

Scotland's Commissioner Landscape: A Strategic Approach

Purpose

1. The Committee is invited to take evidence from the following witnesses in relation to its inquiry into [Scotland's Commissioner Landscape: A Strategic Approach](#)—
 - Lynda Towers, Convener of the Constitutional Law and Human Rights Committee, Law Society of Scotland,
 - Dr Ian Elliott, Senior Lecturer in Public Policy, Centre for Public Policy, University of Glasgow, and
 - Professor Alan Page, Emeritus Professor of Public Law, University of Dundee.
2. The Law Society of Scotland provided a [written submission](#) to the Committee's inquiry, which raised a number of issues, including in relation to accountability. Dr Ian Elliot and Professor Alan Page have been invited to provide their perspectives on the evidence gathered to date, given their respective backgrounds in public administration and constitutional law.

Overview

3. Seven¹ independent officeholders are directly responsible to the Scottish Parliament, with their terms and conditions of appointment and annual budgets set by the Scottish Parliamentary Corporate Body (SPCB). They are a mix of commissions, commissioners, or ombudsmen, and range from having regulatory, complaints handling, rights-based, investigatory or advocacy functions.
4. Legislation creating a patient safety commissioner has also recently been passed by the Scottish Parliament. A further six² are being proposed or considered. The Commissioners' budgets form part of the SPCB's own budget which is "top-sliced" from the Scottish Consolidated Fund.
5. In its [Report on the Scottish Budget 2023-24](#), the Committee expressed concerns regarding this potential significant increase in the number of SPCB-supported

¹ These are the Scottish Information Commissioner, Scottish Biometrics Commissioner, Children and Young People's Commissioner Scotland, Standards Commission for Scotland, Ethical Standards Commissioner, Scottish Public Services Ombudsman and Scottish Human Rights Commission.

² The Parliament is currently scrutinising Bills that would also see a Victims and Witnesses Commissioner and Disability Commissioner being established. Draft proposals for Members Bills creating an Older People's Commissioner and Wellbeing and Sustainable Development Commissioner are under consideration by Parliament, while the Scottish Government is also looking at the possibility of creating a Future Generations Commissioner and a Learning Disabilities, Autism and Neurodiversity Commissioner or Commission.

bodies and their associated costs. More recently, the Committee raised these broad concerns during scrutiny of Financial Memorandums (FMs) for Bills proposing the creation of a patient safety commissioner (now passed) and a victims and witnesses commissioner (stage 2).

6. Following informal discussions with the Scottish Government's Public Bodies Support Unit, the Scottish Parliament's Non-Government Bills Unit, and SPCB supporting officials, the Committee launched an inquiry in December 2023 into [Scotland's Commissioner Landscape: A Strategic Approach](#), with the following remit—
 - to foster greater understanding of how the Commissioner landscape in Scotland has evolved since devolution,
 - to enhance clarity around the role, and different types, of Commissioners and their relationships with government and parliament,
 - to establish the extent to which a more coherent and strategic approach to the creation and development of Commissioners in Scotland is needed and how this might be achieved,
 - to provide greater transparency to how the governance, accountability, budget-setting, and scrutiny arrangements work in practice, and whether any improvements are required, and
 - to identify where any lessons might be learned from international Commissioner models.
7. The focus of the inquiry is on SPCB-supported Commissions, Commissioners, and Ombudsman only. Other than as wider context, the inquiry will **not** therefore:
 - consider the overall public body landscape,
 - examine the role of those commissioners who report directly to the Scottish Government, or
 - make recommendations on the merits or otherwise of individual commissioners.
8. The inquiry's call for views ran from 11 January until 11 March 2024 and received [23 responses](#). Questions were grouped around three broad themes: (a) the Commissioner landscape, (b) governance, accountability, and scrutiny, and (c) value for money and the effectiveness of the current approach.
9. SPICe has produced a [summary of the written submissions](#) received, as well as a [briefing](#) to support the inquiry which maps the current Commissioner landscape and identifies other UK and international Commissioner models.
10. The Committee has to date held four evidence sessions in relation to this inquiry—
 - On [16 April 2024](#), the Committee heard from Research Scotland on its May 2023 [Report on Commissions and Commissioners](#), which was commissioned by the Scottish Government to inform proposals to create a Learning Disabilities, Autism, and Neurodiversity Commissioner.

- On [30 April 2024](#), the Committee heard from all current officeholders³ supported by the SPCB (Commissions, Commissioners and Ombudsman), on their insights in relation to the Commissioner landscape.
- On [7 May 2024](#), the Committee took evidence in round-table format from Age Scotland, the ALLIANCE⁴, Alzheimer Scotland, Carnegie UK Trust, Common Weal, and the National Autistic Society, regarding their views on the need for creating new commissioners and other options.
- On 14 May 2024, the Committee heard from Scottish Parliament Committee Conveners⁵ in relation to scrutiny of proposals to create Commissioners and of their performance. The Convener of the Health, Social Care and Sport Committee has since provided follow-up information regarding alternate models to creating a Patient Safety Commissioner considered by the Committee and reassurances received from the Scottish Government regarding that Commissioner's funding. This letter is attached at Annexe A.

11. Annexe B provides a summary of the issues raised at these evidence sessions.

12. The Committee also held an informal session with former Commissioners and Ombudsman on 16 April 2024 and clerks produced [a summary of the issues discussed](#) at this session. A summary of the issues raised during a further informal session with MSPs and former MSPs who submitted proposals to create new Commissioners (held on 14 May) will also be published shortly. During that session, reference was made to the Senedd Cymru's [Public Accounts Committee Report of March 2021 on Delivering for Future Generations: The Story so Far](#).

Law Society of Scotland: written submission

Background

13. In its [written submission](#), the Law Society of Scotland welcomes the Committee's inquiry, "given the burden on the public purse and on public authorities of a proliferation of so-called 'integrity branch mechanisms' and legitimate questions regarding their accountability". It states that "the recognition of a fourth branch of government in addition to the three traditional branches – the Legislative, Judicial and Executive – has been occasionally proposed in constitutional law literature, adding that James J. Spigelman, in his article *The Integrity Branch of Government*⁶ proposes the recognition of this 'integrity branch', which includes audit offices, independent corruption commissions, ombudsman and parliamentary committees. He is quoted in the Law Society submission as follows—

"At a high level of generality, the purpose of the integrity branch is to ensure that each governmental institution exercises the powers conferred on it in the manner

³ These officeholders are listed at footnote 1.

⁴ Health and Social Care Alliance Scotland.

⁵ Conveners from the Health, Social Care and Sport Committee, Criminal Justice Committee, Standards, Procedures and Public Appointments Committee, and Education, Children and Young People Committee gave evidence to the Committee on 14 May 2024.

⁶ [The Integrity Branch of Government by James Spigelman : SSRN](#)

in which it is expected and/or required to do so and for the purposes for which those powers were conferred, and for no other purpose.”

14. The Law Society argues that “perhaps [an...] increased recognition of the ‘integrity branch’ is responsible for the increased interest in Commissioners as a feature of our constitutional arrangements”, adding that the creation of Commissioners in England and Wales may have influenced Scotland’s approach.
15. Commenting on whether the [Session 2 Finance Committee’s criteria](#) to be considered when proposing new Commissioners is used, the Law Society argues that—

“To assess how the criteria are working in practice would involve a significant review of the parliamentary passage of each bill which produced a Commission/er. It has not been possible to conduct such research but perhaps the Committee could do so?”

16. The Law Society highlights the value in conducting post-legislative scrutiny of Acts of the Scottish Parliament and suggests that consideration should be given to a more systematic approach to post-legislative scrutiny involving legislation relating to Commissioners. It goes on to note that governance and oversight arrangements “are satisfactory to a point”, while suggesting that consideration should be given “to a programme of regular committee evidence sessions with relevant commission/ers – either by the FPA Committee or by the relevant subject committees”. In terms of the increased costs associated with additional commissioners, the Law Society recognises that “clearly this is an issue which will need resolution particularly in an epoch of restricted public expenditure”.

Next steps

17. The Committee will continue taking evidence in relation to this inquiry at its next meeting.

Clerks to the Committee
May 2024

Correspondence from the Convener of the Health, Social Care and Sport Committee to the Committee of 15 May 2024 on the Scotland's Commissioner Landscape inquiry

Dear Convener,

Scotland's Commissioner Landscape: A Strategic Approach

I am writing further to my evidence to the Finance and Public Administration Committee on 14 May 2024 in relation to above inquiry and the Health, Social Care and Sport Committee's recent scrutiny of the Patient Safety Commissioner for Scotland Bill.

I agreed to write to the Committee to set out further information in the following areas:

Finance and resources

Michael Marra MSP asked about whether the Health, Social Care and Sport Committee had received any commitments from the Scottish Government on financing of the Patient Safety Commissioner as a result of recommendations in its Stage 1 report.

Following the publication of the Stage 1 report on the Patient Safety Commissioner for Scotland Bill, the Committee received a [response from the Minister for Public Health and Women's Health](#).

In relation to the Committee's recommendation that the Scottish Government make adequate provision to meet the importance and scale of the Patient Safety Commissioner's functions, the Minister stated that "budget allocations from the Scottish Government to the Scottish Parliamentary Corporate Body should make adequate provision to meet the importance and scale of the Patient Safety Commissioner's functions".

In relation to the Committee's recommendation that Scottish Government commit to provide additional funding in the case of future role changes or resource pressures, the Minister further stated: "I can commit that the Scottish Government will engage constructively with the SPCB to ensure that all parliamentary commissioners are funded appropriately, including the Patient Safety Commissioner."

Alternate models

John Mason MSP asked whether the Health, Social Care and Sport Committee had explored any alternate models instead of the establishment of a Patient Safety Commissioner.

As I set out in my evidence to you, the existing clinical governance and regulatory landscape in Scotland is complex. The Committee heard from a range of stakeholders about the potential for the functions of a Patient Safety Commissioner for Scotland to overlap with current governance structures and systems.

While the Committee explored the possibility of incorporating the functions of the Commissioner into other existing structures, such as the Scottish Public Services Ombudsman, based on the evidence it had heard, the Committee concluded that this would not be sufficient to meet the stated objective of giving a voice to patients within those structures. In line with the findings of the Cumberlege review, the Committee agreed that, in this case, a patient advocate who was independent from existing structures was required to both increase public confidence and trust in the healthcare system in Scotland, and ensure the patient voice could help to identify areas where systemic improvements could be made to improve patient safety.

I hope you find my comments helpful, and I look forward to hearing the outcomes from the Committee's inquiry.

Yours sincerely,

Clare Haughey MSP
Convener, Health, Social Care and Sport Committee

Summary of issues raised at previous evidence sessions

Research Scotland (16 April 2024)

18. On [16 April 2024](#), the Committee heard evidence from Research Scotland on its May 2023 [Report on Commissions and Commissioners](#), which was commissioned by the Scottish Government to inform proposals to create a Learning Disabilities, Autism, and Neurodiversity Commissioner. The Report's introduction acknowledges that "there is very little published research in Scotland and the UK on commissions or commissioners, and little evaluation exploring the pros and cons of different approaches, powers or ways of working for commissioners". The Committee discussed Research Scotland's findings, including the following issues—

- Most interviewees value the powers they have and see these as a key difference between commissioners and campaigning or lobbying bodies.
- Gaps in powers were highlighted by some interviewees, including the inability to self-initiate inquiries, to make binding recommendations or to share information.
- Most are content with their governance arrangements. The model of a single commissioner appeared to work particularly well given the clear lines of responsibility and decision-making.
- Interviewees value their independence from government and tend to have constructive relationships with government.
- There were mixed views on whether a commissioner is the best way to address the issues 'on the ground' for those with learning disabilities, autism, or neurodiversity, although there was broad agreement that additional support is needed in some form.
- Concerns were raised that "creating commissioners for particular groups would lead to a large number of commissioners and a complex landscape", with many interviewees highlighting an already complicated picture. Some expressed concern that "people could end up being pushed between commissioners or being unsure which applied to them".
- Interviewees suggested that other options for strengthening human rights for people with autism, learning disabilities and neurodiversity should be considered, including better resourcing for other bodies such as relevant existing commissions, and supporting good practice.
- Some interviewees suggested that a lead commissioner housed by an existing human rights commission or other organisation may be worth considering, as it could reduce costs through sharing services. Others however suggested this approach might divert resources and dilute the body's focus on "human rights for everyone".

Current officeholders (30 April 2024)

19. On [30 April 2024](#), the Committee took evidence from all current officeholders⁷ supported by the SPCB (Commissions, Commissioners and Ombudsman) in relation to the inquiry. The following issues were raised—

Growing Commissioner Landscape

- It was recognised that the landscape has evolved organically over time, with each officeholder being distinct and having different governance arrangements “for good reasons”.
- The Committee heard that the proposals to create new commissioners are often driven by systematic failures and frustrations in the system, as well as a view that a particular group needs a ‘champion’.
- The commissioner model can often be seen as the starting point rather than the outcome of detailed deliberations on need, added value and a full range of options. Some witnesses argued that proposals for new commissioners should be viewed through the lens of intersectionality, rather than the current approach of “putting people in boxes” which could then create uncertainty for individuals (whose needs straddle a number of Commissioner remits) as to which Commissioner they should approach.
- There is a perception that an officeholder is more independent than ‘champions’ or those commissioners who are responsible to government. This assumption was challenged by witnesses, who argued that ‘independence of thought’ was seen to be more important and is being achieved through other models such as government ‘champions’.
- The SHRC suggested that an alternative to creating new, separate officeholders would be for it to represent the rights of a range of groups through ‘leads’ or ‘rapporteurs’. It highlighted its broad remit and pluralistic approach in line other international human rights institutions.
- Witnesses had mixed views on whether the inclusion of sunset clauses in enabling legislation would be a positive move. Some consider that an officeholder must be in post for some time before they are able to address systemic issues. Setting up new a body, even for a short time, can also require a substantial amount of time and money.
- One witness suggested that there should be a presumption against creating any new officeholder. Post-implementation reviews should be carried out, along with periodic reviews to assess whether the officeholder is still relevant and required.
- It was argued that the Children and Young People’s Commissioner Scotland is required to be a separate entity as children are less able to advocate for themselves and their voices could be lost if their rights were instead subsumed into an adult-focused body.

Accountability, scrutiny, and budget-setting

- Budget-setting arrangements are challenging for officeholders, who are asked to submit their budget bids in July/August, then do not receive confirmation of their budget until January/February the following year and

⁷ These officeholders are listed at footnote 1.

before the SPCB pay award (which they follow) is agreed. As staff costs make up a large proportion of their overall budgets, pay awards can impact significantly on their budgets.

- Some officeholders are demand-led, which provides an additional layer of uncertainty in relation to budget bids.
- The SPCB provides guidance on the parameters for officeholders' budget bids, including where the context is one of fiscal constraint.
- Officeholders, along with all public sector organisations, find it challenging to undertake medium and long-term financial planning in the absence of multi-year budgets.
- It was suggested that, in examining performance, progress against their functions and four-year strategic plans should be assessed.
- Where it takes place, parliamentary scrutiny of performance is robust, however, officeholders would welcome more regular committee scrutiny.
- Witnesses noted that the SPCB, rather than committees, undertakes scrutiny of officeholder budgets. The SPSO suggested that it would be helpful if committee scrutiny of performance linked into scrutiny by the FPA Committee of their budgets, efficiency and effectiveness.
- Asked whether rights were being prioritised over outcomes, some witnesses argued that "rights should provide the basis for improving outcomes".
- Witnesses argued that they are responsible to the people of Scotland through the Scottish Parliament and that their work is complementary and adds value to that of the Parliament and its MSPs.

Overlap, duplication, and gaps in functions

- Witnesses explained that, where there is commonality or overlapping functions, current officeholders work together to co-ordinate their activities.
- However, they have concerns regarding the potential for duplication arising from the creation of additional commissioners, which they suggested could lead to a 'hierarchy' of rights and the possibility of conflicting views on the same or similar issues. It was further noted that the proposed commissioners do not have their basis in human rights.
- Some gaps in the functions of the SPSO and SHRC were also highlighted.

Sharing office space and services

- It was suggested that a strategic approach to back-office functions should be taken. Commissioners who are responsible to government can access its services and accommodation and the Standards Commission for Scotland (SCS) is located within the Scottish Parliament and shares many of its services. Both were highlighted as more cost-effective models.
- Enabling legislation should mandate any new commissioners to enter into 'back-office' support arrangements with other organisations.
- Significant progress has been made by the SPCB and current officeholders in sharing office premises and services. Discussions amongst officeholders continue regarding how to progress this issue further. It was suggested however that the unravelling of back-office and support functions can often be challenging and time-consuming for established organisations.

- Statute requires separate audit functions, and therefore primary legislation would be required to allow auditing to be shared across officeholders.
- Hybrid working provides greater opportunities to share offices. The SIC provided the example of recently freeing up space within his office to potentially accommodate new officeholders.

Round-table session (7 May 2024)

20. On [7 May 2024](#), the Committee took evidence in round-table format from Age Scotland, the ALLIANCE⁸, Alzheimer Scotland, Carnegie UK Trust, Common Weal, and the National Autistic Society. The following issues were raised—

Creating new commissioners

- Some witnesses who support creating new commissioners explained this was due to insufficient focus on meeting the needs of particular groups, public service failure due to limited public finances, and seeing the benefits of similar commissioners in Wales and Northern Ireland.
- It was suggested that an Older People’s Commissioner (OPC) is necessary as this group makes up 40% of the population, experience ageism and poverty, and a commissioner can bring legal powers and greater resourcing compared to charities. An ideal OPC model would be akin to the Children and Young People’s Commissioner Scotland, which has “made inroads, improved outcomes, and is a positive advocate or champion”.
- Asked what the Welsh and NI Older People’s Commissioners have been able to achieve as compared to Scotland which has no Commissioner, one witness highlighted their work on ageism and digital exclusion, national campaigns, uptick of pension credit, gravitas, and locus.
- Those supporting the establishment of a Future Generations Commissioner said it could drive long-termism, by prioritising prevention, being outcomes-based and better using the National Performance Framework. This approach, they suggested, could lead to cost savings, though it was recognised these are difficult to quantify.
- Calls for a Learning Disabilities, Autism and Neurodiversity Commissioner are a result of limited progress being made and “voices unheard”.
- New commissioners could also prevent people being “pushed from pillar to post”, with some having investigatory powers and rights to raise legal proceedings.
- Other witnesses were less convinced that new commissioners are the best option, expressing concerns that their funding may not reach those ‘on the ground’. They noted a lack of evaluation of the difference commissioners have made, lack of understanding around how commissioners meet individuals’ needs, and challenges in being able to identify and assess other options.
- Some felt that other options, such as strengthening the Scottish Human Rights Commission (SHRC), through a ‘rapporteur’ model, should be considered. Those calling for this intersectional ‘champion’ approach suggested that it could prevent people “falling through the gaps”, while

⁸ Health and Social Care Alliance Scotland

others were sceptical that “bolting functions onto the SHRC would improve things”.

- Commissioners need to work collaboratively to deliver the best outcomes and may just be a “sticking plaster” until improvements in services are achieved.

Scrutiny, accountability, and value for money

- It was argued that committees should have a greater role in scrutiny of performance, with a focus on delivery of outcomes. Difficulties in assessing their performance was also noted.
- Some witnesses felt that commissioners could potentially save costs, through prevention “rather than getting to a crisis point”. It was also suggested that commissioners can use money differently and more efficiently, though having a commissioner does not necessarily mean more resourcing for a particular group.
- Witnesses explored how a layer of commissioners could “shift democratic accountability”, particularly if they were created instead of dedicated Ministers.
- Commissioner reports should be examined by committees and the whole Parliament, through for example, committee-led debates.
- One witness suggested that those with lived experience should have a role in the accountability model.
- Some had concerns that the SPCB has limited resources to be able to support and hold officeholders to account.

Conveners – scrutiny of proposals and performance (14 May 2024)

21. On 14 May 2024, the Committee took evidence from two panels of Committee Conveners. The first session, with Audrey Nicoll MSP, Convener of the Criminal Justice Committee (CJC), and Clare Haughey MSP, Convener of the Health, Social Care and Sport Committee (HSCSC), focused on their committees’ recent scrutiny of proposals to establish new Commissioners.

22. The CJC was lead committee for Stage 1 scrutiny of the Victims, Witnesses and Justice Reform (Scotland) Bill, which was introduced on 25 April 2023, and is currently at Stage 2. The Bill covers a range of matters, including creating the office of Victims and Witnesses Commissioner for Scotland. The CJC published its [Stage 1 Report on the Victims, Witnesses, and Justice Reform \(Scotland\) Bill](#) on 29 March 2024, which concluded that—

“We remain to be convinced that a strong case has been made for the establishment of a Victims and Witnesses Commissioner. Instead, we consider that better outcomes may be achieved by focusing spending in areas which have a more direct and immediate benefit for victims and witnesses. We invite the Scottish Government to consider if they still wish to proceed.”

23. The CJC further recommended that—

“If, having considered the points we raised, a Commissioner post is to be established, then we recommend that in the first instance it should be for a time-limited period in order to allow for an assessment to be made of the value of the role.

24. The Scottish Government has confirmed that it wishes to press ahead with the creation of a Victims and Witnesses Commissioner and argued that, if Parliament agrees to a time-limited post, this period should be of sufficient length for the Commissioner to be able to demonstrate effectiveness.
25. The HSCSC was lead committee for scrutiny of the Patient Safety Commissioner for Scotland Bill at Stages 1 and 2. In its [Stage 1 Report on the Bill](#) published on 28 April 2023, the lead committee highlighted “the importance of ensuring public confidence and trust in the healthcare system in Scotland” and therefore agreed that the Commissioner should be appointed by the SPCB and accountable to the Scottish Parliament. It also supported the primary functions of the Commissioner as being “to advocate for systematic improvements and to amplify the voice of patients”. The Stage 1 Report went on to highlight stakeholders’ concerns regarding the potential for overlap and duplication of roles and responsibilities within the system, and the future role of the proposed Commissioner within an already complex landscape. The Bill was passed by Parliament unanimously on 27 September 2023 and enacted on 7 November 2023.
26. The second evidence session, with Sue Webber MSP, Convener of the Education, Children and Young People Committee (ECYPC), and Martin Whitfield MSP, Convener of the Standards, Procedures and Public Appointments Committee (SPPAC), focused on how committees scrutinise the performance of those Commissioners within their respective remits. The Children and Young People’s Commissioner Scotland lies within the remit of the ECYPC, while both the Scottish Information Commissioner and the Ethical Standards Commissioner (in respect of complaints against MSPs) sit within the SPPAC’s remit.

Scrutiny of proposals to create new Commissioners

- The CJC heard during evidence that a Victims and Witnesses Commissioner could create duplication with both victim support bodies and the Children and Young People’s Commissioner. It also considered that the costs associated with a new Commissioner could be put to better use by improving services and support for individuals. Inspection bodies within the criminal justice sector, such as His Majesty’s Inspector of Constabulary and the Police Investigations and Review Commissioner are effective in demonstrating their independence, producing challenging and robust reports, without the need to be accountable to, and funded by, the SPCB. Any review of whether the Victims and Witnesses Commissioner should continue beyond a defined time period would need to focus on their effectiveness in delivering outcomes.
- In contrast, the HSCSC considered that a Patient Safety Commissioner for Scotland is required as a mechanism to identify systematic failures across the health sector and needs to be entirely independent of government to restore public confidence and trust, following a series of significant historic

medical safety issues as highlighted in the Cumberledge Review⁹. This Commissioner was described as a ‘golden thread’ which would run through the complex landscape of patient safety, amplifying the voices of patients. Potential overlaps with other bodies were recognised by the HSCSC, which argued therefore that collaboration is needed, as well as effective measuring of outcomes. Evidence received by the HSCSC suggested that this Commissioner would effect real change in this area.

- It was noted that both Commissioners had been proposed due to a perceived failure of public bodies to respond to serious concerns.
- While parliamentarians could take on elements of the advocacy role proposed in relation to some additional Commissioners, it was noted that some Commissioners, such as the Biometrics Commissioner, require to have technical expertise.
- Both Conveners welcomed the FPA Committee’s inquiry, suggesting that “a fairly robust overarching review is appropriate” and that there needs to be a “good, sound rationale” for the creation of any new Commissioner. The public perception of Commissioners and their effectiveness is not known, though it was recognised that some perhaps have a higher profile than others.

Scrutiny of performance

- The two Commissioners within the SPPAC’s remit have distinct ‘quasi-judicial’ roles. The Committee has “critical oversight” and, through its scrutiny of annual reports, is able to identify and interrogate any “blockages in the system”, such as delays arising from the Covid pandemic. The Convener however raised concerns regarding a gap in accountability, particularly in relation to identifying and challenging cultural issues early on, a matter which had arisen previously.
- It was argued that the vehicles for accountability and scrutiny are inadequate, with tensions within the current model, where resourcing is provided by the SPCB and scrutiny rests with committees. It is challenging for committees to make a judgement on whether a commissioner has made a difference or if they are value for money. The SPPAC Convener suggested that a strong ‘oversight committee’ responsible for scrutiny of all Commissioners, “looking at the whole picture”, is needed.
- The ECYPC Convener argued that the Children’s Commissioner is essential in ensuring that children’s voices are heard and in closing the implementation gap between policy ambition and action.
- The Scottish Information Commissioner has “shifted the dial” on opening up information, increasing the feeling of entitlement amongst the public that they should be able to access information from public bodies.
- However, it was also noted that some proposed Commissioners may not be able to resolve the issues that they are being created to address, e.g. failures in the delivery of public services.
- The capacity of committees to undertake effective scrutiny was noted, with significant legislative commitments highlighted. One Convener suggested that legislative programmes could be lightened to allow more proactive work, including scrutiny of Commissioners’ effectiveness.

⁹ [First Do No Harm \(immdsreview.org.uk\)](https://immdsreview.org.uk)

Challenges in relation to Commissioners falling in the remit of more than one Committee were also noted.

- Models other than creating new Commissioners were discussed, such as creating a rapporteur model within the SHRC. One Convener suggested that this could dilute individual Commissioners' roles and effectiveness, such as that of the Children's Commissioner.
- Concerns were also highlighted regarding the potential for duplication in establishing additional Commissioners and creating barriers for some people unclear who they should approach.

**Committee Clerking Team
May 2024**