

# Finance and Public Administration Committee

13th Meeting, 2022 (Session 6), Tuesday 26 April 2022

## Scottish Government's Continuous Improvement Programme

### Purpose

1. The Committee is invited to take evidence from the Deputy First Minister and Cabinet Secretary for Covid Recovery, in relation to:

- progress in delivering [the Scottish Government's Continuous Improvement Programme](#), which is part of its response to the findings of three reviews led by: the Committee on the Scottish Government's Handling of Harassment Complaints, Laura Dunlop QC and James Hamilton, and
- the Scottish Government's updated procedure for handling formal complaints by civil servants regarding the behaviour of a Minister or former Minister.

2. The latest progress update from the Scottish Government dated 20 April 2022 is provided at Annexe A. The Deputy First Minister's letter of 24 February 2022, which includes the final updated complaints procedure and responds to various issues raised by the Committee, at its first evidence session on these matters on [25 January 2022](#), is attached at Annexe B.

### Background

3. The Scottish Government, on 21 June 2021, published its response to the following three reports:

- [Report from the Committee on the Scottish Government's Handling of Harassment Complaints \(SGHHC\)](#) published on 23 March 2021, which sought improvements from the Scottish Government to its cultures and behaviours, openness and transparency, governance and oversight, and record-keeping and information management. The Committee also called for an independent, confidential complaints process which would enable historic complaints, supporting guidance, and an independent support service.
- [Report from Laura Dunlop QC on her review of the procedure for handling harassment complaints against former or current Ministers](#), of 16 March 2021, which aimed to strengthen the process for handling such complaints. Recommendations included: no time limit in which civil servants can make complaints of harassment against a Minister or former Minister,

independent investigation of complaints against former Ministers, adjudication and support, consideration of how to respect complainers' wishes not to involve the police, record-keeping, and legal advice made available to decision-takers.

- [James Hamilton's Independent Report on the First Minister's self-referral under the Scottish Ministerial Code](#) of 22 March 2021, which concluded that there was no breach of the Code. Mr Hamilton<sup>1</sup> deferred consideration of whether any revisions to the Ministerial Code were needed, until after decisions on changes to the procedure were taken, and he also suggested that the other independent adviser on the Ministerial Code (Dame Elish Angiolini) be involved in that process.

4. The [Scottish Government's response](#) welcomed the three harassment reviews and indicated that it would focus on the following three areas for improvement:

- rebuilding confidence in its complaints process,
- improving the robustness of, and compliance with, its document management and storage processes, and
- improving the effectiveness of its internal arrangements for managing issues involving propriety and ethics

5. The response included an [Implementation Plan](#), setting out high-level actions to be completed under specific timescales and concluding with an update to Parliament on progress and the launch of an updated policy for handling formal complaints about Ministers, both before the end of 2021.

6. Two further documents were published alongside the Scottish Government's response on 21 June: a [Review of Corporate Information Management](#), which aims to improve the robustness of, and compliance with, its document management and storage processes, and a [Report on Culture and Behaviours in the context of harassment complaints](#), looking at "the broad range of initiatives that exist within the Scottish Government, in actively promoting the positive values, culture and behaviours we want to see across government and in our relationship with stakeholders".

## Committee scrutiny

7. The Deputy First Minister advised the Committee in a [letter of 21 December 2021](#) that its update to Parliament and updated complaints policy would not be published before the end of 2021 as planned, to allow further engagement on the policy with trade unions, staff, Ministers and the Parliament. The update was later provided to the Committee, along with a draft updated policy, on [13 January 2022](#). It confirmed that the following actions in the Scottish Government's Implementation Plan had been delivered:

- a Ministerial Induction Process
- a Staff Engagement Plan

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<sup>1</sup> Former Director of Public Prosecutions at the Irish Office of the Director of Public Prosecutions.

- an External Advisory Group with oversight of the Implementation Plan, and
- development and implementation of governance structures, including reviewing risk procedures.

8. It also set out the details of a broader Continuous Improvement Programme on “the activities that the Scottish Government will develop in 2022 to ensure that the updated complaints procedure is not seen in isolation but is set within a wider context that fosters a culture of openness and inclusion”.

9. The Committee took evidence from the Deputy First Minister on both the update and draft complaints policy at its meeting on [25 January 2022](#). During this session, the Committee explored a number of issues in relation to the draft policy, including exclusion of agency workers from the policy, recording of interviews, reporting to the police, and engagement with staff networks and equalities groups. The Deputy First Minister’s letter of 24 February 2022 provided at Annexe B responds to these issues and commits to providing further progress updates at the end of March, June and December 2022 when key milestones in the Continuous Improvement Programme are expected to be achieved. It also provides a copy of the final complaints procedure.

## Scottish Government’s progress update: April 2022

10. The Continuous Improvement Programme states that the following actions will be achieved by March 2022:

- briefings will be held for Ministers on the updated complaints procedure
- the grievance policy and best practice communications will be refreshed
- independent advisers will be invited to update the Ministerial Code, and
- ‘programme measures of success’ will be ready to discuss with recognised trade unions and stakeholders.

11. The Scottish Government’s latest progress update of April 2022 (Annexe A) reports that these Ministerial briefings are complete, and communications for the launch of the grievance policy for staff (to come into operation on 21 April) have continued. Discussions have begun to establish measures of success for the programme, which “are intended not only to ensure that we complete the activities we have identified but to also ensure that we are meeting stakeholders’ expectations of continuing to maintain a culture of openness and inclusion”.

12. It goes on to state that “we have invited the independent advisers on the Ministerial Code to offer recommendations for revisions to the Ministerial Code when the updated procedure came into operation on 24 February”, adding “we are progressing the amendments to be made by June this year, subject to the availability of the independent advisers”.

13. The Scottish Government plans later this year to commission a review of Propriety and Ethics processes and indicates that findings from the programme outcomes of 2022 will shape the actions for 2023.

## Possible areas of interest

14. The Committee may wish to explore any remaining concerns regarding the updated complaints procedure itself, and gather any early indications as to how the procedure has been received amongst staff and how the induction process for external investigating officers and decision-makers is progressing. Actions within the Continuous Improvement Programme will also be of interest, including the process for amending the Ministerial Code and whether the stated timetable of producing an updated version of the Code within three months of publishing the updated complaints procedure is on track. Issues around how measures of success for the programme will be defined and “linked with the People Survey results”, and whether these measures will be made public and reported against, may also be of interest. How the Scottish Government will “continue to implement the information management review and improve the quality of digital storage and retrieval processes”, may also be issues for discussion.

15. Other possible areas of interest might include how the Scottish Government has made improvements sought by the SGHHC regarding cultures and behaviours, openness and transparency, governance and oversight, record-keeping and information management. This follows a number of high-profile reports suggesting that concerns might remain regarding some of these issues.<sup>2</sup>

## Next steps

16. The Committee will consider next steps in relation to this work following the evidence session on 26 April. The Scottish Government’s next progress update is due in June 2022.

**Committee Clerking Team  
April 2022**

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<sup>2</sup> For example, the Audit Scotland report on [New Vessels for Clyde and Hebrides](#) dated 23 March 2022 highlighted a lack of transparent decision-making, a lack of project oversight, and no clear understanding of what significant sums of public money have achieved, while its report on [Supporting Business through Covid](#) highlights that “a detailed analysis of how Covid-19 business support funding was distributed during the pandemic is not possible due to gaps in data”.

## April 2022 Update to the Finance and Public Administration committee

### Culture and behaviours in the Scottish Government: The Continuous Improvement Programme 2022

The updated procedure for handling complaints about current and former Ministers was sent to the Finance and Public Administration Committee on 13 January and, after a period of reflection with staff, stakeholders and our recognised trades unions, was brought into operation on 24 February 2022.

The ultimate test for the updated procedure is how our staff and Ministers feel about it and how trusting and confident they will be that the organisation will set a positive and supportive culture where bullying and harassment is addressed fairly and swiftly. Therefore, the updated procedure must be viewed in the context of improvement work on culture and behaviours within the organisation. The ongoing work supporting the embedding of our organisational values - integrity, innovation, collaboration, inclusion, kindness - provides the corporate context in which to do this.

Since the last update to the Committee in January 2022, we have completed briefings to Ministers on the updated procedure for handling complaints about current or former Ministers. We have appointed six external investigators and five external decision makers to carry out investigations for the updated procedure and their induction sessions have been carried out. We have communicated the updated procedure coming into operation through internal staff channels.

We have continued our communications for the launch of the revised grievance policy and procedure for staff, a draft of which was first published on 24 February and that will come into operation on 21 April. A listening period to take feedback from staff and our recognised trade unions on this policy and procedure started on 24 February. Continued partnership working and a collaborative project between the Scottish Government and the Council of Scottish Government Unions (CSGU) informed improvements to the way we approach this grievance handling, as well as informing the policy and procedure.

We have held discussions with those who are most closely involved with the Continuous Improvement Programme in the Scottish Government and the Council of Scottish Government Unions to begin to establish measures of success for the programme. These are intended not only to ensure that we complete the activities we have identified overleaf, but to also ensure that we are meeting stakeholders' expectations of continuing to maintain a culture of openness and inclusion.

## June – December 2022

We invited the independent advisers on the Ministerial Code to offer recommendations for revisions to the Ministerial Code when the updated procedure came into operation on 24 February. We are progressing the amendments to be made by June this year, subject to the availability of the independent advisers.

We are committed to communicating our progress on improving our culture and behaviours with our staff. We will seek to refine the measures of success for the programme for them to be ready to be implemented by the end of June. We have contact with network groups and satellite offices and will start the proactive outreach work before the end of June.

The information management programme will continue to fulfil all the obligations that we have to this Parliament and, more widely, under records management legislation.

In the second half of this year, we will commission a review of Propriety & Ethics processes. The findings from the programme outcomes from 2022 will shape the actions for 2023.

### Note:

Changes made to the Continuous Improvement Programme schematic (**added in bold here** and highlighted **in red** in the diagram)

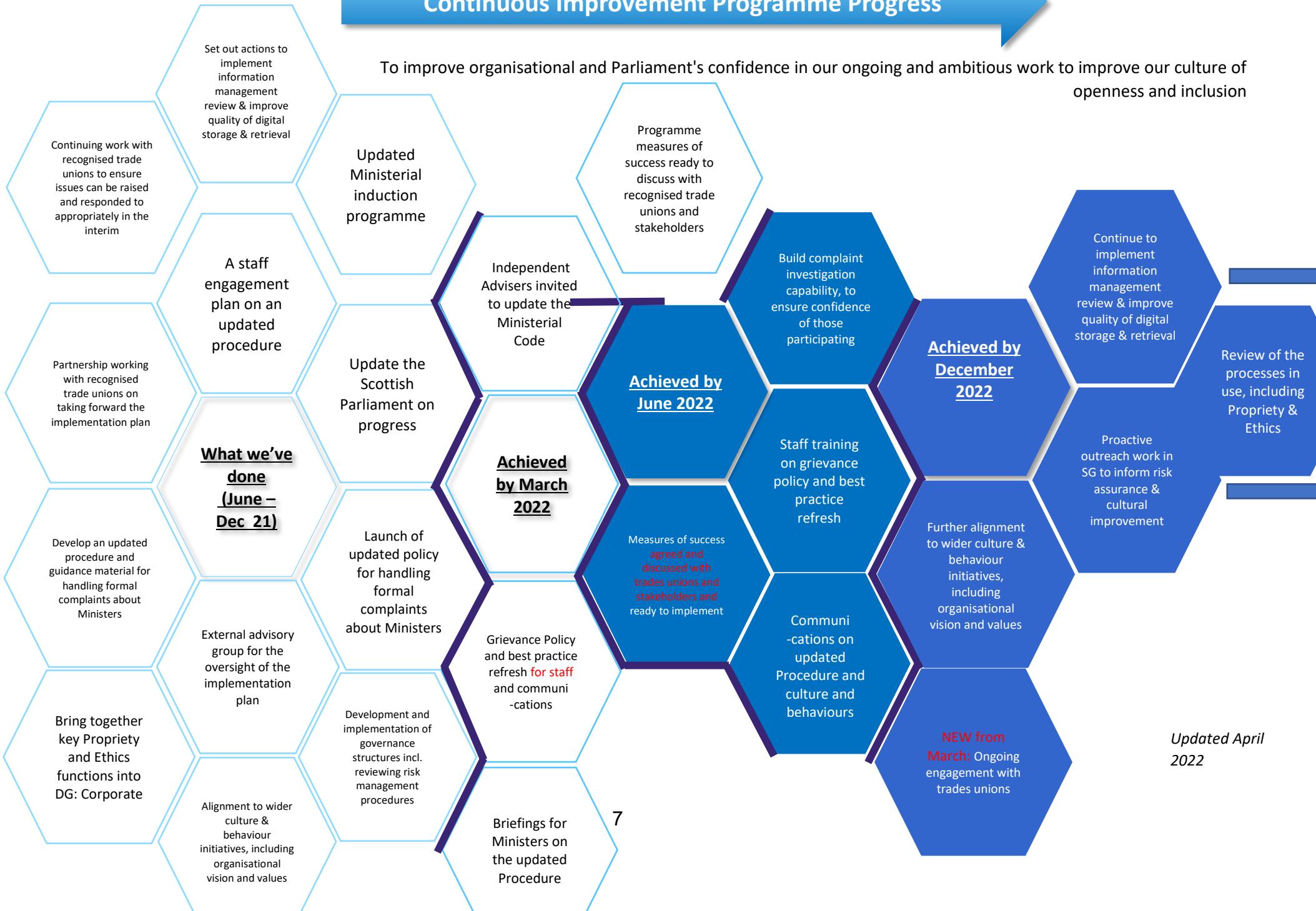
1. In *Achieved by March 2022*: Grievance Policy and best practice refresh **for staff** and communications
2. In *Achieved by June 2022*: Measures of success **agreed and discussed with trades unions and stakeholders** and ready to implement
3. In *Achieved by December 2022* **Ongoing engagement with trades unions**

Activities in white are completed.

# Continuous Improvement Programme Progress

FPA/S6/22/13/1

To improve organisational and Parliament's confidence in our ongoing and ambitious work to improve our culture of openness and inclusion



## Continuous Improvement Programme

The updated Procedure will be seen within the context of a wider programme of continuous improvement to improve our culture of openness and inclusion. The following activities are planned for 2022.

Activity in 2022	Achieved by	Commentary	Update March 2022
<p><b>Grievance Policy and Best Practice refresh for staff, including update to Fairness at Work</b></p>	<p>March 2022</p>	<p>This will include</p> <ul style="list-style-type: none"> <li>• Refreshed Standards of Behaviour</li> <li>• Informal Resolution Guidance and core narrative including roles and Routes for Support &amp; Advice</li> <li>• Refreshed Grievance Policy and Procedure</li> </ul> <p>Associated Guidance including mediation and facilitation guidance as well as refreshed guidance for investigating officers, deciding officers and appeal managers</p> <ul style="list-style-type: none"> <li>• Ongoing training (NB – this is a June deliverable, see below)</li> <li>• Additional improvements in response to joint work with trade unions</li> </ul>	<p>Following period of ‘soft launch’ to allow for reflection, comments have been received by individual staff members and various networks.</p> <p>Many of these have been incorporated into the revised grievance policy and procedure which was launched in draft on 24 February and published on the staff intranet and, following further staff / network consultation has been finalised with trade unions and is due to be published in April 2022 with associated communications to staff.</p> <p>This activity is now complete. Training for staff and engagement with the trade unions will be ongoing.</p>
<p><b>Briefings for Ministers on the updated Procedure related to complaints about current or former Ministers</b></p>	<p>March 2022</p>	<p>To provide an opportunity to ensure current Ministers are familiar with the process, while also stressing the First Minister’s</p>	<p>All Cabinet Secretaries and Ministers received a briefing on the new procedure. The briefings, which were attended by DFM and Permanent Secretary,</p>





		<p>for them to consider changes to the Ministerial Code.</p> <p>The intention is to produce an updated version of the Ministerial Code within three months of publication of the updated Procedure. This final timetable is subject to the availability of the Independent Advisers.</p>	
<p><b>Communications with staff on updated Procedure and culture and behaviours</b></p>	<p>June 2022, then ongoing until December 2022</p>	<p>The communications will set out clear and consistent routes to handling and constructively addressing grievance and tackling bullying and harassment. The launch of the updated Procedure will demonstrate that it is part of the wider, ongoing programme of continuous improvement on culture and behaviours.</p> <p>Communications throughout the year will ensure staff are well informed on the improvement programme and how they can participate.</p>	<p>Communications on internal staff channels accompanied the launch of the updated Procedure in January 2022. Staff were given the opportunity to comment on the intranet as part of the discussion period. News articles concerning the launch and discussion period were cascaded through senior management communications channels. These channels were also used in February 2022 when the updated Procedure came into operation.</p> <p>The listening period for the launch of the grievance policy and procedure refresh for staff (Fairness At Work) was publicised on the staff intranet, staff discussion was also encouraged.</p>

			<p>Further engagement with staff and networks took place during this period, feedback of which has informed final policy and procedure drafts, with insights feeding into the broader programme of work.</p> <p>The launch of the grievance process for staff was disseminated through internal communications channels.</p> <p>Plans are in place for when the grievance policy and procedure for staff comes into operation that will underline the importance of the organisation’s culture and behaviours in maintaining an inclusive and respectful working environment.</p>
<p><b>Staff training on grievance policy and best practice refresh</b></p>	<p>June 2022 (then continuing until December 2022)</p>	<p>A continuation of the training for the grievance and best practice refresh for staff above.</p>	<p><b>Fairness at Work – Grievance policy refresh</b></p> <p>There is currently information on the staff intranet to support the informal process, a draft of which was published on 24 February, including the following materials:</p> <ul style="list-style-type: none"> <li>• mediation guide</li> <li>• facilitated conversation guide</li> <li>• giving difficult feedback – online learning</li> </ul>

			<ul style="list-style-type: none"> <li>• handling difficult conversations</li> <li>• using early intervention to address concerns;</li> <li>• Resolving grievances at work</li> </ul> <p>All employees are required to have undertaken online mandatory learning on inclusive cultures:</p> <ul style="list-style-type: none"> <li>• Inclusive Culture - for colleagues without management responsibilities</li> <li>• Inclusive Leadership and Culture - for managers</li> <li>• Championing an Inclusive Culture - for deputy directors</li> </ul> <p>The policy finalisation will be accompanied by an article on the staff intranet and reference to available materials on policy, procedure and wider training.</p> <p>To complement the policy finalisation, work to embed understanding of the new policy and behaviour issues more widely in client groups is continuing. Further training needs will be scoped over the summer and will, in the</p>
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			first instance, be focused on training for investigation officers, deciding officers and appeal officers.
<b>Build the independent complaint investigation capability</b>	June 2022 (then ongoing throughout 2022)	Provide training to ensure that those raising complaints under the updated procedure for handling complaints about current or former Ministers, those subject to them, those applying the policies, and the trade unions - can have confidence in the processes to investigate allegations of bullying or harassment. Familiarisation and training on updated Procedure will be provided, in particular for other teams involved in handling complaints (HR, Propriety & Ethics)	<p>Induction sessions have been completed for the external pool of investigators and decision makers.</p> <p>An operating protocol for completing investigations was drafted and shared with the external pool. This will be subject to further refinements in April.</p>
<b>Measures of success ready to implement</b>	June 2022	Establish and manage governance to effectively monitor the progress of the continuous improvement programme.	<p>Measures of success are in draft and are subject to further refinement from trade unions and stakeholders.</p> <p>An internal steering group and the Reviews Implementation Assurance Group will provide oversight to the implementation of the measures of success.</p>
<b>Alignment to wider culture and behaviour</b>	December 2022	This will involve ongoing monitoring of corporate actions	<ul style="list-style-type: none"> <li>Working with the Continuous Improvement</li> </ul>

<p><b>initiatives, including organisational vision and values, with engagement with staff</b></p>		<p>in response to the People Survey and the sharing of good practice identified via the People Survey results. There will also be the monitoring of staff sentiment through routine employee engagement activity.</p> <p>Leaders will monitor their staff survey reports from 2021 and undertake further analysis where required to establish where enhanced monitoring, safeguarding and support may be beneficial.</p>	<p>Programme to help to embed the In the Service of Scotland vision and values the programme approach, with the aim of being able to provide tangible examples of how the vision and values have changed the organisational approach to implementation and delivery.</p> <ul style="list-style-type: none"> <li>• More than 85% of respondents say that they are familiar with their organisation's values in the People Survey 2022.</li> <li>• The next phase of vision implementation will shift from awareness raising to behaviour change. The focus will be on providing staff with information and tools to enable them to embed the vision and values in their work.</li> </ul>
<p><b>Proactive outreach work in Scottish Government to inform risk assurance and cultural improvement</b></p>	<p>December 2022</p>	<p>A programme of discussion and dialogue across the Scottish Government to take the temperature of how our culture and behaviour change programmes are being received and acted upon. This will specifically focus on</p>	<p>The project outline is agreed and a scoping discussion to identify the purpose and structure of engagement has taken place.</p> <p>We have contact with network groups and satellite offices and will start the proactive</p>

		area offices and discussion with equality network groups.	outreach work before the end of June.
<b>Review of the processes in use, including Propriety &amp; Ethics</b>	December 2022	Use the measures of success to review the effectiveness of the continuous improvement programme to inform planning for 2023 activities.	This project will begin in the second half of the year and will include a review of the updated Procedure for handling complaints about current or former Ministers, as well as a review of the Propriety & Ethics function.
<b>Continue to implement the information management review and improve the quality of digital storage and retrieval processes</b>	Update in December 2022	<ul style="list-style-type: none"> <li>• Strengthen the Scottish Government's annual assurance process to enable Directors General to confirm that all of their information management procedures are robust. This process supports the Permanent Secretary's governance statement as part of the annual accounts.</li> <li>• Information Governance Impact Assessments will be implemented</li> <li>• Ensure Information Governance Roles &amp; Responsibilities are signed off at senior leadership level</li> <li>• Continue work to reduce access to and use of</li> </ul>	<ul style="list-style-type: none"> <li>• Communications have issued about the move to structured data repositories (not relying on shared folders or personal drives), including a Q&amp;A briefing. Sessions were arranged for the beginning of April and are open to all.</li> <li>• Meeting with the Council of Scottish Government Unions (CSGU) regarding using structured data repositories.</li> <li>• An Information Governance Programme Delivery Group (IGPDG) meeting took place at the end of March.</li> <li>• A paper was presented to the IGPDG for a new Information Governance Impact Assessment. The approach was approved by the</li> </ul>

		<p>unstructured information repositories.</p> <ul style="list-style-type: none"> <li>• Review resourcing of information management across the SG</li> </ul>	<p>board and implementation will now be progressed.</p> <ul style="list-style-type: none"> <li>• An article was provided for the Information Asset Owners (IAOs) staff newsletter reminding IAOs to complete the Information Management Maturity Assessment.</li> </ul>
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*Table 1: Continuous Improvement Programme Activities for 2022*



## Letter from Deputy First Minister to Convener, 24 February 2022

Dear Kenneth

Thank you for your letter dated 10 February 2022.

Further to my letter of 4 February, I am writing to you with the final version of the updated procedure for handling formal complaints by civil servants about a Minister or former Minister following my commitment when I sent you the version of the procedure for discussion on 13 January. This is set out in Annexe A.

I am pleased to update you on the outcomes of the areas for further consideration identified by the Committee at the evidence session on 25 January as follows:

On the exclusion of agency workers from the procedure, as raised by Mr Lumsden, we set out that these workers are not Scottish Government staff but we have reflected further on how we will support agency workers who raise any concerns to resolve these, including with involvement of those who manage the contracts for such workers.

In considering the balance of responsibilities where a matter might be referred to the police, as raised by Ms Thomson, we have given further consideration to our thinking. While we have not made changes to the wording of the procedure itself our guidance materials will reflect the support available on this sensitive matter, and draw on external perspectives including support for people affected by crime.

Ms Thomson raised the matter of recording of interviews in certain circumstances during the complaints process. We have given this careful consideration and, while there is no general provision for audio/video recordings, we will consider any requirements for this in certain circumstances, for example as a workplace adjustment. Any decision to record interviews will consider how those involved can engage constructively and fairly in the process, and we will undertake a post outcome review to learn lessons and inform future practice.

In the Committee session, Mr Mitchell, Deputy Director of Propriety & Ethics in the Scottish Government, said that we were working on an Equality Impact Assessment for the updated procedure. I am pleased to attach a copy of the document in Annexe B, which sets out the staff networks and other equalities networks we have engaged with throughout the development of the updated procedure, as asked by Mr Greer in the evidence session. Further engagement will be done and the EQIA will be kept under review following the introduction of the new procedure.

I can also confirm the names of the pool of external decision makers and investigators after the open recruitment process via the Scottish Government's public appointments portal. Six investigators and five decision makers have been appointed from a high

calibre pool of applicants. The successful applicants are listed in Annexe C. The investigators and decision makers will now undertake further training on their roles.

In response to your letter 10 February, I am content to provide the Committee with written updates on the continuous improvement programme on completion of the milestones for the end of March, June and December 2022 and any necessary evidence sessions. My officials will liaise with Committee clerks on the dates for the submission of the written updates and the date for the follow-up evidence session.

Yours sincerely

John Swinney  
Deputy First Minister

**[ANNEXES A, B and C to this letter:](#)**

Annexe A – UPDATED PROCEDURE FOR MAKING A FORMAL COMPLAINT  
ABOUT A MINISTER’S OR FORMER MINISTER’S BEHAVIOUR

Annexe B - EQUALITY IMPACT ASSESSMENT

Annexe C - LIST OF DECISION MAKERS AND INVESTIGATORS