



The Scottish Parliament
Pàrlamaid na h-Alba

Scottish Information Commissioner

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Information for applicants

To apply for this appointment, you should read the information below and complete and return your application form by **12 noon on Monday 29 May 2023**.

Context

The current Scottish Information Commissioner, Daren Fitzhenry's term in office ends on 15 October 2023. A cross-party selection panel, chaired by the Presiding Officer, the Rt Hon Alison Johnstone MSP has been established to find Mr Fitzhenry's successor.

Statutory framework

The Freedom of Information (Scotland) Act 2002 provides for a Scottish Information Commissioner whose role is to promote and enforce the freedom of information regime.

The Commissioner investigates applications from people seeking disclosure of information and issues legally enforceable decisions; promotes good practice amongst public authorities and provides the public with information on their rights.

The Commissioner is required to submit annually to the Parliament, a general report on their activities and must also, in respect of each 4 year period, lay before the Parliament, a strategic plan setting out how they propose to fulfil their general duty during that time.

Further information on the work of the Commissioner can be found at -

www.itspublicknowledge.info

The Act provides that the Commissioner is to be regarded as a juristic person distant from the natural person holding the office.

Finance and staffing

The SPCB sets the Commissioner's terms and conditions of appointment; approves the Commissioner's annual budget; pays the remuneration and allowances of the Commissioner; pays any expenses properly incurred by the Commissioner so far as not met out of sums generated by the Commissioner and indemnifies the Commissioner in respect of any liabilities incurred in the performance of the Commissioner's functions.

The Commissioner's budget for 2023/24 is £2,232k. The Commissioner is the accountable officer.

The Commissioner is supported by a senior management team (comprising the Heads of- Enforcement, Corporate Services and Policy and Information) and 22.29 full-time equivalent members of staff.

The Commissioner is based at Kinburn Castle, Doubledykes Road, St Andrews, Fife.

Key responsibilities and duties

The main responsibilities and duties of the Commissioner are:

- ensuring the requirements of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 are met and enforced, where appropriate (INSPIRE)
- providing the principal interpretation of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004
- considering applications from people seeking disclosure of information, investigating and reaching settlement or decisions, serving information decision and enforcement notices on Scottish public authorities where necessary
- promoting and giving advice to the public on their rights under the Act
- promoting and giving advice on good FOI practice to public authorities
- assessing whether public authorities are following good FOI practice and intervening to improve practice where it falls short using enforcement powers and practice recommendations as appropriate
- approving the publication scheme of each authority within the scope of the Act and monitoring compliance and taking action where appropriate
- laying before the Scottish Parliament an annual report and accounts on how the powers and functions of the Commissioner have been exercised

- laying a 4-year Strategic Plan and any other reports
- Leading the office with the support of the SMT and monitoring its performance in line with the Strategic Plan
- Giving evidence and assisting committees on performance and potential changes to the law
- Responding to consultations with implications for FOISA
- Presentations and liaising with other commissioners as part of the ICIC
- as the Accountable Officer, being accountable for the organisation's expenditure and submitting annual budget bids to the SPCB for approval and laying annual accounts to the Scottish Parliament.

Person specification

This is a high profile and demanding role. You will have a track record of operating at a senior level and delivering results. You will have the ability to make decisions on complex matters. You will be resilient and have excellent interpersonal skills to enable you to work under close parliamentary, media and public scrutiny.

Essential

- Extensive knowledge of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 or equivalent freedom of information regime
- Experience of operating at a senior level including leading and managing a team/organisation to achieve outcomes
- Excellent analytical and decision-making skills
- Highly developed influencing and communication skills when dealing with a wide range of stakeholders, e.g. MSPs, Scottish Ministers, members of the public and senior managers of public authorities; and
- A general understanding of the Scottish Parliament, the Scottish Government and Scottish public authorities.

Desirable

- A familiarity with legal issues and working within a statutory framework.
- Experience of operating effectively in the media spotlight.

Disqualification

A person is disqualified from appointment as the Commissioner if the person is, or holds office in, or is an employee or appointee of, another Scottish public authority.

This would not prevent such a person applying for the post of Commissioner but, if successful, they would have to resign from their current office or employment before being appointed as the Commissioner.

A person who has been appointed Commissioner is ineligible for reappointment at any time.

Application and selection process

All applicants must complete an application form.

An on-screen version of the application form can be found on our website at

<https://www.parliament.scot/About/How-Parliament-Works/Parliament-organisations-groups-and-people/Officeholders/Scottish-Information-Commissioner>

The application form is split into two sections to ensure anonymity during short-listing. Part A contains personal information, such as your name and address - this is not seen by the selection panel. Part B is the only part of your application the selection panel will see.

Each application is assessed in the same way, against the same agreed criteria for the appointment in question. "Criteria" means the key skills and knowledge we think you need to be able to do the job. The evidence and examples that you provide in Part B of your application form is the only information we will use in deciding whether or not to shortlist you for interview.

Please do not send us your Curriculum Vitae or supporting documents as they will not be considered. This is to ensure that all application forms are assessed equally.

Before filling in part B of the application form you should read the information provided above under the headings '*key responsibilities and duties*' and the '*person specification*'. This is to make sure that you know what the appointment involves and the criteria that will be used in assessing the applications.

Completing Part B of the Application Form

Part B of the application form is your chance to demonstrate that you have the skills and knowledge required. Please address each criterion by providing specific examples to support your statements. You must provide evidence of what *you* did, the reasons for your action, what happened, what you took into account and the outcome.

The selection panel will not make any assumptions about your skills and abilities, for instance through a job title.

You should use no more than 250 words per criterion.

Political Activity Form

The information provided in the political activity form will remain confidential until the panel has agreed who it wishes to nominate. At this time, the information will be released to panel members to make them aware of any activity.

The information provided by applicants regarding their political activity **is not** a determining factor in the selection process.

Additional Information

Please indicate if you have ever been convicted of any offence (other than minor motoring offences) which are not spent in accordance with the Rehabilitation of Offenders Act 1974 or if any charges are outstanding; been adjudged bankrupt or made a composition or arrangement with your creditors over the past 10 years; been dismissed from any office or employment over the past 10 years; ever been disqualified from acting as a company director or in the conduct of a Company; ever been a director, partner or manager of a company which has gone into liquidation, receivership or administration; any other facts to declare which you feel might be raised in public in future in relation to your suitability to hold appointment for which you are being considered, for example, because they could be presented as a conflict of interest.

Equal opportunities

The Scottish Parliamentary Corporate Body is committed to promoting equality of opportunity and treatment and to eliminating unfair discrimination in its appointment practices.

If you require any of the documentation in an alternative format, or you have any queries about the post or the selection process, please contact Janice Crerar, The Scottish Parliament, Edinburgh EH99 1SP (telephone 07769915863) or at janice.crerar@parliament.scot

The Selection Panel

The Selection Panel will be chaired by the Presiding Officer, the Rt Hon Alison Johnstone and the members are Clare Adamson MSP, Jim Fairlie MSP, Murdo Fraser MSP and Martin Whitfield MSP.

The SPCB's Independent Assessor, Louise Rose will oversee the process and be present at the sift meeting and the interviews to ensure the appointment process conforms to good practice.

Selection Process

Short listing will take place on Wednesday 7 June 2023. Those applicants who appear from the evidence and examples provided to have the best skills and knowledge for the post will be invited to interview.

Unfortunately we are unable to provide feedback to applicants not invited to interview.

Applicants selected for interview may be required to make an oral presentation to the panel.

Interviews will be held on **Monday 19 June 2023** at the Scottish Parliament.

Please note we do not reimburse travel or other expenses to attend interview but we would be happy to explore alternative arrangements if this causes you difficulty.

Pre-appointment checks will be undertaken prior to an offer of appointment.

Submitting your Application

Please ensure you complete and return all the necessary documentation-

- Parts A and B of the Application Form
- the Equal Opportunities Monitoring Form (this is voluntary)
- the Political Activity Form
- any additional information.

Applications can be e-mailed to:

officeholder.applications@parliament.scot

If you submit your application via e-mail, please ensure that you receive an e-mail acknowledgement from us.

Completed application forms can be posted to:

The Scottish Parliament
Officeholder Services
Room Q2.03
Edinburgh
EH99 1SP

The closing date for applications is **12 noon on Monday 29 May 2023.**

Late applications will not be accepted.

Annex A: Terms and conditions of appointment

Status

The Commissioner is not to be regarded as a servant or agent of the Crown or as having status, immunity or privilege of the Crown; and the Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.

The Commissioner is, as such, to be regarded as a juristic person distinct from the natural person holding the office.

Length of appointment

The appointment is offered on the basis of a single term of 6 years.

The successful candidate will be expected to take up appointment in Autumn 2023.

Salary

The salary scale for this post is £77,260 - £92,658. The starting salary is £77,260.

Leave

The Commissioner is entitled to 30 days annual leave with pay, and an additional 11.5 days public and privileged holidays.

Location

The Commissioner's office is based in St Andrews.

Evaluation

The Commissioner is subject to annual evaluation which will be undertaken by the SPCB's Independent Assessor who will prepare a report for the SPCB.

Removal from office

The Commissioner may be relieved of office by His Majesty if the Commissioner so requests or may be removed from office by His Majesty if -

- a) the SPCB is satisfied that the Commissioner has breached the terms and conditions of appointment and the Parliament resolves that the Commissioner should be removed from office for that breach; or
- b) the Parliament resolves that it has lost confidence in the Commissioner's willingness, suitability or ability to perform the functions of the Commissioner,

and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament.

Restrictions on other appointments

The Commissioner may not, without the approval of the SPCB, also be or hold office in, or be an employee or appointee of another Scottish public authority and may not hold any other office, employment or appointment or engage in any other occupation

which would conflict with their responsibilities to Parliament or inhibit or compromise them in the proper exercise of their functions under the Freedom of Information (Scotland) Act 2002.

Subsequent appointments

On ceasing to be the Commissioner, SPCB approval is required to -

- a) be employed or appointed in any other capacity by the Commissioner
- b) be a Scottish public authority or hold office in, or be an employee or an appointee of, a Scottish public authority; or
- c) hold any other office, employment or appointment or engage in any other occupation, being an office, employment, appointment or occupation which you could not have held or as the case may be, engaged in as the Commissioner, as it would have conflicted with your responsibilities to Parliament or inhibited or compromised you in the proper exercise of your functions under the Freedom of Information (Scotland) Act 2002

The restriction starts when the Commissioner ceases to hold office and ends on the expiry of the financial year next following the one in which it started.

Political and outside activities

The post is a politically sensitive one which means that the successful candidate is completely barred from taking part in either national or local political activities.

The successful candidate may not take part in any activity which would in any way conflict with their responsibilities to the Parliament or be inconsistent with their official position as the Commissioner.

The successful candidate must not provide professional advice in a private capacity.

Hours of work

This is a full-time appointment based on 37 hours per week excluding lunch breaks. It may require occasional work outside normal office hours in evenings and weekends and may also entail travel within Scotland and occasionally within the UK.

Pension

The post is pensionable. The current arrangements are with the Civil Service Pension Schemes.