

Supplementary written submission from Dr Ruth Lamont, dated 26 March 2025

SPCB Supported Bodies Landscape Review Committee

Information on the structural relationship between the Standards Commission for Scotland and the Ethical Standards Commissioner for Scotland

1. In relation to the question by Richard Leonard MSP in relation to the structural relationship between the Standards Commission for Scotland and the Ethical Standards Commissioner. He asked whether I had come across a similar structure elsewhere. I have taken some time to look more closely at the relationship between the Commission/Commissioner and the short answer is no, I have never come across this particular structure or divisions of responsibility in elsewhere. It is, as far as I am aware, idiosyncratic.
2. This is a very complicated complaints framework. I think this is in part because of the legislative history, but also because there is a difference in treatment between MSPs (accountable to the Parliament) and councillors (accountable to the Standards Commission). It is unusual to split the advice-giving and standards-setting role from the investigatory role. However, it does make a good procedural structure in terms of enforcement: the Ethical Standards Commissioner investigates against standards they did not set, and then refers the final enforcement *either* to a Committee of the Parliament (MSPs), or to the Standards Commissioner (councillors). From a procedural justice perspective, it has a strong element of fairness in procedure, since no one body is standard-setter, advice giver, investigator and enforcer.

Annexe: Standards Commission for Scotland Decisions in Response to the Ethical Standards in Public Life reports

Summary of cases

Total cases referred for the period April to December 2024: 43

Case decisions	Total cases referred from the period	Total cases referred from the period
SCS section 16 decision to hold a hearing	10	23%
SCS section 16 decision to direct for further investigation	1*	2%
SCS section 16 decision to do neither	33	77%

*Upon completing further investigation, SCS made a section 16 decision to hold a hearing

Total cases referred for the period April to December 2024: 43

Case decisions	Total cases referred from the period	Total cases referred from the period
SCS agrees with ESC decision [^]	35	81%
SCS disagrees with ESC decision	5	12%
Not applicable (referred back to public body)	1	2%
Not applicable (hearing pending)	2	5%

[^] This includes where SCS has no reason to depart from ESC view, does not state a view or agrees on our Article 10 analysis and takes no action

Total cases referred to the SCS in the 2023-2024 financial year for the period April to May 2024: 52

Case decisions	Total cases referred from the period	Total cases referred from the period
SCS section 16 decision to hold a hearing	19	37%
SCS section 16 decision to direct for further investigation	1*	2%
SCS section 16 decision to do neither	33	64%

*Upon completing further investigation, SCS made a section 16 decision to hold a hearing (confirmed from Annual Report)

Total cases referred to the SCS in the 2023-2024 financial year for the period April to May 2024: 52

Case decisions	Total cases referred from the period	Total cases referred from the period
SCS agrees with ESC decision [^]	43	83%
SCS disagrees with ESC decision*	9	17%
Not applicable (investigation ended due to death of R)	1	2%

[^] This includes where SCS has no reason to depart from ESC view, does not state a view or agrees on our Article 10 analysis and takes no action

* This includes a decision that was quashed by the Sheriff Court on appeal by the Respondent.

The headlines from this analysis are as follows:

- In the financial year to date to Dec 2024, the SCS have decided to take more 'no action' decisions compared with the last financial year (increasing from 64% last year to 77% this year up to Dec 2024)
- The rate of SCS agreeing with our view in the year to date (to Dec 2024) is comparable at about 81-83%
- The rate of disagreement has declined slightly this year (from 17% last year to 12% this year up to Dec 2024)