



The Scottish Parliament
Pàrlamaid na h-Alba

Officeholders - Governance

8 December 2022

Reference: SPCB (2022) Paper 78

Executive summary

1. The SPCB is invited to consider a draft written agreement between the SPCB and committees setting out the respective roles of each in the oversight of officeholders.

Background

2. The SPCB might recall that following on from the publication of the section 22 report into the governance of the Commissioner for Ethical Standards in Public Life (ESC) one of the enhancements to the governance arrangements we have discussed was a written agreement between the SPCB and committees. We also mentioned this to the Public Audit Committee in evidence as part of the inquiry into the section 22 report.

Agreement

3. The proposed written agreement, which is attached, sets out at a strategic level the respective roles of the SPCB which is governance and committees which is scrutiny. The agreement also sets out, again at a high level, the route for any concerns about the conduct of an officeholder. **The SPCB is invited to consider and offer any thoughts on the attached draft written agreement.**

4. The draft has been prepared by SPCB and committee officials as part of greater collaboration in the oversight of officeholders. The Convener's Group will be formally invited to consider the draft document at a meeting this month.

Resource implications

5. There are no resource implications.

Government issues

6. All governance issues have been considered and the written agreement will clarify the respective roles of the SPCB and committees.

Publication Scheme

7. This paper should not be published until both the SPCB and Convener's Group has agreed the wording.

Decision

8. The SPCB is invited to consider and feedback any views on the attached draft written agreement.

Officeholder Services

December 2022

Written agreement relating to Parliamentary-funded officeholders

Introduction

This Written Agreement between the Scottish Parliamentary Corporate Body (SPCB) and the Scottish Parliament's committees is intended to clarify the respective roles and responsibilities of the SPCB and relevant committees in the oversight of Parliament-funded officeholders. It sets out a robust governance role for the SPCB and promotes effective scrutiny by committees of how Officeholders carry out their functions. While the Agreement supports a clear separation of roles, there is scope, where relevant and appropriate, for SPCB staff and committee clerks to engage over common issues.

Background information

The Parliament/ Scottish Parliamentary Corporate Body (SPCB) oversees the following officeholders:

- The Scottish Public Services Ombudsman
- The Scottish Information Commissioner
- The Commissioner for Children and Young People in Scotland
- The Commissioner for Ethical Standards in Public Life in Scotland
- The Scottish Human Rights Commission
- The Standards Commission for Scotland
- The Scottish Biometrics Commissioner

The legislation establishing the officeholders provides that in the exercise of their functions (except where otherwise provided) they are not subject to the direction or control of the SPCB, any member of the Scottish Government or any member of the Parliament.

The role of the Scottish Parliament Corporate Body

The SPCB has a governance role for officeholders, covering areas including setting the terms of appointment of the officeholder; agreeing staff terms and conditions proposed by an officeholder, office location and approval of an annual budget. Along with committees, the SPCB is also consulted on the strategic plans for each officeholder.

All officeholders are subject to external audit. The SPCB ensures they also have access to internal audit and the support of an Advisory Audit Board and it commissions an independent annual evaluation of all officeholders. It is a formal requirement that all officeholders provide the SPCB's accountable officer on an annual basis with a certificate of assurance that they have followed good governance practices and used resources appropriately.

The role of Scottish Parliamentary Committees

Scottish Parliamentary committees hold officeholders to account, in the exercise of their functions, on the Parliament's behalf. Committee work related to officeholders can include the scrutiny of annual and strategic reports prepared by the supported bodies, which are referred to the relevant committee(s) by the Clerk/Chief Executive. It is for committees to decide the frequency and level of scrutiny they undertake in relation to how the officeholders within their respective remits carry out their duties. Committees should ensure their engagement with officeholders is meaningful and effective as an important part of ensuring their accountability to the Scottish Parliament.

Committees do not have a governance role in respect of officeholders, although they may consider governance arrangements as part of their scrutiny work. Committee scrutiny work focusses on how officeholders are carrying out their functions at a high level and is not intended to review, direct or control specific decisions or actions. These are properly matters for officeholders.

The role of officeholders

Officeholders have operational independence in carrying out their functions. Officeholders report to the Parliament through annual reports and as appropriate other ad-hoc reports. Officeholders can also engage and input with any committee consultations

Concerns or complaints about officeholders

All officeholders have terms of appointment approved by the SPCB which include the requirement to abide by a code of conduct.

Functional decisions taken by an officeholder are deemed final and can only be challenged through the courts given the statutory independence of their office.

External stakeholders with concerns about the governance of a supported body can contact the SPCB secretariat to highlight their concerns.

External stakeholders with concerns about the conduct of a supported body can share evidence of their concerns with the relevant committee(s) to inform their scrutiny work.

Where relevant and appropriate, information on the work of officeholders will be shared between the SPCB secretariat and parliamentary committees.

Annex A – Current SPCB-supported officeholders and relevant committees

Officeholder	Committee(s)
Scottish Public Services Ombudsman	Local Government, Housing and Planning
Scottish information Commissioner	Standards, Procedures and Public Appointments
Children’s Commissioner	Education, Children and Young People
Ethical Standards Commissioner	Standards, Procedures and Public Appointments
	Local Government, Housing and Planning
Scottish Human Rights Commission	Equalities, Human Rights and Civil Justice
Standards Commission	Local Government, Housing and Planning
Scottish Biometrics Commissioner	Criminal Justice