

Supplementary written submission from the Commissioner for Ethical Standards in Public Life in Scotland, dated 20 February 2025

SPCB Supported Bodies Landscape Review Committee

I refer to the Committee's request for supplementary information, further to my evidence session on 30th January. My responses to the two questions asked by the Committee are set out below.

Provide statistics on how often the Standards Commission agrees with my conclusions in respect of Councillor and Member conduct

On receipt of a report from my office, following an investigation that I have conducted, the Standards Commission for Scotland (SCS) has three options under section 16 of the Ethical Standards in Public Life etc. (Scotland) Act 2000. These are to:

1. direct me to carry out further investigations;
2. hold a hearing; or
3. do neither

The SCS sends my office their written decision in response to each report, which includes their reasons for choosing their preferred option.

I have conducted an analysis of SCS written decisions for the 2023/24 financial year and the 2024/25 financial year (up to the end of December). I have included the details of this analysis in appendix one to this letter. It includes a number of footnotes explaining how we came to the figures that we have, given that we have not previously reported on this particular question.

In summary, in the 2023/24 reporting year, the SCS agreed with my decision in 83% of cases and disagreed in 17% of cases. During this financial year to the end of December they have agreed with my decisions in 81% of cases and disagreed in 12% of cases (the other 7% are cases in which either no decision was made, or a decision is pending).

If the Committee would find it helpful for me to provide further information on this, I would be happy to do so.

Consider and provide thoughts on whether there are any advisory functions missing in public life that could be useful

I preface this response by making it clear that these are my personal views as opposed to views provided in my capacity as the Ethical Standards Commissioner for Scotland. I say this because my statutory functions do not extend to offering

views on matters that are, or may be perceived to be, of public policy and, as a consequence appropriate for our elected representatives to consider.

Having said that, I have drawn on 20 years of experience of regulating appointments to the boards of public bodies in Scotland to inform my response. I also sought the views of all of the staff in the office, given that they are closer to our frontline work and have more regular and in-depth contact with the members of the public and disparate organisations that approach us either for advice or to make a complaint.

I have carefully considered this question and remain of the view, expressed in evidence to the Committee, that the issue is not so much that there is a gap in advisory functions in public life. Rather, the complex landscape that the public faces means that it can be very challenging for people to access the advice or support that they need or to raise concerns with the appropriate public authority that is best placed to assist them.

By way of example, many of the complaints we receive touch on, or have direct crossover with, complaints about other aspects of the complainer's life. Examples include concerns about housing, health and social care, council services and the criminal justice system. When we cannot help to address complainers' concerns, we signpost them to organisations that we feel are best placed to assist them. We have established a database for that purpose which currently has over 100 bodies listed on it. It itself includes other regulators, mental health services, financial and other advice services, providers of legal assistance and a range of third sector organisations with myriad disparate support functions.

From my own knowledge and experience of the public sector landscape, I am aware of how very complex it is and of how very many public bodies there are and how very disparate their functions are. Even after 20 years of working in the field of regulation, I continue to come across new bodies or to gain a better understanding of the functions of bodies that I have been familiar with for years. This clearly doesn't take account of the myriad third sector organisations that operate to support the public with issues that are not addressed directly by public sector organisations. Given this, it must be exceptionally difficult for a member of the public to navigate that landscape.

I attended the Scottish Government's Public Sector Reform (PSR) summit on Monday of this week and many of the discussions held there concerned how best to provide members of the public with the type of wraparound joined-up services that best meet their individual needs. As I explained to the Committee previously, I think this should be a shared ambition for all of us. Being passed from pillar to post between different bodies and going through multiple complaints processes doesn't engender public trust and also means duplication of effort on the part of members of the public as well as the agencies established to assist them. There are clearly resource implications for this which the PSR agenda is also seeking to address.

I remain of the view that there must be a better way of making services or the ability to raise concerns more accessible to the public and I am committed to exploring ways of doing so. I made reference previously to a public portal for provision in this area but clearly there would be scope to go further than this by providing, for example, a triage service that directs people automatically to the right organisation. I am also persuaded by the SPSO's arguments in favour of agencies being able to share data on citizens with a view to ensuring that they reach the right organisation when they require a service or require to raise legitimate concerns.

I do realise that this response covers subject matter that falls well outwith the scope of the Committee's remit. I understand also that that remit has been set by the Scottish Parliament and that the Committee's time is limited. Notwithstanding this, it is my personal view that examining the work of SPCB supported bodies in isolation from that wider landscape, particularly given the question that you put to me, may represent a missed opportunity to think creatively about the changes that would have the capacity to make a more meaningful difference to the lives of Scotland's citizens.

I trust that these responses will be of some assistance to the Members.

Please don't hesitate to contact me if you have any questions or if I can be of any further assistance.

Ian Bruce
Ethical Standards Commissioner

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)