



The Scottish Parliament
Pàrlamaid na h-Alba

Kenneth Gibson MSP
Convener
Finance and Public
Administration Committee

Clerk/Chief Executive
The Scottish Parliament
Edinburgh
EH99 1SP

Tel: 0131-348-5305

By email

david.mcgill@parliament.scot

24 April 2023

Dear Kenneth

Thank you for your letter of 29 March 2023 following on from the SPCB's evidence to the Committee on 10 January in relation to its budget for 2023-24.

You have asked for additional information about the budget increase for the Commissioner for Ethical standards in Public Life in Scotland, in particular how the number of additional staff (7.4 FTE) was arrived at, given the relatively low case numbers involved.

The number of additional staff is not directly linked to the case numbers. As I outlined in my letter to the Committee of 22 February 2023, the increase is made up of 4 investigating staff, 2 on the public appointments side and an increase of 1.4 FTE staff on the corporate side.

The SPCB received a comprehensive workforce plan from the Commissioner that outlined the rationale behind each additional post. The SPCB recognised the bid was substantial and invited Ian Bruce, the then acting Commissioner, to discuss the bid in detail before reaching its decision. The SPCB considered it was important to try and regain the confidence of the public in a one-off increase that was realistic. The previous Commissioner had undertaken a restructuring exercise and this, to an extent, led to the adverse audit findings given the high staff turnover and number of vacancies the office was carrying.

As I mentioned in my earlier letter, a wider scope audit review found serious failings with the office when the previous Commissioner was in post. This led to the Auditor General for Scotland issuing a Section 22 Report. As well as highlighting resourcing issues, the main thrust of the report was the likelihood of a failure in the ethical standards framework which impacts on the public's confidence in making a complaint about the behaviour of elected politicians and members of public authorities in Scotland.

The findings of the first Section 22 Report have been subject to scrutiny by both the Standards, Procedures and Public Appointments (SPPA) Committee and the Public

Audit Committee (PAC). In January of this year, the Auditor General issued a subsequent Section 22 report reporting on the progress that had been made to bring the office up to the standards expected. Both Committees sought information on the link between the increased staffing levels and the improvement in performance of the office and noted that the former was a strong factor in the latter.

I fully understand your Committee's concerns about the increase in resources especially given other public sector bodies are under pressure to stand still or even reduce budgets. Section 22 Reports highlight failings in an organisation and as the auditors made 22 recommendations for change, the SPCB considered it was appropriate and important to provide additional resources to ensure the office was functioning properly, and to build in resilience to enable the office to fully undertake its functions and regain the confidence and trust of the public. The SPCB also had regard to the fact that the Standards Commission, which receives the investigation reports from the Commissioner about councillors and members of public bodies, had issued statutory directions about the investigations process and these are still in place.

On the Committee's point about case levels, not all staff have been recruited to deal with investigations. The office also has a key role in overseeing and producing guidance on senior public appointments and this area of the office has been under resourced for some time. In addition, the Commissioner reports that complaints about elected members and board members are now more complex and time consuming. At recent evidence sessions with the SPPA and PAC Committees, concerns were raised with the Commissioner about a backlog of cases taking up to eight months. The Committees considered this impacted on the general public wishing to raise concerns if such timescales were to persist. It is expected that the additional resourcing will, once the new staff are up to speed, address this issue.

We noted that the BEMS project total cost should be within a range of £3.7- 4.5 million. We have estimated in our follow up response that costs in 23/24 would be £2.1M across materials, labour, professional fees etc.

Reiterating that these costs are based on working with consultants to establish an informed basis for budget planning purposes and proposed scheduling, however, the procurement is underway currently and we will not have defined costs until that process concludes. Within this the expert bidders may propose a different scheduling etc and that this could change the budgeting profile across financial years.

The cost of the infrastructure is estimated at £1.5 million not including labour at £1.2 million.

The software is provided as a continuous service along with the maintenance of the entire system. We do not have separate costs for the annual software element as it is integral part to the BEMS. The annual cost of the combined software and BEMS maintenance will be £50k - £70k a year.

Similar systems once completed and with proper maintenance should have an estimated lifespan of around 20 years.

Cost breakdown and proposed programme

	2022-23 £000	2023-24 £000	2024-25 £000	2025-26 £000	Total £000
Set up & SPS costs	42	2	6	21	71
Infrastructure (Materials and Equipment)		1,300	66	170	1,536
Prelims		100	148	72	320
Labour		150	917		1,067
Contingency		130	79	52	262
Professional fees	78	100	56	52	286
VAT (not applicable to all costs)		320	159	105	584
Total	120	2,102	1,531	472	4,125

We will have an updated cost basis and scheduling over the lifetime of the project for submission at the end of this year as part of the SPCB budgeting submission.

Your letter also touched on the expansion of officeholders. I am grateful to you for drawing to my attention your committee's response to the Health, Social Care and Sports Committee on the Financial Memorandum on the Patient Safety Commissioner (Scotland) Bill and I understand you might be following a similar approach to other such legislation. You have indicated that early discussion with the SPCB around this matter would be helpful and the SPCB would welcome that.

As you might be aware, the SPCB has been trying to engage with the Scottish Government about the increasing number of officeholders for some time now. We understand that in the context of the proposed human rights legislation planned for this session, some discussions have taken place between the Scottish Human Rights Commission and the Scottish Government about the proposals for new independent officeholders to be created in the equality and human rights space. We are therefore meeting with the Scottish Government at official level later this month to hear more about any plans in this area.

Again, at official level, we are also due to meet with the Scottish Government's Public Bodies Unit to consider what practical action can be taken to give more prominence to the consideration of any new SPCB supported officeholders, or indeed any proposed alteration to an existing officeholder's functions. It might therefore be more beneficial if we allow those meetings to take place and see if any progress can be achieved before we come back to you about a meeting with the SPCB?

Finally, you also asked about the sharing of services between officeholders. This is in the context of your call for views in relation to the Government's programme for public service reform. I am pleased to say that the SPCB is committed to shared services and over the last few years we have delivered in this area.

The officeholders are committed to working efficiently and effectively and to sharing services whenever practicable and possible. The most significant shared services project has been the co-location of 3 officeholders – the Ombudsman, Commissioner

for Children and Young People in Scotland and the Scottish Human Rights Commission at Bridgeside House on McDonald Road in Edinburgh. Subsequently, in 2022, the Ombudsman gave up space to accommodate the newly created Scottish Biometrics Commissioner in the building. We now expect to exceed the estimated savings of £500k over a ten-year period for accommodation costs as a result of this co-location.

Having officeholders co-located brings other shared services opportunities. For example, the Ombudsman provides the Scottish Biometrics Commissioner (from January 2022) and the Scottish Human Rights Commission (from 1 April 2023) with shared services including finance, facilities management, payroll and HR. The provision of this service enabled the Scottish Biometrics Commissioner to reduce his staffing complement by one member of staff and the Scottish Human Rights Commission to reduce its staffing complement by 0.5 FTE.

A recent shared services procurement exercise provided a new payroll provider for the Scottish Information Commissioner, the Children and Young People Commissioner, the Standards Commission and another public body not funded by the SPCB. The SPCB also provides shared services at nil cost to the officeholders including a Data Protection Officer, procurement services and staff training.

While space is now limited at Bridgeside House, it might still be possible to locate a small additional new officeholder there in the future. Should that not be possible, we would expect support services to be provided by another officeholder thereby reducing the staff required by the new officeholder.

I hope this letter addresses sufficiently the points raised by your Committee.

Kind regards

DAVID McGILL
Clerk/Chief Executive