

7 December 2011

## **SPCB SUPPORTED OFFICEHOLDERS**

### **Executive summary**

1. This paper has been prepared to provide the SPCB with information on the SPCB supported officeholders in respect of the functions of each of the offices and the progress on greater sharing of services between each office. The paper is for information only and no decisions are required.

### **Issues**

2. The SPCB supports the following 6 offices:

#### **Scottish Public Services Ombudsman**

3. The present Ombudsman is Jim Martin who was re-appointed on 1 May 2011 and whose term of appointment will end on 30 April 2017. The Ombudsman has a budget of £3,367,000 for 2011-12 which will reduce to £3,292,417 for 2012-13. The Ombudsman has a staff compliment of 47.8 FTE staff and is currently based at 4 Melville Street, Edinburgh.

4. The main functions of the Ombudsman are to handle complaints about public services in Scotland including the Scottish Government and its agencies, local authorities, the National Health Service, housing associations, most water and sewage providers, universities and colleges and most Scottish public authorities.

5. The Ombudsman looks into complaints where a member of the public claims to have suffered injustice or hardship as a result of maladministration or service failure. The Ombudsman is the 'last resort', and only looks at complaints when they have been through the formal complaints procedure of the organisation concerned.

6. In the last 2 years the Ombudsman's remit has been extended to cover prisons and the complaints handling function of Waterwatch. In addition, the Public Services Reform (Scotland) Act 2010 has placed an additional function on the Ombudsman to standardise Scottish public authorities' complaints handling procedures and promote good complaints handling through its Complaints Standards Authority role.

#### **Scottish Information Commissioner**

7. The present Information Commissioner is Kevin Dunion who was re-appointed on 24 February 2008 and whose term of appointment will end on 23 February 2012. A selection panel, chaired by the Presiding Officer and made up of a cross party panel of MSPs recently sat to identify a new

Commissioner. The panel's recommendation will need to be agreed by the Parliament before the preferred candidate can be nominated to Her Majesty The Queen for appointment. The Commissioner has a budget of £1,517,000 for 2011-12 which will reduce to £1,463,400 for 2012-13. The Commissioner has a staff compliment of 21.2 FTE staff and is currently based at Doubledykes Road, St Andrews.

8. The Information Commissioner is responsible for enforcing and promoting the right to access information held by public authorities, created by the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004, both of which came into force on 1 January 2005. The Act and the Regulations give anyone, anywhere in the world, important rights to access the information held by more than 10,000 public authorities in Scotland.

9. The Act and the Regulations give the Commissioner a range of powers to support him in fulfilling his role. For example, the Commissioner can order a public authority to release information which it has refused to disclose.

#### Scottish Human Rights Commission

10. The present chair of the Commission is Professor Alan Miller who was appointed on 3 March 2008 and whose first term of appointment will end on 2 March 2013. The Chair is eligible to be considered for reappointment for a second term. While the Chair of the Commission is a Crown appointment, the members of the commission are appointed by the SPCB. The current members are Professor Kay Hampton, Shelagh McCall and Matt Smith. All are serving their first term in office and work 2.5 days per month. The SPCB will be invited to consider Kay Hampton and Shelagh McCall for reappointment in 2012 and Matt Smith in 2014.

11. The Commission has a budget of £960,000 for 2011-12 which will reduce to £943,991 for 2012-13. The Commission has a staff compliment of 10 FTE staff and is co-located with the Scottish Public Services Ombudsman at Melville Street, Edinburgh.

12. The functions of the Commission are set out in the Scottish Commission for Human Rights Act (2006). Under this Act, the Commission has a general duty to promote awareness, understanding and respect for all human rights - economic, social, political, cultural and civil - to all in Scotland, and to encourage best practice in relation to human rights.

13. The Commission also has a number of powers. These include:

- The power to conduct inquiries into the policies or practices of Scottish public authorities, either those working to deliver a particular service, or public authorities of a particular description i.e. those working on certain issues or a particular description.

- The ability to provide education, training and awareness raising, and by publishing research and recommending such changes to Scottish law, policy and practice as it considers necessary.
- The Commission promotes and protects the human rights guaranteed by the European Convention on Human Rights, which forms part of the law of Scotland through the Human Rights Act 1998 and the Scotland Act 1998, as well as other human rights which are guaranteed by international conventions ratified by the UK.

#### Commissioner for Children and Young People in Scotland

14. The present Children's Commissioner is Tam Baillie who was re-appointed on 17 May 2011 and whose term of appointment will end on 16 May 2017. The Commissioner has a budget of £1,249,000 for 2011-12 which will reduce to £1,234,410 for 2012-13. The Commissioner has a staff complement of 14.14 FTE staff and is currently based at Holyrood Road, Edinburgh.

15. The role of the Commissioner is to promote and safeguard the rights of children and young people in Scotland under the age of 18, and those under the age of 21 if they have at any time been in the care of, or looked after by, a local authority. In carrying out this job the Commissioner must in particular:

- promote awareness and understanding of the rights of children and young people;
- review law, policy and practice to examine their effectiveness in respecting the rights of children and young people;
- promote best practice by service providers;
- promote and commission research on matters relating to the rights of children and young people.

16. The Commissioner has a power of formal investigation where it seems that the rights of groups of children and young people might have been breached, but cannot investigate matters that apply to only one child. As of yet, this power has not been used by the Commissioner.

#### Commission for Ethical Standards in Public Life in Scotland

17. The Commission came into being on 1 April 2011 as a result of amalgamating the former offices of Scottish Parliamentary Standards Commissioner, the Chief Investigating Officer and the Commissioner for Public Appointments in Scotland. The Commission has a budget of £852,000 for 2011-12 which will reduce to £894,000 for 2012-13. The Commission has a staff complement of 8.5 staff and is currently based at Drumsheugh Gardens, Edinburgh.

18. The Commission comprises 2 Members, both appointed by the SPCB with the agreement of the Parliament. The Public Standards Commissioner, Stuart Allan, is responsible for investigating complaints about Councillors, Members of devolved Public Bodies and MSPs who are alleged to have contravened their relevant Code of Conduct. The Public Appointments Commissioner, Karen Carlton, regulates the way appointments are made to the boards of Scotland's public bodies. The Commissioner also publishes a code of practice to be followed when making non-executive appointments to the boards of public bodies, examines the practices used during appointment rounds to ensure they comply with the code of practice, investigates complaints about the public appointments process and ensures that appointments are made fairly and openly and that everyone who may be interested in an appointment has the opportunity to apply.

19. Stuart Allan was re-appointed on 1 April 2011 and his term of appointment will end on 31 March 2014. Karen Carlton was re-appointed on 1 June 2009 and her term of appointment will end on 31 May 2012. The SPCB will be aware that it recently considered a proposal from the Commission to restructure the organisation and make it a body headed up by a single Commissioner, to improve the governance arrangements and provide financial savings. The proposal has been referred to the Standards, Procedures and Public Appointments Committee given the directional powers it has over certain functions of the Commission.

#### Standards Commission for Scotland

20. The Standards Commission was sponsored by the Scottish Government until 31 March 2011. From 1 April 2011 it became an SPCB supported body. Increased funding required by the SPCB to fund the Commission is directly offset by savings to the Scottish Government:

21. The current Commission members were appointed by Scottish Minister but any future appointments will be made by the SPCB. At present membership comprises: Ian Gordon, Commission Convener, appointed until 31 January 2014; Carol Paton, appointed until 17 January 2015; Jan Polley, appointed until 17 January 2014; Matt Smith appointed until 31 March 2014; and Julia Ward, appointed until 17 January 2015.

22. The Commission's budget for 2012-13 is £233,000, a reduction of 7.54% on the budget for 2011-12. The staff compliment is 3 staff, and the Commission is based in the Parliament building.

23. The role of the Commission is to issue guidance to councils and devolved public bodies; to assist them in promoting high standards of conduct, and on the Standards Commission's relationship with them in carrying out its functions under The Ethical Standards in Public Life etc. (Scotland) Act 2000.

24. The Commission also receives reports from the Chief Investigating Officer on the outcome of investigations and, if the Chief Investigating Officer

has concluded that a breach of a code of conduct has occurred, determines whether to:

- Direct the Chief Investigating Officer to carry out further investigations;
- Hold a Hearing; or
- Take no action

25. When the Commission holds a Hearing to determine whether a councillor or member of a devolved public body has contravened the Councillors' or the Members' Code, should it find that a councillor or member has breached the relevant code, it determines the sanction to be applied.

### **Role of the SPCB**

26. In relation to each of these offices, the SPCB is responsible for approving the annual budget, setting the officeholder's terms and conditions of appointment including the starting salary; approving any staffing determination in terms of numbers and grades; approving advisers and assessors' fees; appointing the officeholder or a member of staff as the Accountable Officer; and approving any accommodation moves. The SPCB has the power of direction in relation to the sharing of services, including the sharing of premises and staff.

27. The SPCB is also responsible for determining the salary and terms of appointment of the Auditor General for Scotland. However, approval of the budget of Audit Scotland is a matter for the Scottish Commission for Public Audit.

### **Shared Services**

28. At present we are working on two aspects of sharing of services, external audit and property.

#### **External Audit**

29. We are looking at the costs of external audit. At present the expenditure on external audit is about £90,000 with an additional £30,000 on financial adviser costs.

30. In terms of reducing costs, it is generally agreed that this is an area where savings could be made. An option which is being explored with officeholders would involve their financial accounts being prepared along with and using the same system as the SPCB's accounts. There have been positive discussions in regard to this proposal with Audit Scotland, and with the Scottish Government who determine the accounts direction which sets out how annual accounts are to be prepared.

31. In addition to the practical details, consideration is being given to how to protect the independent role of the Officeholder and the implications for their responsibilities as Accountable Officer. The SPCB may be aware that in respect of the functions of each office the officeholders are not subject to the direction or control of Scottish Ministers, the SPCB and any MSP. It is important, therefore, to ensure that any new arrangements do not, in any way, impinge on that independence.

### Property

32. We are also looking at rationalising the property costs of officeholders. In 2010-11, the combined property costs were £723k. In 2012-13 we will have reduced this to £629k, a reduction of 13%. This has been achieved through an agreement between the Scottish Human Rights Commission and the Scottish Public Services Ombudsman which means that the SHRC now share the offices of the SPSO in Melville Street, Edinburgh resulting in savings of £62k and the Standards Commission for Scotland having recently moved from the Scottish Government estate into the Parliament campus which has provided savings of £32k.

33. In 2014, the leases of the premises occupied by the Commission for Ethical Standards in Public Life in Scotland and the Commissioner for Children and Young People in Scotland will come to an end or reach a break point. As this will provide a further opportunity to rationalise the accommodation, investigations are under way into the availability of suitable office premises, including consideration of the possibility of leasing vacant property belonging to the Scottish Government.

### Resource Implications

34. The combined budgets for the SPCB supported officeholders including £250k for the officeholders' central contingency for 2012-13 is £8.2m. This is a 9.9% reduction on the budgets for 2010-11. The indicative budget for 2013-14 is £8.029m which is a reduction of 11.8% on the 2010-11 budgets.

### Governance issues

35. There are no governance issues as no decisions are required at this stage.

### Publication Scheme

36. This paper can be published.

**Decision**

37. This paper is for information only.

Officeholder Services  
December 2011