

Commissioner for Ethical Standards in Public Life in Scotland

2023/24 Annual Audit Report



 AUDIT SCOTLAND

Prepared for the Commissioner for Ethical Standards in Public Life in Scotland
and the Auditor General for Scotland

October 2024

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Key messages

2023/24 annual report and accounts

- 1 Our audit opinions on the annual report and accounts are unmodified.
- 2 Expenditure and income are regular and in accordance with applicable enactments and guidance.

Wider scope responsibilities

- 3 The Ethical Standards Commissioner's office operated within its approved budget for 2023/24.
- 4 Appropriate medium-term financial planning arrangements are in place which demonstrate how services will continue to be delivered.
- 5 A new strategic plan with clear objectives for improvement and a more strategic looking senior management team are in place.
- 6 Open and transparent governance arrangements are operating effectively.
- 7 Vacancies have been filled and the increased capacity is making an impact.
- 8 Complaints handling performance is improving and positive developments have been implemented to tackle the waiting list.

Introduction

1. This report summarises the findings from the 2023/24 annual audit of the Commissioner for Ethical Standards in Public Life in Scotland (the Ethical Standards Commissioner). The scope of the audit was set out in our annual audit plan which was considered by the Advisory Audit Board in May 2024. This Annual Audit Report comprises:

- significant matters arising from an audit of the Commissioner’s annual report and accounts
- conclusions on the following wider scope areas that frame public audit as set out in the [Code of Audit Practice 2021](#).
 - financial management
 - financial sustainability
 - vision, leadership and governance
 - use of resources to improve outcomes.

2. This report will be published on Audit Scotland's website www.audit-scotland.gov.uk in due course.

Responsibilities and reporting

3. The Commissioner has primary responsibility for ensuring the proper financial stewardship of public funds. This includes preparing the annual report and accounts that are in accordance with the accounts direction from Scottish Ministers. The Commissioner is also responsible for compliance with legislation, and putting arrangements in place for governance, propriety and regularity.

4. The responsibilities of the independent auditor are established by the Public Finance and Accountability (Scotland) Act 2000 and the [Code of Audit Practice 2021](#), and supplementary guidance and International Standards on Auditing in the UK.

5. 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 the Ethical Standards Commissioner from his responsibility to address the issues we raise and to maintain adequate systems of control.

Auditor independence

6. We can confirm that we comply with the Financial Reporting Council’s Ethical Standard. We can also confirm that we have not undertaken any non-audit related services and therefore the 2023/24 audit fee of £18,890 as set out in our 2023/24

Annual Audit Plan remains unchanged. We are not aware of any relationships that could compromise our objectivity and independence.

7. We would like to thank the Commissioner, Advisory Audit Board members and all staff for their cooperation and assistance during the year. We look forward to working together constructively over the remainder of the five-year appointment.

1. Audit of 2023/24 annual report and accounts

Public bodies are required to prepare annual reports and accounts comprising financial statements and other related reports. These are the principal means of accounting for the stewardship of public funds.

Main judgements

Our audit opinions on the annual report and accounts are unmodified. Expenditure and income are regular and in accordance with applicable enactments and guidance.

Audit opinions on the annual report and accounts are unmodified

8. The Commissioner approved the 2023/24 annual report and accounts on 2 October 2024. 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, the performance report and governance statement were consistent with the financial statements and properly prepared in accordance with the relevant legislation and directions made by Scottish Ministers.

Overall materiality was assessed as £20,250

9. Broadly, the concept of materiality is applied by auditors to determine whether misstatements identified during the audit could reasonably be expected to influence the economic decisions of users of the financial statements, and hence impact their opinion set out in the independent auditor's report.

10. Our initial assessment of materiality was carried out during the risk assessment and planning phase of the audit. This was reviewed on receipt of the unaudited annual report and accounts and is summarised in [Exhibit 1](#).

Exhibit 1

Materiality values

Materiality level	Amount
Overall materiality – This is the figure we calculate to assess the overall impact of audit adjustments on the financial statements. For the year ended 31 March 2024, our materiality was set at 2% of gross expenditure.	£20,250
Performance materiality – This acts as a trigger point. If the aggregate of errors identified during the financial statements audit exceeds performance materiality, this could indicate that further audit procedures should be considered. Using our professional judgement, we assessed performance materiality at 75% of overall materiality.	£15,200
Reporting threshold – We are required to report to those charged with governance on all unadjusted misstatements more than the 'reporting threshold' amount.	£1,000

Significant findings and key audit matters

11. Under International Standard on Auditing (UK) 260, we communicate significant findings from the audit to those charged with governance, including our view about the qualitative aspects of the body's accounting practices. The Code of Audit Practice also requires auditors to communicate key audit matters within the annual audit report.

12. There are no significant issues to report from the audit of the annual report and accounts. The unaudited annual report and accounts were received in line with the agreed timetable. Working papers were of a good standard and enabled the audit to progress smoothly. As part of the audit process, a non-material adjustment of £2,394 was made to the Statement of Financial Position to correct the accounting treatment for a prepayment.

Our audit work responded to the risks of material misstatement we identified in the annual accounts

13. [Exhibit 2](#) sets out the significant risk of material misstatement we identified in our 2023/24 Annual Audit Plan. We have obtained audit assurances over this risk through the audit procedures we performed and the conclusions we reached having completed this work.

Exhibit 2**Risk of material misstatement in the annual accounts**

Significant risks	Assurance procedure	Results and conclusions
<p>1. Risk of material misstatement due to fraud caused by the management override of controls</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>	<ul style="list-style-type: none"> Assessed the use of journal entries, made inquiries of relevant officers about inappropriate or unusual activity relating to the processing of journal entries and considered the need and extent of detailed journal entry testing. Assessed any changes to the methods and underlying assumptions used to prepare accounting estimates compared to the prior year. Substantive testing of income and expenditure transactions around the year-end to confirm they are accounted for in the correct financial year. Focused testing of accounting accruals and prepayments. 	<p>Based on the audit work undertaken, there was no evidence of management override of controls.</p>

Standards of conduct and arrangements to safeguard against fraud and error are appropriate

14. Public sector bodies are responsible for implementing effective systems of internal control, including internal audit, which safeguard public assets and prevent and detect fraud, error and irregularities, bribery, and corruption.

15. The Commissioner has adequate arrangements in place to safeguard against fraud or other irregularities. The Code of Conduct and Whistleblowing Policy were refreshed during the year and these clearly provide staff with reporting channels should any concerns arise. In addition, the Anti-Fraud Policy and Fraud Response Plan have been updated to include new provisions for anti-bribery.

2. Wider scope responsibilities

Wider-scope audit work considers the financial sustainability of the body, its governance arrangements and the performance of the services it delivers.

Conclusions

The Ethical Standards Commissioner's office operated within its approved budget for 2023/24.

Appropriate medium-term financial planning arrangements are in place which demonstrate how services will continue to be delivered.

A new strategic plan with clear objectives for improvement and a more strategic looking senior management team are in place.

Open and transparent governance arrangements are operating effectively.

Vacancies have been filled and increased capacity is making a difference.

Complaints handling performance is improving and positive developments have been implemented to tackle the waiting list.

Financial management

16. The Ethical Standards Commissioner operated within his budget for 2023/24. Funding is received on a cash basis from the overall budget of the Scottish Parliamentary Corporate Body (SPCB) and this is the only source of income. Section 20 of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 requires the Commissioner to ensure that his resources will be used economically, efficiently, and effectively.

17. The Commissioner's budget for 2023/24 was £1.606 million. Expenditure of £1.540 million was incurred and funding of £1.554 million was drawn down. The General Fund balance at 31 March 2024 was £52,000 (2023 £38,000), increasing by £14,000 from the previous year.

18. Monthly meetings of the senior management team are held at which finance and risk management are discussed. Reports during 2023/24 confirmed that the budget was slightly underspent throughout. A remit for the senior management team and minutes of meetings are available on the Commissioner's website. This

provides good evidence that the Commissioner is acting transparently and operating within his approved funding levels.

Financial sustainability

19. The Strategic Plan 2024-28 sets out the initial year budget and the indicative budget for the subsequent three years. This reflects the increased staff costs associated with the approved increase in establishment and estimated inflationary increase for office running costs.

20. The Commissioner submits a budget bid to the Scottish Parliamentary Corporate Body each year which includes the budget and an indicative bid for the following financial year. In addition, the Commissioner meets with the Corporate Body to discuss the bids in the context of the Strategic Plan and Workforce Plan.

Vision, leadership and governance

A new strategic plan with clear objectives for improvement and a more strategic looking senior management team are in place

21. With his appointment in 2021 as Acting Commissioner and thereafter, as Commissioner, two years later, came the remit of rebuilding a culture of good governance and transparency and increasing capacity in the team to reduce the backlog of complaints.

22. A new Strategic Plan (2024-28) was launched in March 2024. Work on the development of the plan commenced in summer 2023 and involved a team effort. This was followed by a three-month period of public consultation involving a wide range of stakeholders before the plan was formally approved.

23. The strategic objectives included in the plan extend to all aspects of the business. They are comprehensive and more focused and specific than previous objectives. Coverage includes engagement both in terms of the mechanisms and processes to be used but also the likely stakeholders; workforce planning; team learning and development; the use of digital; complaints handling; governance and contributing to the operation, regulation and improvement of an effective public appointments system.

24. The strategic plan is supported by a range of performance indicators aimed at demonstrating progress. A number of the indicators are well-established as they form part of the Commissioner's agreed reporting framework with the Scottish Parliamentary Corporate Body. The opportunity has also been taken to review and extend the range of indicators to be reported annually.

25. The Ethical Standards Senior Management Team largely meets on a monthly basis. During the year, the remit of the senior management team was formally reviewed and a new format of agenda was adopted. Managers now need to submit papers in advance enabling organisation-wide and priority matters for decision to be identified and properly addressed at meetings. While operational matters still need to be discussed, these changes will put the senior team on a more strategic footing.

Open and transparent governance arrangements are operating effectively

26. The Commissioner's office reinstated arrangements for good governance during 2021/22 and has continued to build on these sound foundations. During 2023/24, we noted the following strengths:

- Standing Orders and a range of policies have been revised during the year and a policy review log has been established. Policy development and amendments are considered and approved by the senior management team, implemented with discussion at team meetings and shared through publication on the website.
- Internal audit conducted three reviews during the year covering data management (strong assurance), workforce planning (strong assurance) and cyber security (substantial assurance). The head of internal audit's opinion in respect of 2023/24 stated that the Commissioner had adequate and effective risk management, control and governance processes to manage its achievement of the organisation's objectives.
- There has been good engagement with the Advisory Audit Board during the year. Meetings continue to be held on a quarterly basis and the board reviews its terms of reference on an annual basis. There has also been regular contact with the Scottish Parliamentary Corporate Body on budget proposals and more widely with a range of parliamentary committees.
- The Investigation Manual was published in March 2023 after a period of consultation and is available on the Commissioner's website. The content of the manual is kept timely and relevant due to review, update and re-publishing on the website on a quarterly basis. The use of guidance and templates contained in the manual ensure a consistent approach is applied to investigations. Due to the broad range of complaints received, further guidance may be required, there may be a point of clarification and/or feedback provided by complainants. These are all matters kept under consideration for the next quarterly update of the manual.

Use of resources to improve outcomes

Vacancies have been filled and increased capacity is making an impact

27. The Scottish Parliamentary Corporate Body provided additional funding to enable the Commissioner to expand the size of his team. During 2023/24, vacancies have been filled, increasing the team from 12 to 19 staff. In May 2023, four staff were appointed and while this provided challenges during onboarding and training, it provided the Commissioner's office with the much needed capacity to reduce the historical backlog and embed the requirements of the new Investigations Manual.

28. Individual induction plans are prepared for staff and everyone has a training plan which feed into regular 1-2-1s and annual appraisal meetings. Internal audit undertook a review of workforce planning which included the business case for the increase in staff establishment and the recruitment and induction of new staff between December 2022 and summer 2023. The review was concluded as providing strong assurance around these arrangements and it highlighted a range of good practices in place.

29. The Commissioner has demonstrated a commitment to having an effective workforce through the appointment of an HR and Facilities Officer and by making significant investment in learning and development. As well as on-the-job training and internal training sessions, a range of events with external trainers are held. Training is a standing item on senior management team meetings and thus ensuring that individual and team plans are taking strategic objectives into consideration.

30. The latest employee wellbeing survey in November 2023 also provided positive feedback from staff. For example:

- 94% felt they were given supportive feedback on their work
- 88% felt they were consulted about any changes at work
- 76% were satisfied/completely satisfied with their job overall.

Complaints handling performance is improving

31. Significant work has been undertaken to reduce the complaints backlog. While the legacy backlog had largely all been addressed by 31 March 2024, the number of outstanding complaints has significantly increased since 31 March 2023 due to 120% increase in the number of complaints received in the year. Nearly 350 complaints were received in the year from the public and elected members, the vast majority of which relate to disrespectful behaviour against council officers, members of the public and other councillors. While the number of complaints received has increased, the increased capacity of the investigations team has enabled an increasing number of cases to be concluded. In total, 141 cases (representing 209 complaints) were completed which represents a 11% increase on the previous year.

32. With regard to MSP complaints, there were 27 complaints outstanding at 31 March 2024 compared with five the previous year.

33. The website provides the public with quarterly information on the average time taken to complete complaints. By sharing such information, the Commissioner is being transparent about current performance but is also setting out the current timescales any potential complainants might experience.

34. The latest information at June 2024, reports an average of five months for completion of each of stage 1 and stage 2 investigations related to councillors and board members. In addition, it reports that there are 25 complaints from the last four months waiting in the queue for assessment. While this represents improvement on the previous year, the Commissioner acknowledges these timescales remain too long.

Positive developments have been implemented to tackle the complaints waiting list

35. The initial assessment of cases is a key initiative introduced by the Commissioner to manage the waiting list more effectively. A complaint assessment form is completed to reach a view on whether a complaint can be accepted and if so, is graded for complexity using a traffic light system.

36. With the increase in capacity within the investigations team, there has been a review of the scheme of delegation enabling the delegation of sign off for some cases from the Commissioner to the Senior Investigating Officer and/or the Hearings and Investigations Officer. There is an internal quality framework in place involving peer review to check consistency on files and compliance with the manual and a two-stage sign off on cases. Steps are also being taken to develop an external quality review process covering hot, cold and peer reviews.

37. In 2020/21, the Standards Commission for Scotland (SCS) took the significant step of issuing statutory directions. Statutory directions are made under the Ethical Standards in Public Life etc. (Scotland) Act 2000 and aim to provide the SCS with assurance that the Commissioner's Office is acquitting its functions in accordance with its founding legislation. Of the three directions put in place, only one remains live and is due to expire in January 2025. The practices associated with the two closed directions are now part of standard operating procedures as set out in the Investigations Manual.

38. Based on our review of the arrangements in place, there is good evidence that the Commissioner's arrangements demonstrate Best Value as required by the [Ministerial Guidance to Accountable Officers](#) for public bodies and the [Scottish Public Finance Manual](#) (SPFM).

Commissioner for Ethical Standards in Public Life in Scotland

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Audit Scotland, Woodhill House Annexe, Westburn Road, Aberdeen AB16 5GB
Phone: 0131 625 1500 Email: info@audit-scotland.gov.uk
www.audit-scotland.gov.uk