report to Parliament will be produced under section 32 of the Scottish Biometrics Commissioner Act 2020. This report will provide the Parliament with a report on issues identified by the Commissioner as relevant to the use of biometric data for criminal justice and police purposes as a result of our various oversight and assurance activities. This report will be prepared by the Operations Manager for approval by the Commissioner and will not require to be audited by Audit Scotland.</p> <p><b>Responsible officer</b> Brian Plastow, Scottish Biometrics Commissioner</p> <p><b>Agreed date</b> 31<sup>st</sup> October 2023</p>

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# Appendix 2. 2021/22 national performance reports

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## May

[Local government in Scotland Overview 2021](#)

## June

[Covid 19: Personal protective equipment](#)

## July

[Community justice: Sustainable alternatives to custody](#)

## September

[Covid 19: Vaccination programme](#)

## January

[Planning for skills](#)

[Social care briefing](#)

## February

[NHS in Scotland 2021](#)

## March

[Local government in Scotland: Financial Overview 20/21](#)

[Drug and alcohol: An update](#)

[Scotland's economy: Supporting businesses through the Covid 19 pandemic](#)

# Office of the Scottish Biometrics Commissioner

## 2021/22 Annual Audit Report

Audit Scotland's published material is available for download on the website in a number of formats. For information on our accessibility principles, please visit:

[www.audit-scotland.gov.uk/accessibility](http://www.audit-scotland.gov.uk/accessibility)



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