

Scottish Biometrics Commissioner

Annual Report and Accounts 2022|23

Safeguarding our biometric future



Scottish Biometrics
Commissioner
Coimiseanair
Biometrics na h-Alba

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Foreword

by the Scottish Biometrics Commissioner

On 25 October 2022, I laid my first annual report and accounts covering the financial year 2021/22 before the Scottish Parliament. In last year's report, I outlined the successful design and delivery of the new Scottish Biometrics Commissioner function during the global pandemic both on time, and under budget.

I acknowledged then that our staffing model as pre-determined by the available year one funding was a significant risk to our operations arising from the various policy memoranda that had accompanied the passing of our enabling legislation. In 2021/22, I also reported that I was able to ameliorate part of this risk by entering a Shared Services Agreement with the Scottish Public Services Ombudsman (SPSO).

Properly standing up a new organisation also builds the foundations for future success and during 2022/23 we have once again operated within our allocated budget, whilst also achieving all the objectives outlined for the period in our Strategic Plan including all our Key Performance Indicators.

For 2022/23, I will be laying two annual reports before the Parliament in recognition of the competing reporting requirements arising from Sections 31 and 32 of the Scottish Biometrics Commissioner Act 2020, and as agreed last year with Audit Scotland. This report is therefore prepared under Section 31 of the Act, and is a report to Parliament on the performance of our organisation against our Strategic Plan and our accounts, including the findings from our external audit conducted by Audit Scotland.

My Section 32 report which will examine biometric data use in Scotland in more detail will be laid separately, although properly, there will be some crossover between both reports.

One of the highlights of our performance this year came on 16 November 2022, when our statutory Code of Practice on the use of biometric data and technologies took legal effect in Scotland. I am grateful that my evidence session with the Criminal Justice Committee on 15 June 2022, gave the Parliament and Scottish Ministers the confidence to approve the Code without a single amendment.

With that approval, Scotland became the first country in the world to have a national statutory Code of Practice guiding the ways in which biometric data and technologies may be used for policing and criminal justice purposes, supported by legal powers within the Scottish Biometrics Commissioner Act 2020 to monitor compliance, and a complaints mechanism for data subjects. This is a significant human rights achievement for Scotland of which we should be proud, and one which was acknowledged in the media.¹

One of my saddest duties of the year came on 12 September 2022, when I attended the service at St Giles' Cathedral in Edinburgh to celebrate the life of Her Late Majesty The Queen, followed by the Motion of Condolence at the Parliament attended by King Charles III.

¹ World first for Scotland in use of biometric data and DNA, Holyrood Magazine, 16 November 2022

In March 2023, and working in strategic partnership with the Scottish Police Authority, I laid two joint assurance reviews before the Scottish Parliament. The first was on the acquisition of biometric data from vulnerable adults requiring the support of an Appropriate Adult whilst in police custody. The second, which also involved partnership with the Children's Centre for Youth Justice (CYCJ), examined the acquisition of biometric data from Children because of arrest. Both reports commended Police Scotland's strategic approach to safeguarding the rights of vulnerable groups whilst in police custody and each also made a small number of recommendations for improvement.

During the year we have made five separate recommendations to Police Scotland. These include retaining the ability to administer Scottish biometric data when it is aggregated to UK systems, better upholding the right to information for biometric data subjects under UK GDPR and on the Code of Practice, improving internal management information to better inform strategic decision-making, and developing distinct policies and safeguards on biometric acquisition from children.

I am extraordinarily grateful to the Chair of the Scottish Police Authority Martyn Evans, SPA Board Members, and the SPA Executive Team and officials for supporting our work over the period. I am also grateful to the then Chief Constable of Police Scotland Sir Iain Livingstone and his Executive Team for their ongoing support and for accepting the various recommendations that we have made.

On 28 February 2023, and following the Code of Practice taking legal effect, I laid an updated version of my 4-Year Strategic Plan before the Parliament. The updates include a new annual programme of compliance assessments for the Code of Practice now that it has taken legal effect. This will be an annual rolling programme applying to Police Scotland, the SPA Forensic Services, and the Police Investigations and Review Commissioner which commences from the winter of 2023.

In my 2021/22 Annual Report and Accounts, I highlighted that the legal requirements imposed on me in Sections 28 and 29 of the Scottish Biometrics Commissioner Act 2020 (reporting periods of Strategic Plan and budgets) are now misaligned in law as an unintended COVID-19 consequential. For that reason, I made a recommendation last year to Scottish Ministers for legal resolution but that has not been progressed as there is currently no space in the legislative programme. Therefore, to assist our external auditor and the Parliament in properly holding me to account, from April 2023 onwards I will also publish an Annual Business Plan which presents activities from our Strategic Plan in the fiscal year for direct in-year comparison against our finances.

During 2022/23, there have been calls in the Scottish Parliament for expansion of my functions.² There have also been discussions ongoing for more than two years between Scottish Government officials and Westminster on the terms of a Section 104 Order under the Scotland Act to bring UK-wide policing bodies collecting biometric data in Scotland under my jurisdiction. In my view, the case for expansion of remit (and resource) is compelling, and offers a potential solution to the paradigm of ongoing risk that arises from an organisation with only three members of staff. However, I acknowledge that this must be balanced at this time with the extraordinary strain on public finances.

² SNP running away from expanded biometrics commission role, Scottish Liberal Democrats, 16 February 2023

I have highlighted my willingness to embrace such opportunities in evidence to the Parliament Criminal Justice Committee, in discussion with the former Cabinet Secretary for Justice, and in meetings with Scottish Government Officials, the Scottish Prison Service, and the Criminal Justice Board. Biometric data is not the sole preserve of 'policing' bodies and is used extensively throughout the entire criminal justice ecosystem in Scotland, including in criminal prosecutions, in prisons, and in the multi-agency management arrangements for violent and sexual offenders. However, I acknowledge that any expansion of remit is entirely and properly a matter for Scottish Ministers.

Notwithstanding expansion of remit, I wish to signpost to the Parliament that my budget submission for 2024/25 to the Parliamentary Corporate Body will include a growth bid for an additional staff member to mitigate the current risk to our operations arising from our small scale, and to ensure that I am properly resourced to discharge my legal obligations. This is in line with the final Financial Memoranda which accompanied our founding legislation which projected that the Commissioner would require four members of staff.

After my second year in office, there are many to whom I wish to acknowledge a debt of gratitude. Particular thanks are due to my exceptional small team including my Corporate Services and Operations Managers Cheryl Glen and Diego Quiroz, and to Joanna Milne our Business Support Officer. Their collective contributions during 2022/23 have once again been exceptional.

Thanks, are also due to Janice Crerar and Huw Williams at the Parliamentary Corporate Body for their ongoing support. Also, to the Scottish Public Sector Ombudsman Rosemary Agnew and her outstanding SPSO team for facilitating a Shared Services Agreement between us to achieve value for the public purse. Also, to Professor Derek Penman the Independent Chair of my professional Advisory Group and to all Advisory Group members. Also to my Advisory Board on Audit, the Scottish Parliament Criminal Justice Committee, TIAA our internal auditors and to Audit Scotland for their ongoing support and encouragement.

Looking ahead to 2023/24, our strategic function of supporting and promoting the adoption of lawful, effective, and ethical practices will guide the activity in our Strategic Plan as we seek to maintain our position as an impartial and trusted voice in the criminal justice community in Scotland, the UK, and internationally. Our values of independence, transparency, proportionality, and accountability will continue to remain at the heart of everything that we do.



Dr Brian Plastow
Scottish Biometrics Commissioner

SG/2023/165 – prepared in accordance with the provisions of Sections 31 and 32 of the Scottish Biometrics Commissioner Act 2020.

Introduction

This Annual Report and Accounts (ARA) for 2022/23 has been prepared for the Scottish Parliament in accordance with the provisions of the Scottish Biometrics Commissioner Act 2020, guidance contained within the UK Government Financial Reporting Manual (FReM), and the [Accounts Direction](#) given to the Commissioner by Scottish Ministers. The primary audience for this report is parliamentarians, however the report is of relevance to anyone with an interest in how biometrics data and technologies are used for policing and criminal justice purposes in Scotland.

In accordance with the requirements of [Section 31](#) of the Scottish Biometrics Commissioner Act 2020, this report provides the following information relative to the performance of our statutory duties. The Commissioner must:

- Keep proper accounts and accounting records
- Prepare in respect of each fiscal year a statement of accounts
- Send a copy of the statement to the Auditor General for Scotland for auditing

The accounts must be prepared on a going concern basis.

Our strategic objectives

Our [Strategic Plan](#) sets out the following four strategic objectives and priorities:

1	Keep under review and report on the law, policy and practice relating to the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes in Scotland
2	Promote public awareness and understanding of criminal justice and policing sector powers and duties in relation to biometric data, how these powers are exercised, and how the exercise of these powers can be monitored or challenged
3	Provide reports to the Scottish Parliament on the outcomes from the use of biometric data and technologies and highlight key issues to inform public debate thus strengthening democratic accountability
4	Develop, publish, promote and assess compliance with a statutory Code of Practice on the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes in Scotland

About us

The Scottish Biometrics Commissioner Act 2020

The Scottish Biometrics Commissioner (SBC) function was established by the Scottish Biometrics Commissioner Act 2020 (the Act). The Commissioner's general functions are to support and promote the adoption of lawful, effective and ethical practices in relation to the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes in Scotland by:

- The Police Service of Scotland (Police Scotland)
- The Scottish Police Authority (SPA)
- The Police Investigations and Review Commissioner (PIRC)

The establishment of an independent oversight body by the Scottish Parliament was particularly significant in an area where sensitive personal biometric data are captured from people who have been arrested by the police and therefore without the usual safeguards of consent, and often in circumstances where they are at their most vulnerable.

This is equally important in circumstances where such data is obtained from materials recovered from suspects, victims of crime, or at crime scenes, and may form part of the evidential chain from crime scene to court in criminal proceedings. This includes 'virtual' crime scenes where evidential materials, including biometric data (normally images or voice) may be recovered from a range of electronic devices and other sources through for example digital forensic techniques.

The distinctiveness of the Scottish Biometrics Commissioner functions therefore is to provide independent oversight of the relevant sections of the enabling criminal procedure laws in Scotland which sanction the acquisition, retention, use and destruction of biometric data. This involves engaging with often complex technical and ethical considerations and reporting to the Scottish Parliament on associated matters, including the overall effectiveness and efficiency of how biometric data is used for those specific purposes in Scotland.

These general functions do not extend to biometric data in Scotland beyond Police Scotland, the SPA, or PIRC. They also do not extend to other areas within the Scottish Government criminal justice portfolio where significant volumes of biometric data are held without consent, for example prisons. The Commissioner's functions also do not extend to reserved policing or other matters within the authority of the UK Parliament.

It should also be noted that the functions of the Scottish Biometrics Commissioner do not extend to public or private space (non-police) surveillance cameras in Scotland, or to the regulation of forensic science techniques used for policing and criminal justice purposes. Scotland does not have a Surveillance Camera Commissioner or a Forensic Science Regulator.



Performance report



Our year

Safeguarding our biometric future

Performance overview

During the financial year the organisation has achieved all of its strategic objectives as relative to Years 1 and 2 of our Strategic Plan objectives but we wish to specifically highlight the development and publication of our Code of Practice which saw Scotland lead the way on biometric data. As the Commissioner stated – ‘it is a world first, Scotland will be the first country in the world to adopt a statutory Code of Practice on a national basis to regulate how the police and criminal justice sector use biometric data’.

In 2022/23 we:

- ✓ Published our first Annual Report and Accounts which was laid before Parliament
- ✓ Delivered our first set of assurance reviews – Children’s and Vulnerable Adults
- ✓ Delivered our Code of Practice
- ✓ Delivered our Complaints mechanism for the Code
- ✓ Published and responded to a wide range of consultations
- ✓ Published a guide to biometrics
- ✓ Produced a video animation explaining biometrics
- ✓ Consulted civil society and the public on the Code of Practice
- ✓ Provided evidence to the Parliament Criminal Justice Committee and SPA Board
- ✓ Delivered presentations at a variety of external events including the Digital Policing Conference; Digital Forensic evidence (Dundee University), Sprite + network, Scottish AI Alliance

Key performance indicators:

- ✓ Number of official meetings with Police, SPA and PIRC achieved
- ✓ Advisory Group formally met three times throughout the year
- ✓ Four public information newsletters developed, published and distributed
- ✓ Website footfall increased on schedule
- ✓ Large-scale thematic assurance reviews conducted and published
- ✓ Public reporting obligations met – three reports laid before Parliament – Annual Report & Accounts and two assurance reviews
- ✓ Financial performance – operated within budget
- ✓ Responded to all FOIs within statutory time frames
- ✓ Staff engagement survey and development session completed successfully
- ✓ Achieved 100% staff retention and 0% sickness levels

Our [Strategic Plan](#) which we reviewed and published an updated version February 2023 continues to set out our four strategic objectives covering the years 2021 to 2025. These objectives are supported by outputs and intended outcomes throughout which, runs the golden thread of our values.

Independent

We will always act independently and publish impartial and objective review reports. Our professional advice will be informed and unbiased. The Scottish Biometrics Commissioner is a juristic person, appointed by the Monarch on the nomination of the Scottish Parliament and is independent of Scottish Government.

Proportionate

We will ensure that our activity is proportionate and does not exceed what is necessary to achieve our statutory purpose. We will minimise the burden of any review activity on Police Scotland, the Scottish Police Authority, and the Police Investigations and Review Commissioner. We will ensure that the way that we do what we do is necessary, effective, and efficient.

Transparent

We will be open about what we do and give reasons for our decisions. We will publish our reports and findings and will not restrict information unless deemed necessary to protect the identity of data subjects, or due to wider public interest considerations.

Accountable

We will be accountable for what we do to the Scottish Parliament and will submit ourselves to whatever scrutiny is appropriate to our function. We will promote equality, diversity, and human rights in everything that we do.



Our team

2022/23 saw our first year operating with a full complement of staff comprising of



The Commissioner



**Operations
Manager**



**Corporate Services
Manager**



**Business Support
Officer**

Our overall female to male ratio is 50:50 and all staff are full-time. During 2022/23, including the Commissioner there were no instances of staff sickness. Our attendance rate was therefore 100% and our sickness rate 0%. We continue to adopt a hybrid working model with staff being mainly home-based which allows flexibility to staff in accordance with the needs of the business. We continue to maintain an office within Bridgeside House in Edinburgh where we undertake a number of face-to-face team meetings as well as many of our Advisory Audit Board meetings.

With a complete staffing model we continued operating at significant pace as demonstrated throughout 2021/22 with the implementation and design of corporate policies and procedures and in the achievement of successful delivery of a wide-range of operational duties. We received no customer service complaints or Subject Access Requests during 2022/23 but we did receive and respond to two Freedom of Information requests during February and March 2023 – our responses to these can be found on our [Disclosure Log](#).

Shared Services Agreement with SPSO

We continue operating a Shared Services Agreement with the SPSO which includes the SBC paying a fixed funding contribution equivalent to a 0.6 x Pay Band 1 of a member of SPSO staff which was previously approved by the Scottish Parliamentary Corporate Body (SPCB). This agreement has no involvement with our operational work and instead includes our office in Bridgeside House and support across a variety of functions including:

Facilities

- Facilities management and security
- Finance support for property and running costs (through the Bridgeside House Management Group)
- Shared front of house services – business address, serviced reception and mail services
- Shared telephony system
- Shared spaces – board room, training room, video conference facilities, kitchen

Corporate services

- Health and Safety support
- ICT support
- Finance management including monthly and annual accounts
- HR support services
- Payroll

ICT, cyber security and data protection

We continue to utilise SCOTS through the Scottish Government to host our network services which provides a safe and secure digital environment allowing us to access a range of 'tried and tested' hardware and software products including Office 365 (which includes Microsoft Teams for virtual meetings); an online records management system (eRDM) and Objective Connect which we use to share information with other officeholders. Our office remains paperless and our policy prohibiting the use of pen drives or external hard drives remains in play.

Staff undertake mandatory training on an annual basis across a variety of areas including cyber security, Freedom of Information, GDPR and records management. Our Business Support Officer (BSO) continues to perform the function of Information Management Security Officer (IMSO) ensuring Freedom of Information (FOI) and Subject Access Requests (SAR) are responded to within statutory timeframes. Both the BSO and Corporate Services Manager attend regular FOI Practitioner webinar sessions to keep abreast of new policy or legislative changes and to share good practice with other public bodies.

The BSO and Corporate Services Manager also attended (virtually) the Data Protection Practitioners Conference in July 2022, participating in different workshop sessions in order to glean as much information and knowledge as possible. We continue to have access to the professional advice of a Data Protection Officer (DPO) within the SPCB to provide support, guidance and assistance when required. Throughout 2022/23 there were no data protection or security matters identified that met the threshold of reporting to the Information Commissioner's Officer (ICO). During the year we published our Scheme of Governance and Risk Management Handbook which has since been updated to reflect new working practices.

To maintain effective records management, both the BSO and Corporate Services Manager regularly attend Scottish Government eRDM training sessions with all learning shared amongst the rest of the SBC Team. Further to this, the Corporate Services Manager as the identified staff member holding operational responsibility for records management within the SBC attends all PRSA (Public Records Scotland Act) General Surgeries and was responsible for compiling and submitting our first Records Management Plan to the National Records of Scotland in February 2023.

Due to the sensitive nature of the Business Continuity Plan this was not publicly available although was shared with our Advisory Audit Board for thoughts and comments, it is our intention to conduct exercises to 'test' the plan and to review and amend the plan if required. To support this area of work the Corporate Services Manager attended a Business Continuity Institute week-long course and received a certificate of completion gaining membership to the institute.

We continue to work closely with the SPSO ICT team through our Shared Services Agreement receiving emails re security incidents as and when they occur and attend bi-monthly meetings with our Scottish Government iTECS Customer Relationship Manager to learn of new technology developments. In regards to cyber security, the Corporate Services Manager volunteered to become a Security Awareness Champion and is now part of the Scottish Government network attending quarterly training sessions and sharing learning with the SBC Team. Further to this, we have signed up for regular alerts and newsletters from the Scottish Business Resilience Centre (SBRC) and the National Cyber Security Centre.

The two most significant risks (prior to mitigating actions being implemented) assessed during 2022/23 were:

- The SBC fail to deliver the strategic plan and fulfil our statutory duties due to not securing sufficient budget resources or inability to influence external factors / environment
- The SBC fails to maintain and implement business continuity and cyber resilience plan.

These risks along with the Strategic Risk Register are reviewed quarterly by the SBC team at strategic governance meetings as are the mitigating factors to determine whether updates need to be made. At no time during the financial year did these risks affect the performance or delivery of statutory functions or strategic objectives – as previously mentioned, many controls have been implemented in order to manage the risks including the completion of a Business Continuity course by the Corporate Services Manager. The Risk Register will continue to be monitored and no emerging risks have been identified that may affect future performance.

Performance analysis

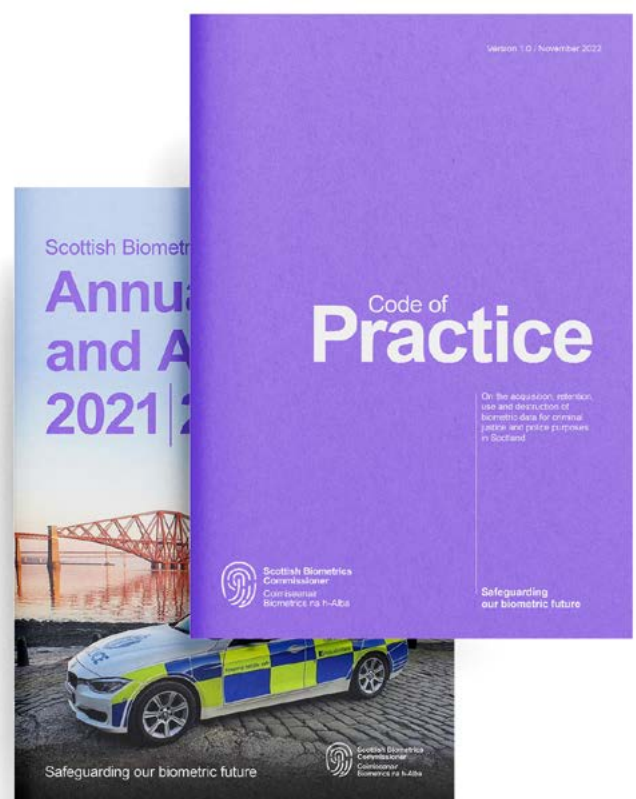


Cabinet Secretary congratulates Commissioner on successful delivery of Code of Practice

Year 1 of our Strategic Plan (December 2021 to November 2022)

The Code of Practice was laid to Parliament on 19 April 2022, the SSI (Scottish Statutory Instrument) was laid on 7 September 2022 and the Code came into effect in November 2022. This was achieved after a public consultation running between April and May; a statutory consultation process under [Section 10](#) of the Scottish Biometrics Commissioner Act 2020; consultation with the Advisory Group under [Section 33](#) of the Act; and following approval under the terms of [Section 11](#) of the Act where the Scottish Parliament's Criminal Justice Committee approved the Code and [Section 12](#) of the Act which saw the Scottish Government approving the Code. This piece of work saw Scotland become a '[world first](#)'.

Our first Annual Report & Accounts was laid before Parliament in October 2022 and described our performance in successfully delivering the new function of the Scottish Biometrics Commissioner's office from the ground up both on time and under budget. Within this report three recommendations were made:



Recommendation 1

Scottish Government should progress a legal resolution to realign the provisions of Section 28 (period of Strategic Plan) and Section 29 (budget period) of the Act in line with the original policy intention of the founding legislation.

Recommendation 2

If proceeding to implement any future expansion of the functions of the Scottish Biometrics Commissioner beyond Police Scotland, the SPA and the PIRC, Scottish Government and the Scottish Parliamentary Corporate Body should firstly consult with the Commissioner prior to producing a comprehensive business assessment of the likely impact on both the established function and personal responsibilities of the Commissioner.

Recommendation 3

In contributing biometric or forensic data to UK policing systems, Police Scotland and the SPA should ensure they have the functionality to administer and maintain that Scottish data in compliance with Scottish legislation and any Codes of Practice in terms of its use.

Published following the development of the Code of Practice, this complaints mechanism became publicly available on our website in November 2022. The document outlines the procedure under the provisions of Section 15 of the Act about failures to comply with the Code on the acquisition, retention, use and destruction of biometric data for criminal justice and policing purposes in Scotland by Police Scotland, the SPA or the PIRC. No complaints were received during 2022/23.

In June 2022 we published a short guide to assist the public in understanding the main types of biometric data that is acquired, used, retained and destroyed for policing and criminal justice purposes in Scotland. This guide provides detailed information of the DNA databases used across the policing environment as well as information on fingerprints and the volumes of biometric data held by Police Scotland.



Year 2 of our Strategic Plan (December 2022 to March 2023)

Between October 2022 and March 2023 our office conducted and published two thematic assurance reviews (Vulnerable Adults and Children & Young People) working jointly with the Scottish Police Authority and for the Children's report with the Children & Young People's Centre for Justice. Further information on our reports can be found on our website.

These reports both included three recommendations directed towards Police Scotland with a further specific fourth recommendation within the Children & Young People's report. In accordance with Section 21(2) of the Act, the Commissioner imposed a requirement for Police Scotland to provide a written statement by no later than 30 June 2023, setting out what it proposes to do in response to the recommendations, or if Police Scotland does not intend to implement the recommendations (in full or in part), the reasons for that.



Recommendation 1

Police Scotland should improve the information given to all persons who have their biometric data acquired in police custody settings because of being arrested and deprived of their liberty. As a minimum, this should include an explanation of the legal basis under which the subject's biometric data (fingerprints, image, DNA swab) is to be acquired; the length of time the data will be retained for and an explanation that such data may be speculatively searched against UK policing databases. Such information and how it is presented and delivered should be tailored to the needs of the recipient, for example vulnerable people or children.

Recommendation 2

When acquiring biometric data in police custody settings from all persons deprived of their liberty through arrest, and whose biometric data is acquired, Police Scotland should provide basic information to data subjects about the applicability of the Scottish Biometrics Commissioner's statutory Code of Practice, including the legislative provision for the Commissioner to consider complaints about failure to comply with the Code by Police Scotland. Such information and how it is presented and delivered should be tailored to the needs of the recipient, for example vulnerable people or children.

Recommendation 3

Police Scotland should improve the collection of management information in relation to all biometric data types to better inform its strategic decision-making. Police Scotland should then determine what information it could safely place in the public domain to improve the public understanding of its value. This could be in a similar manner to the Scottish DNA database statistics that are already published but should as a minimum include information on fingerprint volumes and match rates, and volumes of images held within the Scottish Criminal History System (CHS) and the Police National Database (PND).

Recommendation 4

Police Scotland should develop, consult on, and then publish operational policies, procedures, and practices for the acquisition of biometric data from children under 18 years of age that are consistent with the Justice Vision for Scotland and relevant standards for working with children in conflict with the law. There should be no general policy, which otherwise sanctions the blanket capture of biometric data from children. Any decision to take biometric data from a child should be taken on a case-by-case basis and authorised by a senior police officer not beneath the rank of Inspector. In reaching a decision, the senior officer should have regard to factors such as the best interest of the child and the gravity of the offence.

Throughout the fiscal year the office also responded to numerous consultations while the Commissioner engaged with key stakeholders raising the profile of the office of the Scottish Biometrics Commissioner.

- Consultation response to the Parliament's Education, Children & Young People's Committee on the Children (Care and Justice) (Scotland) Bill (March 2023)
- Invited by the Criminal Justice Committee to provide written evidence for a roundtable session on tackling online child abuse, grooming and exploitation (May 2022)
- Participated in evidence session with the Parliament's Criminal Justice Committee (June 2022)
- Consultation response to the Home Office on the Code of Practice for Policing, Crime, Sentencing and Court Act (June 2022)
- Letter requesting a meeting with the new Minister for Community Safety to discuss opportunities to enhance public trust and confidence in the wider criminal justice ecosystem in Scotland (November 2022) and response highlighting a meeting between the Commissioner and the Cabinet Secretary for Justice and Veterans (December 2022). Further detail regarding the meeting that took place on 26 January 2023 can be found on our website.
- Joint letter from the Commissioner, HM Chief Inspector of Prosecutions in Scotland, HMICS, HM Inspector of Prisons and PIRC to the Scottish Government on the status of the Criminal Justice Board and the Director of Justice's response (February 2023)
- Participated in an interview for a SPRITE+ sandpit on Future Digital Identity (December 2022)
- Participated in an event hosted by the Leverhulme Research Centre for Forensic Science at the University of Dundee – Who can use your data? Forensic evidence in the digital age (November 2022)
- Developed an animation explaining what is biometrics and the role of the Scottish Biometrics Commissioner (August 2022)
- The Commissioner and Operations Manager presented at the Digital Justice & Policing conference – 'Biometric Data: Opportunities, Risks and Mitigations' (October 2022)
- The Operations Manager attended the Scottish AI Summit in Glasgow. Workshops attended – Building Inclusive AI Language, Dialect and Diversity and Exploring Children's Rights & AI: Breaking News! (March 2023)
- The Commissioner was asked to present evidence at the Scottish Police Authority Board on his Annual Report & Accounts and the Code of Practice
- The Operations Manager presented at the annual CRISP (Centre for Research into Information, Surveillance and Privacy) lecture, University of Stirling (September 2022)

Our Strategic Plan 2021 to 2025

Our first Strategic Plan was laid before Parliament on 24 November 2021, however as per [Section 28\(4\)](#) of the Act, the Commissioner may at any time review and revise the Strategic Plan. Following consultation with key stakeholders Version 2 of our 2021/25 Strategic Plan was laid before Parliament on 28 February 2023. This new version reflects our intended work on the laws of retention review and our code compliance assessment programme of work.

When considering progress against our Key Performance Indicators (KPIs) for the 2022/23 fiscal year we have achieved all fifteen indicators as summarised below:

Key Performance Indicators (KPIs)		2022/23		2021/22	
1	Measures official meetings we conduct with representatives from the bodies to whom our functions extend. Our target is to meet a minimum four times each year with each organisation	The Commissioner held meetings with Police Scotland, the SPA and the PIRC during every month of 2022/23		The Commissioner held meetings with Police Scotland, the SPA and the PIRC during every month of 2021/22	
2	Measures our legal requirement to maintain a professional Advisory Group. Our target is for the Advisory Group to meet formally no less than 3 times each year	23 May 2022 30 August 2022 29 November 2022 28 February 2023		19 July 2021 25 November 2021 25 February 2022	
3	Measures the number of large-scale thematic audit and assurance reviews we conduct each year. Our target is to conduct one large scale thematic each year	Children’s and Vulnerable Adults assurance reviews published March 2023		Thematic reviews to begin in first full-year of operation i.e. 2022/23	
4	Measures the number of public information newsletters we publish each year. Our target from 2023 onwards is to produce two newsletters each year	No 7 – December 2022 No 6 – September 2022 No 5 – June 2022		No 4 – March 2022 No 3 – December 2021 No 2 – September 2021 No 1 – June 2021	
5	Measures footfall to the public information published on our website. Our performance indicator is to increase footfall to our website by 5% each year against the year 1 post-launch baseline		Feb 2023		Feb 2022
		Total views	1258	Total views	885
		No. of users	101	No. of users	42
		Top page viewed	SBC Responsibilities 197	Top page viewed	About us 123

	Key Performance Indicators (KPIs)	2022/23	2021/22
6	Measures our legal requirement to assess compliance with a Code of Practice. Our target is to publish one compliance assessment report each year for each organisation to whom our functions extend. This will be done around each anniversary of the Code taking effect	To begin November 2023 onwards	To begin November 2023 onwards
7	Measures our public reporting obligations. Our target is to lay two major reports each year before the Scottish Parliament. These are our Annual Report and one thematic report.	Annual Report & Accounts – October 2022 2 x assurance reviews – March 2023	Strategic Plan – November 2021
8	Measures our financial performance. Our target is to operate entirely within our allocated budget for each fiscal year	Achieved	Achieved
9	Measures our initial response to complaints received about us. Our target is to acknowledge 100% of complaints within three working days	No complaints received	No complaints received
10	Measures the timeliness of our investigations into complaints made about us. Our target is to communicate the outcome of our investigation within twenty working days in 95% of cases investigated	No complaints received	No complaints received
11	Measures our performance in responding to our legal duty to respond to FOI requests within twenty working days. Our target is to respond to 100% of FOI requests within twenty working days.	Received two FOIs (February and March 2023)	No FOIs received
12	Measures our performance in responding to our legal duty to respond to Subject Access Requests within 1 month. Our target is to respond to 100% of Subject Access Requests within twenty-eight working days.	No SARs received	No SARs received

Key Performance Indicators (KPIs)		2022/23	2021/22
13	Measures staff engagement in the workplace. Our target is to conduct one qualitative staff engagement survey every 12 months, commencing in 2023 and to publish the results and any action plan arising.	Staff engagement survey conducted February 2023	Staff engagement survey to be conducted during first full-year of operation i.e. 2022/23
14	Measures staff retention levels. Our target is to achieve a minimum of 85% staff retention in any fiscal year	100% staff retention	100% staff retention
15	Measures sickness and effective attendance management. Our target is for the average total number of staff working days lost to sickness or other absence each year to be lower than 6% of total available staff working days	No sickness absences recorded	No sickness absences recorded

As mentioned earlier, there have been calls in the Scottish Parliament for expansion of SBC functions. There have also been discussions ongoing for more than two years between Scottish Government officials and Westminster on the terms of a Section 104 Order under the Scotland Act to bring UK-wide policing bodies collecting biometric data in Scotland under the jurisdiction of the Commissioner. The case for expansion of remit (and resource) is compelling, and offers a potential solution to the paradigm of ongoing risk that arises from an organisation with only three members of staff. Notwithstanding expansion of remit, the SBC budget submission for 2024/25 to the Parliamentary Corporate Body will include a growth bid for an additional staff member to mitigate the current risk to our operations arising from our small scale, and to ensure that the Commissioner is properly resourced to discharge their legal obligations. This is in line with the final Financial Memoranda which accompanied our founding legislation which projected that the Commissioner would require four members of staff.

Operational expenditure

The SBC's expenditure against budget is drawn down to the SPSO bank account directly from the SPCB and managed by the SPSO finance team with appropriate sign-off by either the Corporate Services Manager or the Commissioner, dependent on the amount and as determined by the Scheme of Delegation. This expenditure is clearly identified in the SPSO accounting system by using a separate department cost centre.

Property and associated running costs are incorporated in the Bridgeside House budget and expenditure. Monthly Management Reports provide clear oversight of all expenditure attributed to the SBC.

As a result of both the SBC staffing resources being in place and the Shared Services Agreement with the SPSO we were in a position to remove support previously provided to us by the SPCB in relation to financial and accountancy services for the 2022/23 financial year.

Bridgeside House accommodation

We continue to occupy a single self-contained office in a building that houses several bodies supported by the SPCB including the Scottish Public Sector Ombudsman (SPSO), the Scottish Human Rights Commission (SHRC) and the Children and Young Peoples Commissioner for Scotland (CYPCS). Our office area is entirely secure and accessible only to SBC staff via a coded entry fob system.

The Corporate Services Manager attends regular Bridgeside House Management Group meetings whereby all officeholders meet to discuss finances, share good practice and any improvements and/or alternations taking place within the accommodation.

Environment and biodiversity

Within the Bridgeside House shared accommodation arrangements, SPSO as the primary tenant have responsibility for reporting on the waste and energy carbon emissions for all four organisations.

The Nature Conservation (Scotland) Act 2004 places a statutory duty on all public sector bodies in Scotland to further the conservation of biodiversity and the Wildlife and Natural Environment (Scotland) Act 2011 by introducing a requirement for all public bodies to make a report publicly available on their compliance with biodiversity duty. Biodiversity duty reports are required every three years. The following information is our response to these duties.

We do not own or manage land and therefore have limited opportunity to carry out biodiversity unlike other public bodies. However, we continue to support biodiversity through the adoption of a hybrid working model favouring virtual meetings to minimise our carbon footprint. When working in the office we minimise waste by recycling and operate a paper-free working environment thus keeping printing and paper waste to an absolute minimum. Through these approaches we strive to help deliver on Scotland's Climate Change Adaptation Programme.

We do not own any fleet and the shared services Travel and Expenses Policy encourage staff to travel on public transport wherever possible for work-related business. Bridgeside House has bicycle storage which we have access to and a purpose built shower to support sustainable travel options for staff.

During 2022/23 the Commissioner took two domestic flights to London to attend the UK Forensic Information Databases Strategy Board and meet with the Commissioner for England and Wales. He made no rail journeys. The Commissioner claimed no private vehicle mileage during 2022/23 and wherever possible travels by bus.

Financial overview

Total funding requested by the Scottish Biometrics Commissioner from the SPCB for the financial year 2022/23 was £421,000. This was based on the running costs and expenditure for the previous year and taking into account inflation and pay awards.

The main areas of outturn can be seen below.

Financial position

In terms of financial analysis our total expenditure on running costs for 2022/23 was £428k against a budget of £421k but after non-cash adjustments funding of £415k was required from the SPCB, an underspend of £6k against the budget.

More information on capital expenditure is available within the financial statements and notes to the accounts.

	Notes	2022/23			2021/22
		Actual £000	Budget £000	Variance £000	Actual £000
Staffing and pension costs	3, 4	332	309	(19)	149
Administration costs	5	82	112	30	77
Depreciation	6	14	-	(14)	4
Net operating costs		428	421	(7)	230
Capital expenditure		-	-	-	64
Total expenditure		428	421	(7)	294
Non cash adjustments (depreciation)	6	(14)	-	(14)	-4
Movement in working capital including cash	8, 9, 10	1	-	(1)	-12
Funding required from SPCB		415	421	6	278

Note: The SBC function during 2021/22 was still under construction and therefore there is no direct comparison with 2022/23.

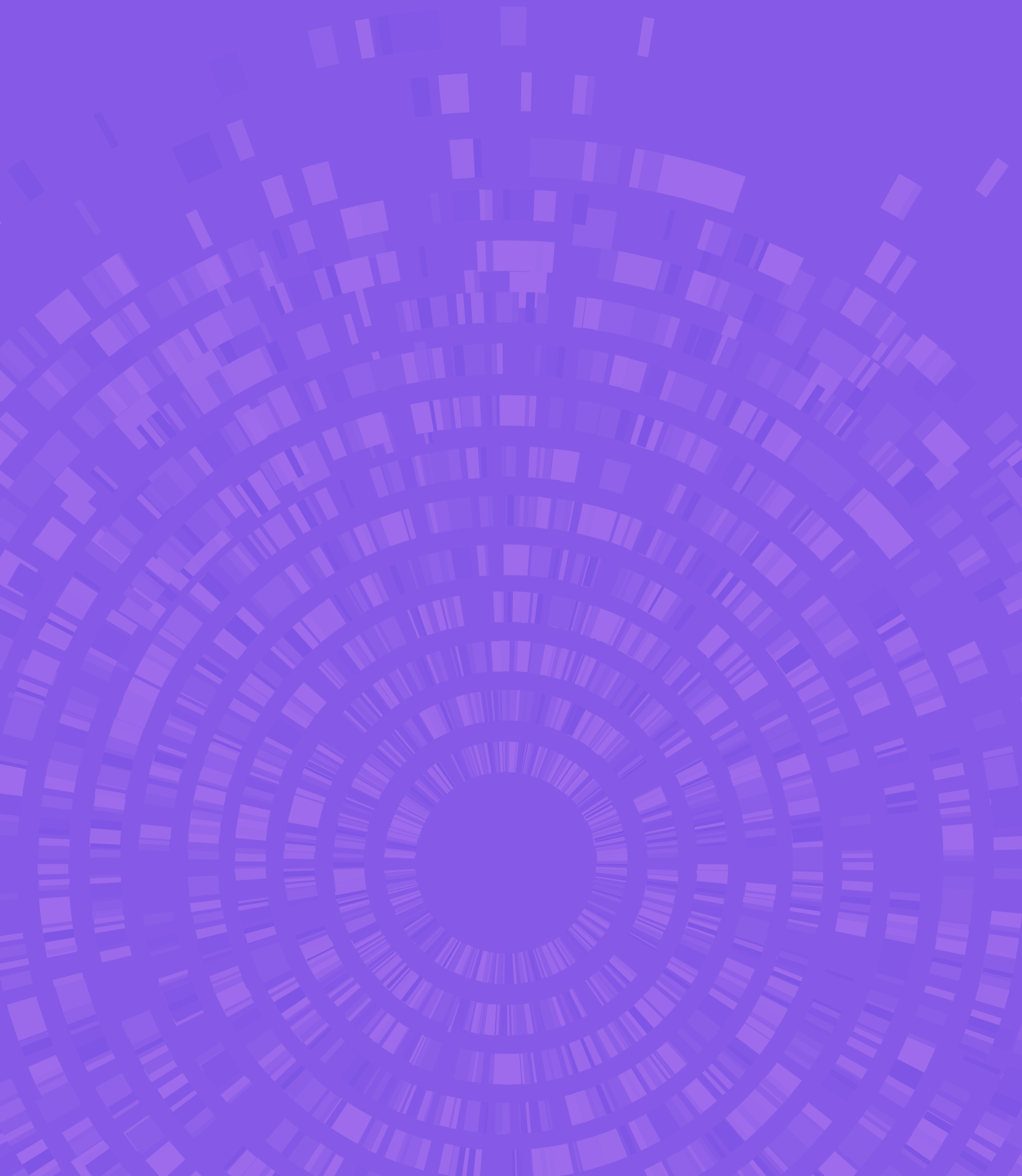
Dr Brian Plastow

Scottish Biometrics Commissioner

Date:



Accountability report



Accountability report

In this section of the report we set out:

- Our corporate governance report including:
- Commissioner's report
- Statement of the Accountable Officer's responsibilities
- Governance statement
- Remuneration and staff report
- Parliamentary accountability report
- Independent auditor's report

Commissioner's report

The Commissioner was appointed on 12 April 2021 and has completed two of their eight-year appointment. The Commissioner is supported by three members of staff – this team is considered the management team of the Scottish Biometrics Commissioner. Details of each member of staff can be found on our [website](#) as can the delegated roles as per our [Scheme of Delegation](#).

Register of interests

The [Commissioner](#) and Advisory Audit Board (AAB) members ([Andy Shaw](#) and [David J Watt](#)) publish declarations of interest on the SBC website with their biographies. Declarations of interests of other staff are held where required in accordance with the SBC Code of Professional Conduct.

External audit

The accounts of the Scottish Biometrics Commissioner are to be audited by auditors appointed by the Auditor General for Scotland in accordance with [Section 31\(1\)\(c\)](#) of the Act. The Auditor General has appointed Audit Scotland as our auditor for 2022/23.

Statement of Accountable Officer's responsibilities

Section 30 of the Scottish Biometrics Commissioner Act 2020 sets out the functions of the Accountable Officer. The Commissioner has been designated as Accountable Officer by the SPCB under Section 30(1) of the Scottish Biometrics Commissioner Act 2020. The SPCB has also directed that this may not be delegated by the Commissioner to a member of staff. In preparing the financial statements, the Commissioner is required to:

- observe the direction issued by Scottish Ministers, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards have been followed, and disclose and explain any material departures in the financial statements, and
- prepare the financial statements on a 'going concern' basis, unless it is inappropriate to presume that the Commissioner will continue in operation.

The Accountable Officer is answerable to the Scottish Parliament for the performance of these functions.

Section 31 of the Act, provides that the Commissioner must:

- a. Keep proper accounts and accounting records
- b. Prepare in respect of each financial year a statement of accounts, and
- c. Send a copy of the statement to the Auditor General for auditing

In accordance with Section 31(2) of the Act, the Commissioner must comply with the direction received from Scottish Ministers. That accounts direction was received on 20 October 2021 and is attached to this report.

As Accountable Officer I confirm that the annual report and accounts as a whole is fair, balanced and understandable and I take personal responsibility for the annual report and accounts and the judgements required for determining that it is fair, balanced and understandable.

Disclosure of information to auditors

As Accountable Officer, I am aware of no relevant audit information of which our auditors are unaware. I have taken all necessary steps to ensure that I am aware of any relevant audit information, and to establish that the auditors are also made aware of this information.

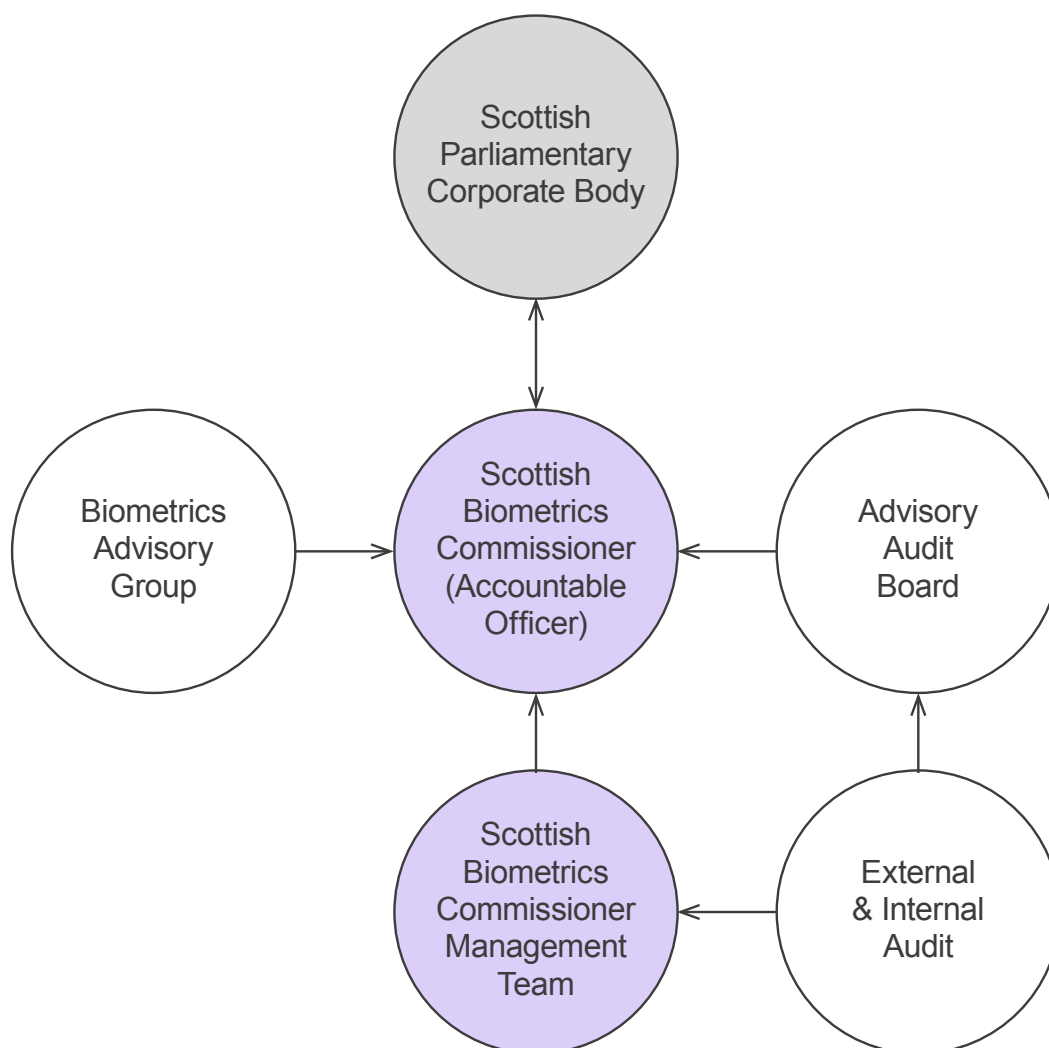
Governance statement

As Accountable Officer I have responsibility for maintaining a sound system of governance and internal control that supports the achievement of organisational policies, aims and objectives whilst safeguarding the public funds and the organisation's assets for which I am responsible.

The established systems of governance were designed and implemented in parallel with the sequential build of the office as a new function and have been in place for the year under review, and up to the date of the approval of the annual report and accounts.

Scheme of internal control

Our Governance and Internal Control Policy and Scheme of Delegation can both be found within our [Scheme of Governance and Risk Management Handbook](#) on our website. Both policies help ensure that the SBC strategic priorities and objectives are managed effectively, efficiently and economically. Both are reviewed annually.



Advisory Audit Board (AAB)

The AAB continues to support the Commissioner in relation to responsibilities for risk, internal control and governance. The AAB meets twice yearly to consider audit matters and the SBC's approach to management of risks to the business in relation to the strategic direction of the organisation including financial reporting; internal controls, performance and risk management systems; whistleblowing; internal audit and external audit. Minutes of previous meetings ([16 March 2022](#) and [22 August 2022](#)) can be found on our website. Also available are the declarations of interest for [Andy Shaw](#) and [David J Watt](#). The AAB members are:



Andy Shaw



David J Watt

SBC Team

All three members of staff – Operations Manager, Corporate Services Manager and the Business Support Officer make up the management team of the Scottish Biometrics Commissioner's office. They support the Commissioner by overseeing the day-to-day operations and corporate functions of the SBC, each staff member takes responsibility for different areas. The team meet weekly for a 'catch-up' discussion to share activities for the forthcoming week. The Commissioner chairs tactical (silver) monthly management team (MMT) meetings which consider corporate and operational matters associated with the delivery of our Strategic Plan. Under the MMT meeting structure, every fourth meeting is designated as a strategic (gold) meeting where finances and risk management are discussed together with the strategic direction of the organisation.

Risk management and control

Risk is managed actively through a risk management policy that sets out the approach to risk management for the delivery of strategic priorities. The [Strategic Risk Register](#) identifies the key risks facing the organisation and is reviewed and updated with the [Business Plan](#) on an annual basis with input from all staff. It is also reviewed by the Commissioner each quarter at AAB meetings.

The two most significant risks (prior to mitigating actions being implemented) assessed during 2022/23 were:

- The SBC fail to deliver the strategic plan and fulfil our statutory duties due to not securing sufficient budget resources or inability to influence external factors / environment
- The SBC fails to maintain and implement business continuity and cyber resilience plans

As per the Shared Services Agreement, during 2022/23 the SPSO continued to administer financial transactions on the Commissioner's behalf including processing of invoices and staff payroll. This system of internal financial control is based on agreed procedures and the system of delegation and accountability. Monthly financial statements and reports are provided by the SPSO to the SBC to ensure transparency while at the same time ensuring accountability and responsibility occurs at the right level.

Our internal audit which took place during quarter four of 2022/23 looked at our Shared Services Agreement with the SPSO. This provided reasonable assurance that the agreement is value for money and the service the SBC receives is often 'over and above' the written particulars of said agreement. We have since received our Internal Audit Strategy and Annual Plan 2023/24. The procurement of the internal audit function was careful to appoint a different company to that used by SPSO to ensure no conflict of interest.

The Commissioner obtained an assurance statement from the SPSO through the Shared Services Report 2022/23. The report highlighted all that had been achieved throughout the year across ICT, Finances, Health & Safety, Human Resources and General Support from the SPSO to the SBC – no issues were identified. In addition the SPSO's internal audit for 2022/23 looked at payroll which took into consideration the SBC's payroll – with an overall conclusion of 'strong'.

Fraud, corruption and bribery

The SBC has policies and procedures in place on fraud, corruption and bribery including our Code of Professional Conduct and specific Whistleblowing and Anti-Fraud policies all within our Scheme of Governance and Risk Management Handbook. We declare any fraud, whistleblowing or control failure incidents to the AAB. During 2022/23 there were no instances of fraud or bribery identified or detected.

Review of effectiveness of internal control and risk management

The systems of internal control are designed to evaluate the nature and extent of any risks and to manage them efficiently, effectively and economically. The systems are supported by:

- detailed monthly and annual budgeting processes
- regular reviews by the SBC team of financial reports
- annual reviews and updates to policies and procedures
- quarterly reviews of the Strategic Risk Register
- programme of internal and external audit

The systems are designed to manage rather than eliminate the risk of failure to achieve SBC's policies, aims and priorities. It can therefore only provide reasonable and not absolute assurance of effectiveness.

Significant issues

During the financial year 2022/23 and to the date of this statement no significant control weaknesses or issues have arisen, and no significant failures have arisen in the expected standards for good governance, risk management and control. Throughout 2022/23 there were no data protection or security matters identified that met the threshold of reporting to the Information Commissioner's Officer (ICO).

Remuneration and staff report

Remuneration policy

Under the legislation establishing the Scottish Biometrics Commissioner, under Schedule 1(7) the SPCB is responsible for determining the salary of the Commissioner. Full time SPCB supported officeholders are on pay ranges determined by the SPCB and salaries are updated in line with SPCB staff.

Staff appointed by the Commissioner adhere to the employment terms and conditions of the Scottish Public Services Ombudsman with salary uplifts in line with the SPCB remuneration policy. No staff were seconded from other organisations. Scottish Biometrics staff are not civil servants but pensions benefits are provided through the Civil Service Pension Scheme arrangements.

Section 33 Advisory Group

The Commissioner is required by the provisions of Section 33 of the Scottish Biometrics Commissioner Act 2020 to establish and maintain an Advisory Group. This Advisory Group does not form part of the SBC governance arrangements. Instead, the professional Advisory Group exists to give advice to the Commissioner on matters relating to his functions which relate to biometrics in the policing and criminal justice sector. This group therefore comprises of subject professionals with relevant expertise. Under Section 33(4) of the Act, the Commissioner may pay to members of the group such remuneration and allowances (including expenses) as the Commissioner, with the approval of the SPCB.

The scheme adopted by the Commissioner provides that 'non-employed' members of the Advisory Group may claim expenses at a daily rate of £300, and all members of the group may claim any travelling expenses incurred in association with Advisory Group business. There are a total of two members on the Advisory Group who meet the non-employed status. These are Professor Derek Penman (Independent Chair as pictured) and Professor John McNeil (independent member). No expenses claims were made by them during 2022/23.

Advisory Audit Board (AAB)

AAB members are not appointed or remunerated by the Scottish Biometrics Commissioner. They are appointed by the SPCB to provide advice to the SPCB following open competition based on their experience in governance, audit and public services. Independent officeholders supported by the SPCB may access this service at no cost to their devolved budget. The appointment of AAB members by the SPCB is not time limited, and all costs are met by the SPCB. The SPCB does not publish information on the daily rate paid by them to AAB members.



Single total remuneration

The salary in banding ranges (including overtime but excluding employer's superannuation and national insurance contributions, benefits in kind and pension entitlements of the Commissioner) is presented below up to 31 March 2023.

Commissioner's remuneration (audited)

Salary £'000		Benefits in kind £'000		Pension Benefits £'000		Total £'000	
2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
75-80	65-70	-	-	31	27	110-115	95-100

Commissioner's pension benefits (audited)

Accrued pension benefit at pension age as at 31/3/23	Real increase in pension and related lump sum at pension age	CETV at 31/3/23	CETV at 31/3/22	Real increase in CETV
0-5	0-2.5	56	25	24

The cash equivalent transfer value (CETV)

A CETV is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement that the member has transferred to the civil service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

The real increase in the value of the CETV

This reflects the increase in CETV effectively funded by the employer. It takes account of the increase in accrued pension due to inflation, contributions paid by the member (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Fair pay disclosure (audited)

Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid individual in their organisation and the median remuneration of the organisation's workforce. Total remuneration includes salary, non-consolidated performance-related pay, and benefits-in-kind of employees. It does not include severance payments, employer pension contributions and the cash equivalent transfer value of pensions. These figures do not include secondees, temporary staff or contractors.

Movements in ratios between 2022/23 and the previous year are due to 2022/23 being the first year where the SBC operated a full contingent of staff; increases are also due to salary increases and the cost of living increases. The median pay ratio reflects the pay, rewards and progression policy for employees as a whole.

	2022/23	2021/22
Remuneration banding for Commissioner	£75,000 - £80,000	£65,000 - £70,000
Percentage change from previous financial year for Commissioner	15%	
Average percentage change from previous financial year for employees	12%	
Lower quartile remuneration	£45,766	£41,482.50
Lower quartile ratio	1.70:1	1.63:1
Median remuneration	£56,449	£52,236
Media ratio	1.38:1	1.30:1
Upper quartile remuneration	£56,449	£52,236
Upper quartile ratio	1.38:1	1.30:1
Remuneration range	£35,000 - £75,000 to £80,000	£30,000 - £65,000 to £70,000

Staff report

Further information is provided in note 3.

All staff are permanent and full-time.

The average number of full-time equivalent (FTE) persons employed in the office of the Scottish Biometrics Commissioner during the period was as follows:

Full-time staff numbers (including the Commissioner)

	Male	%	Female	%	Total
2022/23	2	50	2	50	4
2021/22	2	50	2	50	4

(Audited)	2022/23 FTE	2021/22 FTE
Commissioner	1	1
Staff	3	3
Total	4	4

Breakdown of staff costs

Staff costs rose in 2022/23 due to increased staffing levels as the Commissioner's office became established.

Pay bands (including the Commissioner)

	Male	%	Female	%	Total
Commissioner	1	50			1
Band 2			1	50	1
Band 4	1	50	1	50	2
Total	2	100	2	100	4

(Audited)	Commissioner £'000		Staff £'000		Total £'000	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Salaries / wages	75-80	65-70	159	29	235-240	90-100
Social security costs	10	8	18	12	28	20
Pension costs	24	19	41	12	65	31
Totals	105-115	90-100	218	53	320-335	140-155

Staff turnover

There has been no turnover of staff during 2022/23.

Employee sickness absence	2022/23	2021/22
Total members of staff	3	3
Total absences	None	None
Average absence per employee	-	-
Total absence days	-	-
Average absence days per employee	-	-
% of staff with a period of absence	-	-

Staff exit packages (audited)

There have been no exit packages either during 2022/23 or the previous year 2021/22.

Staff satisfaction and wellbeing

During the last quarter of 2022/23, one year after a full complement of staff within the SBC we commissioned a staff satisfaction and wellbeing survey. This enabled us to achieve our key performance indicator but to also examine staff members' journey and experience of working within the organisation from their initial onboarding to their comments twelve months later. The feedback was extremely positive resulting in the Commissioner deciding to engage further organising a staff strategic away day whereby all staff would then complete an Insights profile.

Equality and diversity

The Commissioner supports the advancement of equal opportunities in carrying out our statutory functions and our employment practices. The SBC is committed to pursuing positive action through our policies and practices to ensure that no individual is discriminated against, either directly, or indirectly, unlawfully because of a protected characteristic.

Human rights is central to the delivery of our work, within our recent [Code of Practice](#) we specifically highlight the Code has regard to the importance of:

- Promoting and protecting equality and human rights
- Considering the serious human rights and ethical considerations of biometric data sharing and AI in technical processing

Parliamentary accountability report

Auditor's remuneration

The annual accounts of the Scottish Biometrics Commissioner are audited by Tommy Yule, Senior Audit Manager of Audit Scotland who is appointed by the Auditor General for Scotland in accordance with Section 21(4) of the Public Finance and Accountability (Scotland) Act 2000. The auditors will be paid the sum of £10,550 in respect of the statutory audit services for the financial year 2022/23. No payments were made in respect of non-audit work.

Gifts

The Scottish Biometrics Commissioner made no gifts or charitable donations during the financial year

Losses and special payments

The Scottish Biometrics Commissioner incurred no losses or made special payments during the financial year.

Remote contingent liabilities

The Scottish Biometrics Commissioner had no contingent liabilities during the financial year.

Dr Brian Plastow

Scottish Biometrics Commissioner

Date:

Independent auditor's report to the Scottish Biometrics Commissioner, the Auditor General for Scotland and the Scottish Parliament

Reporting on the audit of the financial statements

Opinion on financial statements

I have audited the financial statements in the annual report and accounts of the Scottish Biometrics Commissioner for the year ended 31 March 2023 under the Scottish Biometrics Commissioner Act 2020. The financial statements comprise the Statement of Financial Position, the Statement of Comprehensive Net Expenditure, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and notes to the financial statements, including significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and UK adopted international accounting standards, as interpreted and adapted by the 2022/23 Government Financial Reporting Manual (the 2022/23 FReM).

In my opinion the accompanying financial statements:

- give a true and fair view of the state of the body's affairs as at 31 March 2023 and of its net expenditure for the year then ended;
- have been properly prepared in accordance with UK adopted international accounting standards, as interpreted and adapted by the 2022/23 FReM; and
- have been prepared in accordance with the requirements of the Scottish Biometrics Commissioner Act 2020 and directions made thereunder by the Scottish Ministers.

Basis for opinion

I conducted my audit in accordance with applicable law and International Standards on Auditing (UK) (ISAs (UK)), as required by the Code of Audit Practice approved by the Auditor General for Scotland. My responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of my report. I was appointed by the Auditor General on 3 April 2023. My period of appointment is five years, covering 2022/23 to 2026/27. I am independent of the body in accordance with the ethical requirements that are relevant to my audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and I have fulfilled my other ethical responsibilities in accordance with these requirements. Non-audit services prohibited by the Ethical Standard were not provided to the body. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Conclusions relating to going concern basis of accounting

I have concluded that the use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work I have performed, I have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the body's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from when the financial statements are authorised for issue.

These conclusions are not intended to, nor do they, provide assurance on the body's current or future financial sustainability. However, I report on the body's arrangements for financial sustainability in a separate Annual Audit Report available from the Audit Scotland website.

Risks of material misstatement

I report in my separate Annual Audit Report the most significant assessed risks of material misstatement that I identified and my judgements thereon.

Responsibilities of the Accountable Officer for the financial statements

As explained more fully in the Statement of Accountable Officer's Responsibilities, the Accountable Officer is responsible for the preparation of financial statements that give a true and fair view in accordance with the financial reporting framework, and for such internal control as the Accountable Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Accountable Officer is responsible for assessing the body's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there is an intention to discontinue the body's operations.

Auditor's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of users taken on the basis of these financial statements.

Irregularities, including fraud, are instances of non-compliance with laws and regulations.

I design procedures in line with my responsibilities outlined above to detect material misstatements in respect of irregularities, including fraud.

Procedures include:

- using my understanding of the central government sector to identify that the Scottish Biometrics Commissioner Act 2020 and directions made thereunder by the Scottish Ministers are significant in the context of the body;
- inquiring of the Accountable Officer as to other laws or regulations that may be expected to have a fundamental effect on the operations of the body;
- inquiring of the Accountable Officer concerning the body's policies and procedures regarding compliance with the applicable legal and regulatory framework;
- discussions among my audit team on the susceptibility of the financial statements to material misstatement, including how fraud might occur; and
- considering whether the audit team collectively has the appropriate competence and capabilities to identify or recognise non-compliance with laws and regulations.

The extent to which my procedures are capable of detecting irregularities, including fraud, is affected by the inherent difficulty in detecting irregularities, the effectiveness of the body's controls, and the nature, timing and extent of the audit procedures performed.

Irregularities that result from fraud are inherently more difficult to detect than irregularities that result from error as fraud may involve collusion, intentional omissions, misrepresentations, or the override of internal control. The capability of the audit to detect fraud and other irregularities depends on factors such as the skilfulness of the perpetrator, the frequency and extent of manipulation, the degree of collusion involved, the relative size of individual amounts manipulated, and the seniority of those individuals involved.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website www.frc.org.uk/auditorsresponsibilities. This description forms part of my auditor's report.

Reporting on regularity of expenditure and income

Opinion on regularity

In my opinion in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

Responsibilities for regularity

The Accountable Officer is responsible for ensuring the regularity of expenditure and income. In addition to my responsibilities in respect of irregularities explained in the audit of the financial statements section of my report, I am responsible for expressing an opinion on the regularity of expenditure and income in accordance with the Public Finance and Accountability (Scotland) Act 2000.

Reporting on other requirements

Opinion prescribed by the Auditor General for Scotland on audited parts of the Remuneration and Staff Report

I have audited the parts of the Remuneration and Staff Report described as audited. In my opinion, the audited parts of the Remuneration and Staff Report have been properly prepared in accordance with the Scottish Biometrics Commissioner Act 2020 and directions made thereunder by the Scottish Ministers.

Other information

The Accountable Officer is responsible for the other information in the annual report and accounts. The other information comprises the Performance Report and the Accountability Report excluding the audited parts of the Remuneration and Staff Report.

My responsibility is to read all the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the course of the audit or otherwise appears to be materially misstated. If I identify such material inconsistencies or apparent material misstatements, I am required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon except on the Performance Report and Governance Statement to the extent explicitly stated in the following opinions prescribed by the Auditor General for Scotland.

Opinions prescribed by the Auditor General for Scotland on Performance Report and Governance Statement

In my opinion, based on the work undertaken in the course of the audit:

- the information given in the Performance Report for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Scottish Biometrics Commissioner Act 2020 and directions made thereunder by the Scottish Ministers; and
- the information given in the Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Scottish Biometrics Commissioner Act 2020 and directions made thereunder by the Scottish Ministers.

Matters on which I am required to report by exception

I am required by the Auditor General for Scotland to report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements and the audited parts of the Remuneration and Staff Report are not in agreement with the accounting records; or
- I have not received all the information and explanations I require for my audit.
- I have nothing to report in respect of these matters.

Conclusions on wider scope responsibilities

In addition to my responsibilities for the annual report and accounts, my conclusions on the wider scope responsibilities specified in the Code of Audit Practice are set out in my Annual Audit Report.

Use of my report

This report is made solely to the parties to whom it is addressed in accordance with the Public Finance and Accountability (Scotland) Act 2000 and for no other purpose. In accordance with paragraph 108 of the Code of Audit Practice, I do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.

Tommy Yule, FCPFA

Audit Scotland

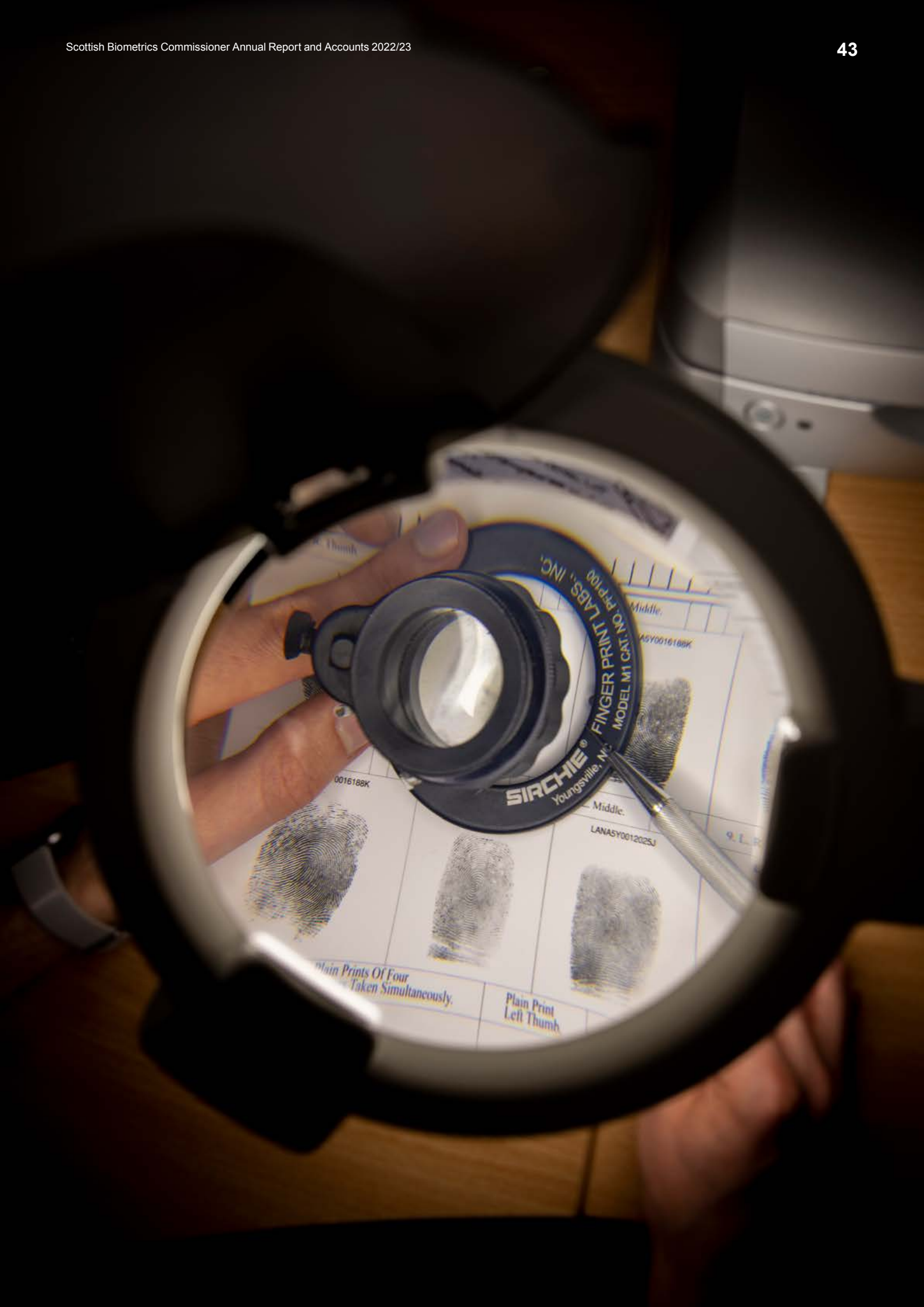
4th Floor

8 Nelson Mandela Place

Glasgow

G2 1BT

Date:



Financial statements

Financial statements

In this section of the report we set out:

- Statement of Comprehensive Net Expenditure
- Statement of Changes in Taxpayers' Equity
- Statement of Financial Position
- Notes to the financial statements
- Statement of Cash Flows
- Direction by Scottish Ministers

Statement of comprehensive net expenditure for the year ended 31 March 2023

2021/22 represented the first year of activity and it should be noted that staffing costs were only part-year compared to a full year staffing costs in 2022/23. All amounts relate to continuing activities. There have been no gains or losses.

The accompanying notes on pages 48 to 56 form an integral part of these financial statements.

	Notes	2022/23 £'000	2021/22 £'000
Administrative costs			
Staff and pension costs	3, 4	332	149
Other administrative costs	5	82	77
Depreciation	6	14	4
Net administrative costs		428	230
Net Operating costs and total comprehensive net expenditure for the year		428	230

Statement of financial position as of 31 March 2023

	Notes	2022/23 £'000	2021/22 £'000
Non-current assets			
Property, plant and equipment	6	46	60
Total non-current assets		46	60
Current assets			
Trade receivables and other current assets	8	7	-
Cash and cash equivalents	9	18	-
Total current assets		25	-
Total assets		71	60
Current liabilities			
Trade payables and other current liabilities	10	(36)	(12)
Total current liabilities		(36)	(12)
Total assets less current liabilities		35	48
Non-current liabilities		-	-
Assets less liabilities		35	48
Taxpayers' equity			
General fund		35	48
Total taxpayers' equity		35	48

The accompanying notes on pages 48 to 56 form an integral part of these financial statements.

As Accountable Officer, I authorised these financial statements for issue on

Dr Brian Plastow

Scottish Biometrics Commissioner

Date:

Statement of cash flows for the year ended 31 March 2023

	Notes	2022/23 £'000	2021/22 £'000
Cash flows from operating activities			
Net operating cost		(428)	(230)
Adjustment for non-cash transactions			
Depreciation	6	14	4
Movements in working capital			
(Increase) / Decrease in trade and other receivables	8	(7)	-
(Decrease) / Increase in trade and other payables	10	24	12
Net cash outflow from operating activities		(397)	(214)
Cash flows from investing activities			
Purchase of property, plant and equipment	6	-	(64)
Net cash outflow from investing activities		(397)	(64)
Cash flows from financing activities			
Financing from the Scottish Parliamentary Corporate Body (SPCB)	2	415	278
Net cash inflow from financing activities		415	278
Net decrease in cash and cash equivalents			
Cash and cash equivalents at the beginning of the period		-	-
Cash flow in year		18	-
Cash and cash equivalents at the end of the period	9	18	-

The accompanying notes on pages 48 to 56 form an integral part of these financial statements.

Statement of changes in taxpayers' equity for year ended 31 March 2023

	Notes	2022/23 £000	2021/22 £000
Balance at 31 March 2022		48	-
Net operating costs and total comprehensive net expenditure for the year as per the Statement of Comprehensive Net Expenditure		(428)	(230)
General funding from SPCB	2	415	278
Balance at 31 March 2023		35	48

The accompanying notes on pages 48 to 56 form an integral part of these financial statements.

Notes to the financial statements

1. Accounting policies

These financial statements have been prepared in accordance with the Government Financial Reporting Manual (FReM) in compliance with the accounts direction issued by Scottish Ministers. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Scottish Biometrics Commissioner for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Commissioner are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

The accounts have been prepared on a going concern basis as explained in the Introduction on page 6.

1.1 Accounting convention

These financial statements have been prepared under the historical cost convention.

1.2 Property, plant and equipment

Capitalisation

The minimum level of capitalisation for individual items of equipment is £500. IT Equipment purchased with a group value exceeding £500, inclusive of irrecoverable VAT, is treated as a non-current asset.

Valuation

As appropriate, non-current assets are valued at their value to the organisation by reference to current costs.

Depreciation

Depreciation is provided on all non-current assets at rates calculated to write off the cost or valuation in equal instalments over the remaining estimated useful life of the asset. These are as follows:

Furniture, fixtures and fittings	5 years
IT hardware and systems	3 years

There are no assets held for resale.

1.3 Funding

The accounts are prepared on an accrual basis, but the body is funded on a cash received basis. Funding received from the SPCB is credited directly to the general fund in the period to which it relates. The SPSO provide finance administration for a transaction processing and recording function for the Scottish Biometrics Commissioner. Accordingly, a bank account is not operated by the Scottish Biometrics Commissioner.

1.4 Leases

The Commissioner holds no leases.

1.5 Pension costs

The Commissioner and office staff are members of the Principal Civil Service Pension Scheme (PCSPS). The PCSPS is an unfunded multi-employer defined benefit scheme with benefits underwritten by the government. As a result, the office of the Commissioner is unable to identify its share of the underlying assets and liabilities and, therefore, it is accounted for as a defined contribution scheme and no liability is shown in the statement of financial position. The PCSPS is financed by payments from the employer and from those current employees who are members of the PCSPS, who pay contributions at different rates which depend on their salaries and the section of the pension scheme of which they are a member. The rate of employer contributions is typically set following an actuarial valuation. Government Actuary's Department has been appointed as the PCSPS actuary.

The scheme underwent a valuation designed to set employer contribution rates from 1 April 2019. HM Treasury have directed that part of the valuation process ("the cost control mechanism") should be paused but have confirmed that the valuation will be used to set employer contribution rates. To provide certainty, PCSPS set employer contributions for 2019/20 on the basis of the draft valuation results. Once the valuation has been completed it will be used to set employer rates from 1 April 2020 for the remaining three years of the valuation period. In line with this, the 2022/23 employer contribution rate of 26.6 - 30.3 per cent of pensionable pay was applied, according to the relevant pay band.

Further details can be found in the separate scheme statement of the PCSPS.³

1.6 IAS 19 short term employee benefits

In line with the requirements of IAS 19 short term employee benefits are recognised for staff annual and flexi leave accrued but not taken as at the financial year end.

1.7 Value added tax (VAT)

The office of the Commissioner is not registered for VAT, as such, all amounts are recorded inclusive of VAT.

1.8 Financial instruments

Financial instruments are classified and accounted for, according to the substance of the contractual agreement as either financial assets or financial liabilities.

The office of the Commissioner has classified its financial instruments as follows:

- **Financial assets**

Cash and cash equivalents, trade debtors, accrued income and amounts receivable are reported in the 'current assets' category.

- **Financial liabilities**

Trade payables, accruals, and creditors are classified as 'current liabilities'.

³ EPN 567

1.9 Critical judgements in applying accounting policies

In applying the accounting policies set out in these notes, the Commissioner has had to make judgements about financial transactions, leases or those involving uncertainty about future events. The critical judgement made in the financial statements is that the organisation will continue as a going concern. This is based on the assumption of continuation of service and appropriate funding from the SPCB.

1.10 Critical accounting estimates

The financial statements contain estimated figures that are based on assumptions about the future or that are otherwise uncertain. These estimates relate to the value of tangible assets. Estimates of useful life are made taking account of historical experience, current trends, and other relevant factors but cannot be determined with certainty. Actual results could be different from the assumptions and estimates, but are unlikely to be material. See note 1.2 for details.

Pension benefits are provided through the civil service pension arrangements. The civil service pension arrangements are unfunded multi-employer defined benefit schemes in which the Commissioner's office is unable to identify its share of the underlying assets and liabilities. See note 1.5 for details.

1.11 Standards issued

1.11.1 Standards, amendments and interpretations effective in the current year

There are no new standards, amendments or interpretations effective in the current year.

1.11.2 Standards, amendments and interpretations early adopted this year

There are no new standards, amendments or interpretations early adopted this year.

2. Financing from the Scottish Parliamentary Corporate Body (SPCB)

		2022/23		
	Notes	Budget £000	Outturn £000	Variance £000
Net operating costs	3, 5, 6	421	428	(7)
Capital expenditure	6	-	-	-
Budget available / Total expenditure		421	428	(7)
Non-cash adjustments	6	-	(14)	14
Movement in working capital, including cash	8, 9, 10	-	1	(1)
Funding required from SPCB in year		421	415	6

		2021/22		
	Notes	Budget £000	Outturn £000	Variance £000
Net operating costs	3, 5, 6		230	
Capital expenditure	6		64	
Budget available / Total expenditure		301	294	7
Non-cash adjustments	6	-	(4)	4
Movement in working capital, including cash	8, 9, 10		(12)	(12)
Funding required from SPCB in year		301	278	23

An increase in general funding in 2022/23 was mainly due to increases in staff costs.

3 - Staff costs (including the Commissioner)

3.1 Average staff employed (full-time equivalent)

The average number of full-time equivalent (FTE) persons employed in the office of the Scottish Biometrics Commissioner during the period was as follows:

	2022/23 FTE	2021/22 FTE
Commissioner	1	1
Staff	3	3
Total	4	4

3.2 Breakdown of staff costs

Staff costs rose in 2022/23 due to increased staffing levels as the Commissioner's office became established. Further details can be found in the remuneration report.

	Permanently employed staff (including the Commissioner) £'000	
	2022/23	2021/22
Salaries / wages	239	98
Social security costs	28	20
Pension costs	65	31
Totals	£332	£149

4. Pension costs

For 2022/23, employer's contributions of £41,000 were payable to the Principal Civil Service Pension Scheme at one of four rates in the range 26.6 to 30.3 per cent of pensionable pay, based on salary bands.

The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme. There were no outstanding scheme contributions at 31 March 2023 (2022 £0). The expected employer contributions rates for 2022/23 are 26.6 to 30.3 per cent of pensionable pay, based on salary bands.

On death, pensions are payable to the surviving spouse at the rate of half of the member's pension. On death in service, the scheme pays a lump sum benefit of at least twice pensionable pay, depending on the scheme joined within PCSPS, and also provides a service enhancement on computing the spouse's pension. The enhancement depends on the length of service and cannot exceed ten years. Medical retirement is possible in the event of serious ill health. In this case, pensions are brought into payment immediately without actuarial reduction and with service enhanced as for widow(er) pensions.

5. Other administrative costs

2021/22 costs have been re-stated to exclude depreciation which is now disclosed separately.

	2022/23 £000	2021/22 Restated £000
Staff recruitment and training	3	2
Travel and subsistence	2	-
General Advisors	14	47
Shared Corporate Services ⁴	22	10
Audit fee	11	8
IT support	6	3
Publicity and promotion	8	3
Printing	10	-
Research	1	-
Office running costs	5	4
Total	82	77

⁴ To note the cost for 2021/22 was 'part-year' compared to a full year costing during 2022/23

6. Property, plant and equipment

	Furniture fixtures & fittings £000	IT hardware & systems £000	Total £000
Cost			
At 1 April 2022	55	9	64
Additions	-	-	-
At 31 March 2023	-	-	-
Depreciation			
At 1 April 2022	3	1	4
Charge for year	11	3	14
At 31 March 2023	14	4	18
Net book value at			
31 March 2023	41	5	46

	Furniture fixtures & fittings £000	IT hardware & systems £000	Total £000
Cost			
At 1 April 2021	-	-	-
Additions	55	9	64
At 31 March 2022	55	9	64
Depreciation			
At 1 April 2021	-	-	-
Charge for year	3	1	4
At 31 March 2022	3	1	4
Net book value at			
31 March 2022	52	8	60

7. Intangible assets

There are no intangible assets.

8. Trade receivables and other current assets

	2022/23 £000	2021/22 £000
Prepayments	3	-
Other debtors	4	-
Total	7	0

9. Cash and cash equivalents

	2022/23 £000	2021/22 £000
Balance at 1 April	-	-
Net change in cash and cash equivalents	18	-
Balance at 31 March	18	-
Cash held at commercial banks	18	-

10. Trade payables and other current liabilities (amounts falling due within one year)

Accruals (non-government bodies) include £16k (2022 - £4k) in respect of the estimated short-term employee benefits under IAS 19 accrued in respect of annual leave and flexi leave entitlements for the staff at the end of the financial year. The Commissioner is not included in this calculation.

	2022/23 £000	2021/22 £000
Trade payables	3	-
Accruals – HMRC	4	-
Accruals – non-government bodies	29	12
Total	36	12

11. Leases

The Commissioner holds no leases.

12. Related party transactions

The Scottish Biometrics Commissioner was constituted by the Scottish Parliament, which provides funding for the Commissioner. The SPCB is regarded as a related body. Neither the Commissioner nor the Commissioner's staff have undertaken material transactions with the SPCB nor with the Commissioner's office during the year.

The SPSO provides Shared Corporate Services to the Scottish Biometrics Commissioner in the form of finance administration, HR support and payroll processing services, and ICT cyber security advice, which cost £21,974 (note 5).

13 - Post balance sheets events

No event has occurred since the date of the balance sheet that materially affects the financial statements.

14. Financial instruments

Financial assets are carried in the balance sheet at amortised cost. Their fair value can be assessed by calculating the present value of the cash flows that will take place over the remaining period of the instrument, using the assumption that the fair value of trade and other receivables is taken to be the invoiced or billed amount.

Credit risk

The Commissioner receives funding on a monthly basis and restricts cash holdings to a minimum.

Liquidity risk

The Commissioner does not have any external borrowings.

Market risk

Changes in market interest rates influence the interest on borrowings and on interest receivable on surplus funds invested. The Commissioner does not rely on interest receivable as its key source of income.



Scottish Biometrics Commissioner

Direction By The Scottish Ministers

1. The Scottish Ministers, in accordance with section 31 of Scottish Biometrics Commissioner Act 2020 hereby give the following direction.
2. The statement of accounts for the period from the date that the Office of the Scottish Biometrics Commissioner is established to 31 March 2022, and for subsequent years, shall comply with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (FReM) which is in force for the year for which the statement of accounts are prepared.
3. The accounts shall be prepared so as to give a true and fair view of the income and expenditure and cash flows for the financial year, and of the state of affairs as at the end of the financial year.
4. This direction shall be reproduced as an appendix to the statement of accounts.

Jackie McAllister

Chief Financial Officer

Signed by the authority of the Scottish Ministers
Dated 20/10/2021



Safeguarding our biometric future



Scottish Biometrics
Commissioner
Coimiseanair
Biometrics na h-Alba