

SPSO Governance Handbook

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Note: Highlighter is used in this document to indicate **outstanding actions** or where **links** to other documents under review, are required.

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Governance Overview

SPSO Purpose

1. This handbook sets out the Scottish Public Services Ombudsman (the Ombudsman)'s governance arrangements. It includes the monitoring and reporting systems in place to ensure, and provide assurance, that she has appropriate and robust monitoring and reporting systems in place.

SPSO Statutory framework

2. The Scottish Public Services Ombudsman (the Ombudsman) is a public official appointed by Her Majesty on the nomination of the Scottish Parliament. Parliament may also nominate, and Her Majesty appoint, up to three deputy Ombudsmen. There are currently no deputy Ombudsmen in post. Section 1 of the Scottish Public Services Ombudsman Act 2002 (the Act) sets this out in greater detail
3. The Scottish Public Services Ombudsman has a wide remit, covering a variety of functions and services. The Ombudsman's powers and duties come (predominantly) from the Scottish Public Services Ombudsman Act 2002, which gives her four distinct statutory functions:
 - 3.1. the final stage for complaints about most devolved public services in Scotland including councils, the health service, prisons, water and sewerage providers, Scottish Government, universities and colleges;
 - 3.2. specific powers and responsibilities to publish complaints handling procedures, and monitor and support best practice in complaints handling;
 - 3.3. independent review service for the Scottish Welfare Fund (SWF) with the power to overturn and substitute decisions made by councils on Community Care and Crisis Grant applications;
 - 3.4. Independent National Whistleblowing Officer for the NHS in Scotland (INWO) (from April 2021) final stage for complaints about how the NHS considers whistleblowing disclosures and the treatment of individuals concerned.
4. All of the SPSO's services are free and independent.
5. The Ombudsman is, in the performance of her duties, to be regarded as juristic person distinct from the natural person holding office. She is not, in the exercise of her functions above, subject to the direction or control of any MSP, MP, MEP, member of the Scottish Government or the SPCB.

6. Any function of the Ombudsman may be exercised on her behalf by any person (whether a deputy Ombudsman or a member of her staff) authorised by her, and to the extent authorised by her as set out in her [Scheme of Delegation](#).

SPSO Staffing

7. The Ombudsman may appoint such staff, on such terms and conditions, as she may determine. This requires Scottish Parliamentary Corporate Body (SPCB) approval.
8. The Ombudsman and her staff are not to be regarded as servants or agents of the Crown, and or as having any status, immunity or privilege of the Crown; and the Ombudsman's property is not to be regarded as property of, or property held on behalf of, the Crown.
9. The Office of the Scottish Public Services Ombudsman (SPSO) is the collective term for all staff working for the Ombudsman and for the organisation itself. The SPSO acts for the Ombudsman, at the instruction of the Ombudsman, under the authority of the Ombudsman and at the responsibility of the Ombudsman.

Accountable Officer

10. The Ombudsman is the Accountable Officer (AO), designated by, and answerable to, the Scottish Parliamentary Corporate Body (SPCB). The AO's functions are to:
 - 10.1.1. sign the Ombudsman's accounts of expenditure and receipts
 - 10.1.2. ensure the Ombudsman's financial propriety and regularity and
 - 10.1.3. ensure the Ombudsman's resources are used economically, efficiently and effectively.
11. In performing these functions, she must keep and prepare annual accounts in respect of each financial year. This must be in accordance with such directions as given by Scottish Ministers.
12. The Ombudsman must send a copy of the annual accounts to the Auditor General for Scotland for auditing.
13. The further, specific duties of the AO are set out in the Memorandum to Accountable Officer of the Office of the Scottish Public Services Ombudsman, from the SPCB.

Full information about the Ombudsman's role and remit is contained in Section 1 and Schedule 1 to [the Act](#).

Audit

External

14. The SPSO's accounts will be audited by an external auditor appointed by the Auditor General for Scotland.

Internal

15. The SPSO will agree an annual programme for internal audit, as part of a rolling three-year activity plan, based on priority areas identified through assessment of risk.
16. Internal audit services will be provided by an external organisation, appointed on the basis of open tender.

Customer Service Complaints

17. Complaints about the service provided to complainers, public bodies or other service users will be handled in line with the SPSO [Complaints Handling Guidance](#).

Information requests

18. Complaints about requests for information under Freedom of Information, Environmental Information and Re-use legislation will be handled in line with the review and appeal routes set out in legislation.

Subject Access Requests and data protection complaints

19. Complaints about the handling of Subject Access Requests and processing of personal data will be handled in line with policies and guidance in our [Information Governance](#) handbook.

Amendment to governance arrangements

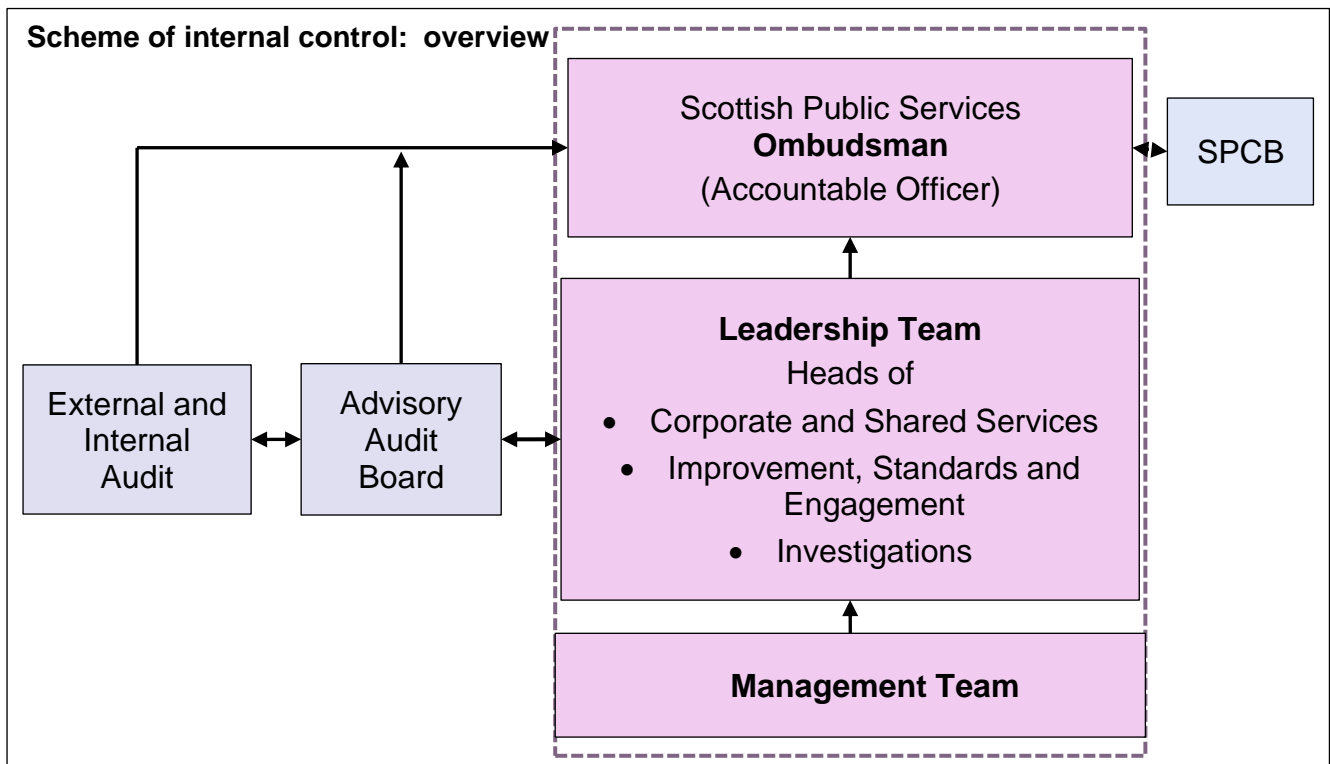
20. These governance arrangements, and governance reporting arrangements, can only be amended with the Ombudsman's approval.
21. The Ombudsman will inform the Advisory Audit Board (AAB) and External Auditors of any amendments.
22. The Ombudsman will review these governance arrangements annually and report the outcome to the AAB.
23. These governance arrangements will be published as part of the SPSO's publication scheme.

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Scheme of Internal Control

Overview

1. The Scheme of Internal Control (the Scheme), is a series of protocols and policies through which the Ombudsman demonstrates that she is meeting her responsibilities as the Ombudsman and as the Accountable Officer. It also demonstrates the assurances she receives and the external scrutiny to which she is subject.



2. The Scheme is supported by a risk management policy, strategic risk register and operational risk register. These define how the SPSO monitors and manages risk in respect of:
 - 2.1. achievement of, and compliance with, statutory obligations
 - 2.2. achievement of strategic and operational objectives
 - 2.3. establishment of, and compliance with, effective financial controls
 - 2.4. achievement of, and reporting on, efficient and effective operational performance against stated standards of service and quality
 - 2.5. effective asset management, and
 - 2.6. safeguarding and development of the SPSO's reputation.
3. The key features of the Scheme are:
 - 3.1. The Ombudsman holds the role of Accountable Officer.

- 3.2. The Ombudsman sets the strategic direction and priorities for the SPSO, supported by the Leadership Team (LT).
- 3.3. The Ombudsman chairs the LT which has overall responsibility for the development and operation of the SPSO.
- 3.4. The Head of Corporate and Shared Services is responsible for the monitoring and reporting of Corporate Services.
- 3.5. The Head of Improvement, Standards and Engagement (HOISE) is responsible for the monitoring and reporting on Customer Service Complaints.
- 3.6. The Heads of Investigation are responsible for monitoring and reporting of Casework Performance.
- 3.7. Day-to-day operational management is the responsibility of individual members of the LT, their deputies and staff. The managers (at all levels) are responsible for delivering the business of the office as set out in Strategic and Business Plans. They report in operational performance and issues to the LT.
- 3.8. All decisions must be authorised and taken in line with the Scheme of Delegation and approved policies and procedures.
- 3.9. External scrutiny, and where appropriate advice, is provided by external auditors appointed by the Auditor General for Scotland, the Ombudsman's AAB, internal auditors appointed by the LT, and on an ad hoc basis by the SPCB (and Parliamentary Committees) for those areas about which it is able to give direction or hold the Ombudsman accountable.

Monitoring effectiveness

4. The effectiveness of the scheme, and the robustness of the assurances it provides, will be monitored and managed through:
 - 4.1. periodic review of the definition, relevance, and accuracy of the measures, policies and protocols in place
 - 4.2. statements of assurance from delegated officers
 - 4.3. implementation of appropriate and proportionate sanctions, which are set out clearly in policies, procedures and protocols, and brought to the attention of all staff as required

- 4.4. checking progress through reporting on achievement against strategic and business plans, individual projects and ad hoc work programmes, and
- 4.5. statements of assurance from external bodies such as the AAB, internal audit and external audit.

Leadership team

Membership

- 5. The leadership team (LT) is:
 - 5.1. the Ombudsman, the Chair;
 - 5.2. Head of Corporate and Shared Services;
 - 5.3. Head of Improvement, Standards and Engagement (HOISE); and
 - 5.4. Heads of Investigations.

Purpose

- 6. The LT is responsible for:
 - 6.1. supporting the Ombudsman in setting the strategic direction of the SPSO;
 - 6.2. supporting the Ombudsman in the exercise of her duties and responsibilities by developing and delivering the annual business plan to deliver the SPSO strategic plan;
 - 6.3. giving strategic and operational leadership to the organisation at all levels; and
 - 6.4. holding the organisation accountable for performance.
- 7. The LT is authorised to consider any matter connected with the SPSO's functions and to make decisions in line with the Ombudsman's [Scheme of Delegation](#) which is available on our website.

Governance meetings

GM Purpose

- 8. The quarterly governance meeting is to consider and sign-off corporate governance matters, strategic issues, organisational level performance, and to provide the Ombudsman with assurance that Scheme of Control protocols are being implemented effectively.

GM Frequency

9. The LT will hold a governance meeting quarterly, as far as practicable in the second half of the month following the end of each quarter. There must not be a gap of more than four months between meetings.
10. Governance decisions may be taken between these meetings at operational meetings, but a record must be kept each quarter of governance decisions taken and confirmed at the next governance meeting.
11. Ad hoc meetings may be called to address specific issues, if the need arises.

GM Attendance

12. Meetings will be attended by the LT.
13. The secretariat will be provided by the Corporate Services Manager or in their absence another officer appointed by the LT.
14. In the Ombudsman's absence, the Head of Corporate and Shared Services will chair the meeting.
15. LT members are expected to attend meetings. They may, in exceptional circumstances and with the Chair's permission, appoint a deputy. The LT may, at their discretion, discuss items in private without the appointed deputy or secretariat.
16. If an officer is covering an LT role formally because of long-term absence or a vacancy, they will attend as if a permanent member of the LT.
17. The LT may also, by mutual agreement, invite relevant staff and/ or external advisors, for specific agenda items.
18. The GM is open to any member of staff as an observer.

GM Quorum

19. The meeting must be attended by the Chair and two members of the LT to be quorate. The expectation is that all five members will be present if at all possible, and dates will be arranged to facilitate this.
20. No decisions may be taken unless the meeting is quorate.

GM Agenda

21. The agenda, venue and time of meeting must be published by the secretariat no later than five working days before the meeting. Supporting papers must be issued at the same time. Papers must be accompanied by an properly completed 'cover sheet' (if papers are very short, then they and the cover sheet may be combined into one document for ease)
22. The LT will follow a standard agenda, based on the annual work programme, with additional items proposed by the LT. This is set out in the section on [Governance reporting Arrangements](#).
23. If an agenda item concerns an HR or confidential issue, this will be considered in private by the LT.
24. Papers can only be submitted late in exceptional circumstances, with the Chair's permission.

GM Minutes

25. Draft minutes will be circulated by the secretariat within seven working days of the meeting. They will be agreed for swift publication by email, at an operational meeting, or at the next governance meeting as appropriate. The method of sign-off shall normally rest with the Chair, and at other times, be agreed at the end of each meeting.
26. Minutes will be drafted in such a way as to minimise inclusion of personal data.
27. The Chair will add their signature (which can be electronic) as confirmation that the minutes are a permanent record of the meeting.
28. The secretariat will arrange publication of the signed minutes on the SPSO's web site, appropriately redacted to protect personal data or in line with exemptions that would apply to the information under Freedom of Information legislation. Where information is redacted, the reference to relevant sections of legislation should be included.
29. The action points from the GM will be added to the operational meeting minutes so they are tracked and chased between meetings.

Operational management meetings

OM Purpose

30. Operational management meetings are to consider:

- 30.1. real-time operational issues;
- 30.2. keep each other updated of significant operational issues;
- 30.3. make operational and performance related decisions, including commissioning work from other staff;
- 30.4. sign-off corporate governance and strategic issues that cannot wait until the next governance meeting;
- 30.5. provide feedback to all staff on management decisions, and
- 30.6. to provide the Ombudsman with assurance that Scheme of Control protocols are being implemented effectively.

OM Frequency

31. The LT will meet weekly, as far as possible or practicable, to discuss operational issues, and make governance decisions that cannot wait until the next governance meeting.
32. There must be a minimum of 15 operational meetings each financial year.
33. If a matter is urgent, it may be considered by email, but must be confirmed at the next meeting and recorded in the minutes.

OM Attendance

34. Meetings will be attended by the LT.
35. In the Ombudsman's absence, the Head of Corporate and Shared Services will chair the meeting.
36. LT members may not send a substitute or deputy except where an officer is covering an LT role formally because of long-term absence or a vacancy. In these circumstances the deputy will attend as if a permanent member of the LT.
37. The LT may also, by mutual agreement, invite relevant staff and/ or external advisors, for specific agenda items (this is encouraged).
38. The LT will be its own secretariat, with individuals responsible for adding agenda items, sending links to papers and keeping minutes.

OM Quorum

39. The meeting must be attended by the Chair and two member of the LT to be quorate. The expectation is that all five members will be present if at all possible, and dates will be arranged to facilitate this.

40. No decisions may be taken unless the meeting is quorate.

OM Agenda

41. The agenda will be set by the LT themselves. Operational meetings are fluid and informal in nature. The overall requirement is that, however business is discussed and progressed, the minutes of the operational LT meeting must record all decisions and actions.
42. Any member of the LT may add an agenda item. Any member of staff may add an agenda item through the appropriate LT member (usually their LT line manager). The agenda will contain links to supporting papers which must be accompanied by a properly completed 'cover sheet' (if papers are very short, then they and the cover sheet may be combined into one document for ease).
43. Agenda items and papers must be added no later than two working days before the meeting (for example, Thursday for a Tuesday meeting, Friday for a Wednesday meeting). Papers can only be added late in exceptional circumstances with the Chair's approval.
44. Each agenda item must be prioritised high, medium or low. If there is insufficient time to consider all agenda items, the LT may defer items to a future meeting, agree to email sign-off, delegate to a specific LT member or agree disposal by another suitable means, depending on urgency and sensitivity.
45. All decisions taken outside the meeting must be recorded in the minutes of the next appropriate meeting.

OM Minutes

46. Draft minutes will be circulated by the agreed LT minute taker as soon as practicable after the meeting. They will be agreed at either the next operational meeting, the next governance meeting, or by email as required. The method of sign-off shall be agreed at the end of each meeting.
47. As operational matters often involve issues such as HR, they will be drafted and kept in a restricted area of SharePoint.
48. Minutes will be drafted in such a way as to minimise inclusion of personal data.
49. The LT minute taker will update the record of decisions for ratification at governance meetings. They will also save a copy of agreed minutes in an accessible folder, appropriately redacted to protect personal data. They will send an update email to all staff, alerting them to the minutes, and highlighting important points from both the

minutes and the most recent meeting. This must be done as soon as practicable after the meeting.

Management and team meetings

50. It is for each LT member and manager to hold team meetings as needed and to ensure that important messages are shared and discussed, so that all views are heard and listened to. Notes of meetings are not required, but are encouraged as good practice so that decisions, ideas and actions are captured.
51. The exception to this is the quarterly Corporate Services Assurance meeting which must take place each quarter in advance of the LT quarterly governance meeting.
52. Ideally notes of meetings should be written with the minimum of personal data, but it is accepted this is likely to be difficult to achieve at a very operational level. Notes will not be published, and it is at the teams' discretion about whether and how they are shared internally.

Advisory Audit Board

AAB Purpose

53. The Ombudsman has established an AAB to perform a function similar to that of an Audit Committee. The main purpose of the AAB is to provide advice to the Ombudsman (and LT) on the SPSO's standard of corporate governance and internal control.
54. The AAB considers matters of governance, audit and internal control for the SPSO. In particular, the AAB provides confirmation for the Ombudsman on whether the necessary assurances required for the signing of the Governance Statement contained within the annual accounts have been provided.
55. The AAB specifically considers and advises on:
 - 55.1. the adequacy of the arrangements for ensuring sound governance and internal control
 - 55.2. the assessment and management of business risk
 - 55.3. the planned activity of Internal Audit and results of its work
 - 55.4. the planned activity of the External Auditor and results of its work, particularly in relation to the SPSO's Annual Report and Accounts
 - 55.5. the adequacy of management responses to issues identified by audit activity and the arrangements for monitoring the implementation of agreed recommendations, and

- 55.6. other sources of assurance relating to the corporate governance requirements of the Parliament such as value for money.
- 56. The AAB reports to the Ombudsman annually and other such times as it considers necessary.
- 57. The AAB also advises the Ombudsman and LT on significant matters as they arise.

AAB Frequency

- 58. The AAB will meet a minimum of twice a year, more often at the discretion of the Chair and in consultation with the Ombudsman.

AAB membership

- 59. The AAB will have up to four independent members, appointed by the Ombudsman based on their expertise and experience in governance, audit, finance and public services.
- 60. The AAB may be drawn from the external members of the SPCB AAB, serving under the terms of appointment to the SPCB AAB and remunerated by the Scottish Parliamentary Corporate Body (SPCB) as part of a shared service agreement.
- 61. Any other independent members shall be appointed for an initial period of three years with the potential to extend membership for a further three years at the Ombudsman's discretion.
- 62. The current membership is:
 - 62.1. David Watt (Chair);
 - 62.2. Claire Robertson;
 - 62.3. Siobhan White; and
 - 62.4. Steve Renwick.
- 63. AAB meetings are normally attended by the LT, the External Auditor (as appointed by the Auditor General for Scotland) and the Internal Auditor. Other members of the SPSO may attend from time to time to assist the AAB in its considerations.

AAB Quorum

- 64. Two members of the AAB must be present to be quorate.
- 65. Meetings will normally be chaired by the AAB Chair. If the Chair is unavailable meetings will always be chaired by a member of the AAB at the request of the Chair.

AAB Agenda

66. The AAB will follow a set agenda, based on the duties at paragraph 55.
67. The agenda, venue and time of meeting must be published by the secretariat no later than seven working days before the meeting. Supporting papers will normally be issued at the same time. Papers can only be submitted late with the Chair's permission.
68. This may be changed and the reasons and new agenda recorded in minutes.
69. The Chair may vary the agenda on a meeting-by-meeting basis to meet particular needs.

AAB Minutes

70. Draft minutes will be circulated by the secretariat within seven working days of the meeting. They will be agreed at either the next AAB meeting, an operational meeting, or by email as required. The method of sign-off shall be agreed at the end of each meeting.
71. Minutes will be drafted in such a way as to minimise inclusion of personal data.
72. The secretariat will arrange publication of the signed minutes on the SPSO's web-site, appropriately redacted to protect personal data or in line with exemptions that would apply to the information under freedom information legislation. Where information is redacted, the reference to relevant sections of legislation should be included.

All staff meetings

73. All staff meetings will be held as needed, normally monthly. They will not have formal agendas, and any member of staff may add an agenda item. The purpose of the meetings includes, but is not limited to:
 - 73.1. sharing news and announcements
 - 73.2. team updates
 - 73.3. sharing positive feedback
 - 73.4. recognising achievements
 - 73.5. updating staff on organisational issues that impact on them
 - 73.6. hearing from each other about work (such as projects or interesting cases)
 - 73.7. ad hoc training or awareness

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Governance Reporting Arrangements

Governance reporting overview

Introduction

1. The SPSO's Governance arrangements are set out in the previous sections:
 - 1.1. [Governance and Risk Overview](#); and
 - 1.2. [Scheme of Control](#).
2. This section sets out:
 - 2.1. the schedule of reports that will be provided to the Ombudsman and leadership Team (LT) as part of the governance arrangements
 - 2.2. the standing agendas for quarterly governance meetings.
3. The Designated LT member is responsible for ensuring reports are produced, accurate and presented to the LT with a covering sheet (where the report is short, it may be combined with the covering sheet). The general structure content of each report will be agreed with the Ombudsman and designated LT member.
4. Designated LT members are also responsible for ensuring that the activities that contribute to the reports are reflected in Business Plans.
5. Each LT member is accountable to the Ombudsman for those reports and activities covered by their area of responsibility.
6. Where a report or meeting refers to a 'quarter', that is taken to mean the period and activity up to the end of the last complete quarter. For example, a meeting that considers activity in Q1, would report on activity from April to June (inclusive), even if held in July or August.

Reporting and meeting principles

7. Reports will contain standard statistical and numerical information. Where the SPSO has a requirement to send data to an external body, or to publish it, the data should be the same as we are required to submit / publish.
8. Reporting against existing plans should be by exception.
9. Reports should be accompanied by a meetings cover sheet which set out clearly what the LT is required to do, for example:

- 9.1. note;
 - 9.2. provide a steer or guidance on particular issues; and
 - 9.3. consider a recommendation.
- 10. Where a paper is effectively simply an update for assurance, then LT should simply be asked to note it.
 - 11. Papers should be written in such a way that they do not name or, as far as possible, identify individuals.
 - 12. It is assumed that papers will be read in advance. The presentation of papers should focus on items where discussion is required, the author/ LT member considers it would be helpful to give additional context, or there are questions/ queries.

Report schedule

Quarterly governance meeting agendas

- 13. The list of reporting requirements on Scottish public bodies as prepared by the Public Bodies Unit (2017) can be found here: [Governance - Reporting requirements on Scottish public bodies](#)

Standing agenda items

	Item	Broad content	LT member
1.	Confirmation of governance decisions taken at LT operational meetings		Omb
2.	Minutes, action point updates and matters outstanding	(i) outstanding actions from audit and governance meetings	Omb
5.	Financial monitoring report	(i) year-to-date management financial report (ii) year-end expenditure forecast against budget (iii) payment performance (iv) income (v) procurement activities	HoCSS
6.	Audit reports	(i) internal audit activities (ii) external audit; including annual performance report and financial statements	HoCSS
7.	Risk, incident and issue report; including Business Plan exceptions	(i) summary of data incidents (ii) quarterly review of strategic risk register (iii) risk heat maps (iv) summary of changes to operational risk register	All

Governance Reporting Arrangements

	Item	Broad content	LT member
		(v) quarterly review of business plan progress (vi) business continuity and incident response plans	
9.	Corporate Services report	(i) shared services, including facilities, security, health and safety (ii) HR and wellbeing, including staff absence rates, learning and development, appraisal and performance management, recruitment activity and staffing levels; well-being, assurance about competence of policies; staff equalities and staff survey (iii) independent professional adviser service (iv) ICT and cyber resilience (v) information governance; including FOI, data protection, and records management (vi) policy changes or updates for discussion and/ or approval	HoCSS
10.	Casework performance	(i) legal issues update (verbal) (ii) dashboard - year-to-date performance against key indicators, trends	Omb HoS
11.	Quality assurance	(i) CSC complaints report (ii) Reviews report (inc learning and improvement recommendations) (iii) QA report (in line with QA programme)	HoISE ECO ECO
12.	Any other business		All

Published items

Item	Broad content	LT member	Q
Annual performance report and financial statements; including the facility time (Trade Union) publication requirements return	Submission to external auditor, then approval to lay before Scottish Parliament	All	2
Business operation plans and strategic risk register	Quarterly report on progress against plan and review of risks	All	1-4
Casework statistics for publication	Annual casework statistics by outcome, sector and organisation.	Hol	1

Governance Reporting Arrangements

Item	Broad content	LT member	Q
Climate change duties report; and sustainability, and biodiversity report (three-yearly)	Performance against published criteria	HoCSS	3
Communication Strategy	Performance / activity against last year	HoISE	4
Customer survey	Annual report on survey reports and findings.		
Customer Equalities, diversity, inclusion and accessibility report	Annual report on statistics		
Finance reports	Contract register Statements of expenditure (PSR Act) Scheme of Delegation	HoCSS	3
Policy and Guidance Handbooks	Annual review and updates	All	1-4
Protected disclosure report	Annual report of public interest disclosures shared with the SPSO in her capacity as the INWO, including action taken in response, an explanation of our function and the impact these disclosures have had on our function	Ho-INWO	2
Records management	Progress Update Review of the Records Management Plan	HoCSS	3
Service standards performance report		HoISE	2
Service-user Equalities Monitoring	Statistics, analysis and trends report, benchmarking (where relevant), and recommendations and issues for discussion	HoISE	2
Staff survey	Results and outcomes	HoCSS	3
Strategic Plan		Omb	4-yearly

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Scheme of Delegation

Link to [Scheme of Delegation](#) document on our website

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Code of Professional Conduct (incorporating the Register of Interests)

Introduction

1. The Scottish Public Services Ombudsman is accountable to the Scottish public for all actions and decisions taken. To meet the high expectation the Public have of us, you must ensure that your conduct is above reproach.
2. The Ethical Standards in Public Life etc. (Scotland) Act 2000 provides for new Codes of Conduct for local authority councillors and members of relevant public bodies.
3. While The Ethical Standards in Public Life etc. (Scotland) Act 2000 does not apply directly to the SPSO, we are a public authority and have adopted the principles of the Act. It is your responsibility to make sure that you are familiar with, and that your actions comply with, the provisions of the SPSO Code of Conduct.

Guidance on the Code of Professional Conduct (the Code)

4. You must observe the rules of conduct contained in this Code. It is your personal responsibility to comply with these and review regularly, and at least annually, your personal circumstances with this in mind, particularly when your circumstances change. You must not at any time advocate or encourage any action contrary to the Code.
5. The Code has been developed in line with the key principles listed in Annex A and provides additional information on how the principles should be interpreted and applied in practice. No Code can provide for all circumstances and if you are uncertain about how the rules apply, you should seek advice from the Leadership Team (LT). You may also choose to consult your own legal advisers and, on detailed financial and commercial matters, seek advice from other relevant professionals.

Compliance

6. Breaches of the code by staff members will be considered as a disciplinary matter under the SPSO Disciplinary Procedures.
7. The LT is responsible for monitoring, evaluating and ensuring compliance with the Code, seeking advice and assurance from the AAB as needed.
8. If the allegation is against the Ombudsman, this should be considered under
 - 8.1. the [CSC complaints procedure](#) if from an external person / organisation. There is more information about that [[link to CSC process](#)]; and
 - 8.2. the [SPSO whistleblowing policy](#) if from a member of staff.

9. References to the SPSO Fraud Policy are contained within those policies.

General Conduct

Allowances

10. You must comply with any rules of the SPSO regarding remuneration, allowances and expenses.

Gifts and Hospitality

11. The SPSO's policy is that you should not canvass or accept gifts or hospitality for personal benefit as a consequence of your position. It is your responsibility to ensure that your actions do not give rise to, or foster, suspicion or perception that outside individuals or organisations have gained favour or advantage through the offer or acceptance of any gifts or hospitality.
12. You must not accept any offer of a gift or hospitality from any individual or organisation which stands to gain or benefit from a decision the Ombudsman's Office may be involved in determining, or who is seeking to do business with the SPSO, and which a person might reasonably consider could have a bearing on your judgement. If you are making a visits on behalf of the SPSO, then as a general rule you should ensure that the SPSO pays for the costs of these visits.
13. Additionally, you must not offer, promise or give a gift, hospitality or other benefit to a third party which may be perceived as inducing that person or organisation to perform a relevant function or activity improperly.
14. You are responsible for your decisions connected with the offer or acceptance of gifts or hospitality and for avoiding the risk of damage to public confidence in the SPSO. As a general guide, it is usually appropriate to refuse offers except:
 - 14.1. isolated gifts of a trivial character or inexpensive seasonal gifts such as a calendar or diary, or other simple items of office equipment of modest value,
 - 14.2. normal hospitality associated with your duties and which would reasonably be regarded as inappropriate to refuse, or
 - 14.3. gifts received on behalf of the SPSO.
15. You should also consider whether there may be any reasonable perception that any gift received by your spouse or co-habitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term 'gift' includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.

16. You must not accept repeated hospitality from the same source. You must record details of any gifts and hospitality received with the Corporate Services Manager. This record will be made available for public inspection.

Confidentiality Requirements

17. You are bound by the terms of The Scottish Public Services Ombudsman Act 2002 Section 19.

Use of the Ombudsman's Office Facilities

18. You must not misuse facilities, equipment, stationery, telephony and services, or use them for party political or campaigning activities. Use of such equipment and services, etc must be in accordance with the SPSO policy and rules on their usage.

Appointment to Partner Organisations

19. You may be appointed, or nominated by the SPSO, as a member of another body or organisation. If so, you are also bound by the rules of conduct of these organisations and should observe the rules of this Code in carrying out the duties of that body.

Declaration of Interests

20. The key principles of the Code of Professional Conduct, especially those in relation to integrity, honesty and openness, are given further practical effect by the requirement for you to declare certain interests in proceedings of the SPSO. Together with the rules on registration of interests, this ensures transparency of your interests which might influence, or be thought to influence, your actions.
21. Public bodies inevitably have dealings with a wide variety of organisations and individuals and this Code indicates the circumstances in which a business or personal interest must be declared. Public confidence in the SPSO depends on it being clearly understood that actions and decisions are taken in the public interest and not for any other reason.
22. In considering whether to make a declaration in any proceedings, and for the Ombudsman and Heads of Investigations particularly in the handling of complaints, you must consider not only whether you will be influenced but also whether anybody else would think that you might be influenced by the interest. You must keep in mind that the test is whether a member of the public, acting reasonably, might think that a particular interest could influence you. It is your responsibility to judge whether an interest is sufficiently relevant to require a declaration and you are advised to err on the side of caution. You may also seek advice as appropriate.

Interests which Require Declaration

23. Interests which require to be declared may be financial or non-financial. They may or may not be interests which are registerable under this Code. Most of the interests to be declared will be your personal interests but, on occasion, you will have to consider whether the interests of other persons require you to make a declaration.

Shares and Securities

24. Any financial interest which is registerable must be declared. You may have to declare interests in shares and securities, over and above those registerable under category five of this Code.
25. You have a declarable interest where an interest becomes of direct relevance to a matter before the SPSO and you have shares comprised in the share capital of a company or other body and the nominal value of the shares is:
- 25.1. greater than one percent of the issued share capital of the company or other body, or
 - 25.2. greater than £25,000.
26. You are required to declare the name of the company only, not the size or nature of the holding.

Houses, Land and Buildings

27. Any interest in houses, land and buildings which is registerable under category four of this Code must be declared.

Non-Financial Interests

28. If you have a registered non-financial interest under category six of this Code you have recognised that it is significant. There is, therefore, a very strong presumption that this interest will be declared where there is any link between a matter which requires your attention in your role with the SPSO and the registered interest. Non-financial interests include membership or holding office in other public bodies, clubs, societies, trade unions and organisations including voluntary organisations. They become declarable if and when members of the public might reasonably think they could influence your actions and decisions.
29. You may serve on other bodies as a result of express nomination or appointment by the SPSO. You must always remember the public interest points towards transparency particularly where there is a possible divergence of interest between different public authorities.

30. You will also have other private and personal interests and may serve, or be associated with, bodies, societies and organisations as a result of your private and personal interests and not because of your role with the SPSO. In the context of any particular matter you will have to decide whether to declare a non-financial interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is irrelevant or without significance.

Interests of Other Persons

31. The Code requires only your interests to be registered. You may, however, have to consider whether you should declare an interest in regard to the financial interests of your spouse, civil partner, or co-habitee which are known to you. You may have to give similar consideration to any known non-financial interest of a spouse, civil partner, or co-habitee. You have to ask yourself whether a member of the public acting reasonably would regard these interests as effectively the same as your interests in the sense of potential effect on your responsibilities within the SPSO.
32. The interests known to you, both financial and non-financial, of relatives and close friends may have to be declared. The Code does not attempt the task of defining 'relative' or 'friend'. The key principle is the need for transparency in regard to any interest, which might (regardless of the precise description of relationship) be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities within the SPSO.

Making a Declaration

33. You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter or complaint which is to be considered. You must declare the interest as soon as you realise it is necessary to your line Manager, the Head of Corporate and Shared Services or the Ombudsman and have it recorded by the Corporate Services Manager or to whoever is deputising for her in her absence.

Effect of Declaration

34. Declaring an interest, financial or not, has the effect of prohibiting your involvement in the particular matter or in the complaint under consideration.

Registration of Interests

35. You must declare and record any personal interest that might influence, or be seen by others to influence, their impartiality in arriving at a decision. Those who have business or personal relationships with, or friends/relatives employed by, outside organisations bidding for SPSO contracts must inform their line manager and Human Resources at the outset.

36. The following paragraphs set out the categories of interests, financial and otherwise, which you have to register. These are 'Registerable Interests', and you must ensure that they are registered. The register is maintained by the Corporate Services Manager.
37. It is your personal responsibility to comply with these regulations and you should review regularly and at least once a year your personal circumstances. Annex B contains key definitions and explanatory notes to help you decide what is required when registering your interests under any particular category. The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse, civil partner, or cohabitee.

Category One: Remuneration

38. You have a registerable interest where you receive remuneration by virtue of being:
 - 38.1. Employed;
 - 38.2. self-employed;
 - 38.3. the holder of an office;
 - 38.4. a director of an undertaking;
 - 38.5. a partner in a firm, or
 - 38.6. undertaking a trade, profession or vocation, or any other work.
39. The amount of remuneration does not require to be registered.
40. If a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under category two 'Related Undertakings'.
41. If you receive any allowances in relation to membership of any organisation the fact that you receive such an allowance must be registered.
42. When registering employment, you must give the name of the employer, the nature of its business and the nature of the post held in the organisation.
43. When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.
44. Where you otherwise undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication and the frequency of articles for which you are paid.

45. When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and detail the nature of its business.
46. Registration of a pension is not required as this falls outside the scope of the category.

Category Two: Related Undertakings

47. You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.
48. You must register the name of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which you are a director and from which you receive remuneration.
49. The situations to which the above paragraphs apply are as follows:
 - 49.1. you are a director of a board of an undertaking and receive remuneration – declared under Category one;
 - 49.2. you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

Category Three: Contracts

50. You have a registerable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares of a value as described in paragraph 49) have made a contract with the SPSO:
 - 50.1. under which goods or services are to be provided, or works are to be executed, and
 - 50.2. which has not been fully discharged.
51. You must register a description of the contract, including its duration, but excluding the consideration.

Category Four: Houses, Land and Buildings

52. You have a registerable interest where you own or have any other right or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of the SPSO.
53. The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in houses, land and buildings could potentially affect your responsibilities to the SPSO

and to the public, or could influence your actions or decision-making. If in doubt, seek advice from the Head of Corporate and Shared Services.

54. You are required to give the address of the property, or otherwise give a description sufficient to identify it.

Category Five: Interest in Shares and Securities

55. You have a registerable interest where you have an interest in shares which constitute a holding in a company or organisation which may be significant to, of relevance to, or bear upon, the work and operation of the SPSO and the nominal value of the shares is:

- 55.1. greater than one percent of the issued share capital of the company or other body, or

- 55.2. greater than £25,000.

56. You are not required to register the value of such interests.

57. The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in shares and securities could potentially affect your responsibilities to the SPSO and to the public, or could influence your actions or decision-making. If in doubt, seek advice from the Head of Corporate and Shared Services.

Category Six: Non-Financial Interests

58. You may also have a registerable interest if you have non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of the SPSO. It is important that relevant interests such as membership or holding office in other public bodies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described.

59. The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any non-financial interest could potentially affect your responsibilities to the SPSO and to the public, or could influence your actions or decision-making. If in doubt, seek advice from the Head of Corporate and Shared Services.

Annex 1: Key Principles of the Code of Conduct

Public Service

You have a duty to act in the interests of the public body of which you are a member and in accordance with the core tasks of that body.

Selflessness

You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

Integrity

You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Objectivity

You must make decisions solely on merit when carrying out public business.

Accountability and Stewardship

You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that the public body uses its resources prudently and in accordance with the law.

Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You have a duty to promote and support these principles by leadership and example, to maintain and strengthen the public's trust and confidence in the integrity of the public body and its members in conducting public business.

Respect

You must respect fellow members of your public body and employees of the body and the role they play, treating them with courtesy at all times.

Annex 2: Definitions

A person

means a single individual or legal person and includes a group of companies.

Any person

Includes individuals, incorporated and unincorporated bodies, trade unions, charities and voluntary organisations.

Co-habitee

Includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of husband and wife.

Group of companies

Has the same meaning as 'group' in section 262(1) of the Companies Act 1985. A group, within s262(1) of the Companies Act 1985, means a parent undertaking and its subsidiary undertakings.

Parent Undertaking

Is an undertaking in relation to another undertaking, a subsidiary undertaking, if a) it holds a majority of the voting rights in the undertaking; or b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors; or c) it has the right to exercise a dominant influence over the undertaking (i) by virtue of provisions contained in the undertaking's memorandum or articles or (ii) by virtue of a control contract; or d) it is a councillor of the undertaking and controls alone, pursuant to an agreement with other shareholders or councillors, a majority of the voting rights in the undertaking.

Public body

Means a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Related Undertaking

Is a parent or subsidiary company of a principal undertaking of which you are also a director. You will receive remuneration for the principal undertaking though you will not receive remuneration as director of the related undertaking.

Remuneration

Includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.

Spouse

Does not include a former spouse or a spouse who is living separately and apart from you.

Undertaking

A body corporate or partnership; or an unincorporated association carrying on a trade or business, with or without a view to a profit.

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Whistleblowing Policy

[Whistleblowing Policy and Procedure.pdf](#)

Anti-Fraud Policy and Fraud Response Plan

Anti-Fraud Policy

Introduction

1. The Scottish Public Services Ombudsman (SPSO) is a body which, due to the nature of the duties performed within the organisation, requires a standard of absolute honesty and integrity from its staff. Trust is an essential part of this process and there is no room for dishonesty, either within the SPSO, its complainants or the listed authorities.
2. This policy should be read in conjunction with the following policies:
 - 2.1. [Scheme of Control](#);
 - 2.2. [Scheme of Delegation](#);
 - 2.3. [Whistleblowing Policy and Procedure](#);
 - 2.4. [Gifts and Hospitality Procedure](#);
 - 2.5. [Grievance Procedure](#);
 - 2.6. [Travel and Subsistence Policy](#);
 - 2.7. [Disciplinary Procedure](#);
 - 2.8. [Conduct and Behaviour Procedure](#); and
 - 2.9. [Anti-Bribery and Anti-Corruption Policy](#).
3. No precise legal definition of fraud exists; many offences referred to as fraud are covered by the Theft Acts of 1968 and 1978. The term is used to describe acts such as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. For the purpose of this policy, fraud may be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party.
4. This policy is concerned with occupational fraud, ie fraud committed by SPSO employees or contractors in the course of their work.
5. Occupational fraud and abuses fall into four main categories:
 - 5.1. theft, the misappropriation or misuse of assets for personal benefit
 - 5.2. bribery and corruption
 - 5.3. false accounting and / or making fraudulent statements with a view to personal gain or gain for another: for example, falsely claiming overtime,

travel and subsistence, SPSO leave or special leave (with or without pay), and

- 5.4. externally perpetrated fraud against an organisation.
6. All policies and practices adopted by the SPSO to safeguard the organisation against fraud are in line with the fraud section of the [Scottish Public Finance Manual](#) (SPFM).

Prevention of Fraud

7. The Ombudsman is committed to preventing fraud and corruption from occurring, to having appropriate systems of detection and correction in place and to maintaining an anti-fraud culture.
8. To achieve this the SPSO will comply with the requirements of Government Accounting to:
 - 8.1. assess the organisation's overall vulnerability to fraud and the specific areas which are most vulnerable;
 - 8.2. develop and maintain effective controls to prevent fraud;
 - 8.3. ensure that if fraud occurs a vigorous and prompt investigation will take place;
 - 8.4. take appropriate disciplinary and legal action in all cases, where justified;
 - 8.5. review systems and procedures to prevent similar frauds;
 - 8.6. investigate whether there has been a failure in supervision and take appropriate disciplinary action where supervisory failures occurred, and
 - 8.7. record and report all discovered cases of fraud.
9. The Ombudsman will:
 - 9.1. not tolerate fraud, impropriety or dishonesty;
 - 9.2. investigate all instances of suspected fraud, impropriety, or dishonest conduct by SPSO staff or external organisations;
 - 9.3. take action – including dismissal and / or criminal prosecution - against any member of staff defrauding (or attempting to defraud) the SPSO, other SPSO staff, other organisations with which they have contact or SPSO contractors;
 - 9.4. take action - including criminal prosecution - against external organisations defrauding (or attempting to defraud) the SPSO, SPSO staff in the course of their work, SPSO contractors or other organisations with whom SPSO staff have contact;
 - 9.5. co-operate fully with any external investigating body;

- 9.6. always seek to recover funds lost through fraud;
 - 9.7. maintain a Fraud Register in which it will log details of all allegations of fraud, their, investigation and conclusions; and
 - 9.8. monitor and report on fraud in line with its governance arrangements.
10. SPSO Staff:
- 10.1. must not defraud the SPSO, other staff, other organisations with which they have contact or SPSO contractors, and
 - 10.2. must demonstrate the highest standards of honesty, propriety and integrity in the exercise of their duties.

Examples of Concerns

11. Concerns which should be reported include, but are not limited to, staff committing or attempting to commit:
- 11.1. any dishonest or fraudulent act
 - 11.2. forgery or alteration of documents or accounts
 - 11.3. misappropriation of funds, supplies or other assets
 - 11.4. impropriety in the handling or reporting of money or financial transactions
 - 11.5. profiting from an official position
 - 11.6. disclosure of official activities or information for advantage
 - 11.7. accepting or seeking value from third parties by virtue of official position or duties, and
 - 11.8. theft or misuse of property, facilities or services.
12. External organisations' actions which should be reported include, but are not limited to:
- 12.1. being offered a bribe or inducement by a supplier
 - 12.2. receiving fraudulent (rather than incorrect) invoices from a supplier, and
 - 12.3. reported allegations of corruption or deception by a supplier.

Responsibilities

13. The maintenance of an anti-fraud culture underpins all work to counter fraud. All SPSO staff should understand the risk of fraud faced by the office, ie that fraud is serious and would divert resources away from the SPSO's primary objectives and would have a negative impact on the reputation of the Ombudsman.
14. Responsibilities are as follows.

Ombudsman

- 14.1. Maintain adequate systems of control to mitigate risk relating to fraud occurring, going undetected and not being appropriately challenged.
- 14.2. Appoint an appropriate person to investigate allegations of fraud if those allegations involve the Head of Corporate and Shared Services, or if the Head of Corporate and Shared Services recommends another party should investigate.
- 14.3. Approve investigation plans.
- 14.4. Report all incidents of fraud to the AAB.

Head of Corporate and Shared Services

- 14.5. Monitor reports relating to fraud and investigations of allegations of fraud in line with governance arrangements.
- 14.6. Actively manage risk relating to fraud in line with the [Risk Management Policy](#).
- 14.7. Enforce the SPSO anti-fraud policy.
- 14.8. Appoint an appropriate investigator and approve investigation plans if an allegation is made about the Ombudsman.
- 14.9. Communicate this policy and changes to it to all staff.

Managers

- 14.10. Provide assurance to the Ombudsman and LT of the adequacy of systems to manage the risk relating to fraud.
- 14.11. Report on fraud to the LT in line with governance arrangements.
- 14.12. Investigate allegations of fraud in line with the SPSO policy and guidance, unless the subject of an allegation or with agreement from the Ombudsman to an alternative investigator being appointed.
- 14.13. Draw up an investigation plan for the Ombudsman (or Head of Corporate and Shared Services)'s approval prior to carrying out an investigation into an allegation of fraud this should be:
 - 14.13.1. proportionate to the allegation
 - 14.13.2. carried out according to the principles of fairness, natural justice, respect for human rights and equality, impartiality and in the interests of the organisation
 - 14.13.3. evidence based

- 14.13.4. supported by clear and appropriate records of all actions, supporting information and findings, and
- 14.13.5. conclude with a report of findings and recommendations.
- 14.14. Provide support and guidance to staff in the application of this policy;
- 14.15. Maintain and review this policy regularly, ensuring that changes in external policy and guidance, or relevant legislation are incorporated promptly.
- 14.16. Maintain and review this policy, and supporting systems, as appropriate following investigation of an allegation of fraud.
- 14.17. Ensure that records relating to allegations of fraud are reflected in records management policies and procedures, and managed in accordance with them. (The Head of Corporate and Shared Services will anonymise entries in the Fraud Register where the outcome of the investigation is that the allegations were unfounded.)

SPSO Staff

- 14.18. Staff have a personal responsibility to comply with the SPSO policy on fraud.
- 14.19. Staff members who have a concern or become aware of fraud must report, in confidence, all suspected incidents of fraud to their line manager immediately they become aware of them. Staff who are line managed by the Ombudsman should raise concerns with the Head of Corporate and Shared Services. Staff who are line managed by an LT member should raise concerns with the Ombudsman. If staff are unsure whether something is likely to constitute fraud, they should ask for clarification from an LT member.
- 14.20. If a staff member does not consider that the response received from the line manager or LT member is reasonable, then they may take their concern directly to the AAB.
- 14.21. If the staff member is not satisfied with the response from the AAB, or the concern relates to the Ombudsman, then the staff member may take the concern to Audit Scotland.
- 14.22. Suspected incidents of fraud must be kept confidential and not discussed except in the context of an investigation.
- 14.23. Individuals must co-operate fully with any investigation into and allegation of fraud.

- 14.24. There will be no recriminations against staff who report reasonably held suspicions and any attempt to deter staff from reporting such suspicions will be treated very seriously.
- 14.25. Malicious allegations could however be regarded as a disciplinary matter.

Detecting Fraud

15. To increase your awareness of the potential for fraudulent activities, you should identify property or resources to which you have responsibility. You should ask yourself:
 - 15.1. How could this property be misused or improperly used?
 - 15.2. If this property was misused or misappropriated, how would I know?
 - 15.3. What controls exist to prevent or detect inappropriate use of property?
 - 15.4. What additional controls are necessary to ensure the property is adequately protected from loss?
 - 15.5. Is the cost of these controls reasonable in relation to the risk involved?
16. To ensure that an adequate system of internal control exists within your area of responsibility the key points to consider are:
 - 16.1. separation of duties
 - 16.2. physical safeguards over property
 - 16.3. proper documentation
 - 16.4. adequate supervision, and
 - 16.5. independent checking of key transactions.
17. If there is a specific area where you have concerns that a risk exists or where you feel improvements could be made, you should discuss your concerns with your line manager. They will consider what action is required, if any, to address the potential risk.

Protection from Detrimental Treatment

18. The Public Interest Disclosure Act 1998 gives some protection to individuals from detrimental treatment (victimisation or dismissal) for raising serious concerns about matters in the public interest. This could include criminal activity such as fraud. For further information see the [SPSO - Whistleblowing Policy and Procedure](#).

Internal Audit

19. Internal audit is an:
'independent appraisal function established by the management of an organisation for the review of the internal control system as a service to the organisation. It

objectively examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.'

20. All internal auditors undertake broadly similar types of work. This involves reviewing and testing the internal controls of key financial and non-financial systems.
21. The key factors for a successful internal audit operation are:
 - 21.1. setting clear and properly focused objectives for internal audit;
 - 21.2. maintaining internal audit independence;
 - 21.3. planning and controlling the work of internal audit;
 - 21.4. resourcing the internal audit work programme;
 - 21.5. having effective reporting and follow-up arrangements; and
 - 21.6. holding internal audit to account for its performance.
22. The nature of the function of the SPSO office requires that there be a reliable and robust internal audit process. This will be implemented and managed by the Head of Corporate and Shared Services, reporting to the Ombudsman and LT.

Fraud Response Plan

Introduction

23. This Fraud Response Plan sets out arrangements to ensure that when there is any suspicion of fraud against SPSO, prompt and effective action is taken to:
 - 23.1. investigate the circumstances;
 - 23.2. minimise the risk of subsequent loss;
 - 23.3. ensure that appropriate recovery action is taken or, failing recovery, to initiate action to write off any losses;
 - 23.4. remedy any weaknesses in internal control procedures;
 - 23.5. initiate disciplinary and legal procedures, where appropriate;
 - 23.6. demonstrate that SPSO is not a soft target for attempted fraud; and
 - 23.7. maintain a record of reported frauds and provide reports to the Accountable Officer (Ombudsman) on the progress of cases and outcomes

Initial Actions

24. Individual employees should report any suspicion of fraud to the Accountable Officer. Where a suspected fraud involving an employee is reported, the Accountable Officer will decide on the action to be taken. Where it is not immediately clear from the evidence presented that a fraud may have been committed, the Accountable Officer may decide to initiate action to determine whether there is substance to the allegations. For example, colleagues may be asked to confirm the accuracy of particular allegations. The aim at this stage should be to gather sufficient evidence to

enable the Accountable Officer to reach a view on whether the allegations of fraud are likely to be substantiated. If the Accountable Officer considers this is likely to be the case, the Accountable Officer will initiate the following action, insofar as it is appropriate to the particular case:

- 24.1. appoint an Investigating Officer (who may not be someone in the employment of SPSO);
- 24.2. agree the scope and nature of any investigative work required to establish the facts, which may include the examination of the conduct of employees who are the subject of allegations such as in relation to travelling and subsistence claims, flexible working hours, overtime claims, etc;
- 24.3. decide the level at which other employees should be involved and bring the allegations to their notice if appropriate, at the same time confirming the investigative arrangements and reporting line;
- 24.4. take whatever action is needed to secure records and assets, including restrictions on access to offices, computer terminals and SPSO's information such as by way of remote access;
- 24.5. decide whether to seek legal advice;
- 24.6. decide whether the Police/Procurator Fiscal Service should be informed;
- 24.7. consider the prima facie case for suspension of employees who are the subject of allegations;
- 24.8. agree a timetable for completion of the agreed action.

Scope of Investigations

25. The Accountable Officer should consider carefully the terms of reference for any investigative work necessary to establish the facts. Investigations should not be restricted solely to allegations against an individual that may lead to a charge of gross misconduct. If there is a possibility that instances of serious misconduct (for example, misconduct other than fraud) may also have occurred, these should be investigated at the same time as allegations. The terms of reference should not preclude reporting any evidence of fraud or serious misconduct which was not identified in the initial report to the Accountable Officer. Investigations will be based on SPSO's Disciplinary Policy.

Actions during the Investigation

26. As appropriate, the Accountable Officer will:

- 26.1. arrange to suspend the individual(s) pending the outcome of investigations (and review the notice of suspension at regular intervals throughout the period of investigation);
 - 26.2. liaise with legal advisers;
 - 26.3. consider the sensitivity of the allegations in terms of public interest and whether any external bodies, for example, the Scottish Parliamentary Corporate Body, should be informed and whether media briefing should be prepared;
 - 26.4. take whatever action is required to safeguard funds or assets at risk;
 - 26.5. initiate action to recover misappropriated funds, if there is a clear case for doing so in advance of a full investigation;
 - 26.6. consider the case for recovery action; and
 - 26.7. notify the Police/Procurator Fiscal Service of the case.
27. As appropriate the Investigating Officer will:
- 27.1. instruct action to protect accounting and other records including those held on computer;
 - 27.2. ensure that data backed-up offsite is secure;
 - 27.3. restrict access to offices and records of individuals allegedly or possibly involved by altering or withdrawing cards / passwords;
 - 27.4. plug any immediately obvious gaps in financial controls; and
 - 27.5. establish possible financial implications for the business plan and running costs.

Report and Review of Findings

28. As soon as investigations have been completed, reports and any other relevant documentation (subject to any confidentiality requirements) should be passed to the Accountable Officer. The Accountable Officer will decide whether the evidence tends to substantiate allegations of fraud. The Accountable Officer may instruct further investigation, for example, where evidence gathered is inconclusive, contradictory or incomplete. Once the Accountable Officer is satisfied that no further investigations are required, consideration must be given to:
- 28.1. what, if any, disciplinary action should be initiated against those involved;
 - 28.2. the form and content of the final report; and
 - 28.3. whether the Police / Procurator Fiscal should be notified (if this has not already been done).

29. Where any person being investigated is not directly employed by SPSO, the results of any investigation will be reported to the relevant office/employer. This may also result in SPSO terminating any contract subject to the outcome of the investigation.

Action on Findings

30. If the Accountable Officer decides that disciplinary action should be taken against a person, they will provide the employee with a written statement setting out details of the allegation and the conclusion on the facts established. Thereafter, the disciplinary procedures as set out in the Disciplinary Policy will be followed. If evidence of gross misconduct or lesser instances of misconduct have been identified during the investigation, the lesser instances will not be disregarded solely because a charge of gross misconduct is proposed in respect of certain aspects of the individual's actions. Further action will include:
 - 30.1. pursuing recovery of funds;
 - 30.2. informing other public and government bodies, as appropriate;
 - 30.3. considering the adequacy of internal control procedures;
 - 30.4. considering the impact on the budget and take any action to deal with the consequences;
 - 30.5. arranging, where necessary, for notation of the relevant accounts; and
 - 30.6. liaising with the Police/Procurator Fiscal as necessary.
31. The Police / Procurator Fiscal are understood to be willing to provide advice on an informal basis. However, the Police are obliged to report formal approaches to the Procurator Fiscal. In the latter case, the Police / Procurator Fiscal would expect SPSO to have conducted inquiries or initial investigations and to have established at least a prima facie case before referral to them.

Follow-up and Review of Cases

32. Where evidence of fraud or serious misconduct has been identified, the Accountable Officer will consider whether any action needs to be taken to prevent a recurrence. In such cases, an action plan should be drawn up setting out recommendations and the Commissioner should ensure that the agreed recommendations are implemented.

Confidentiality and External Fraud

Confidentiality

33. The Accountable Officer and Investigating Officer will receive all information relating to individual cases. They must treat all information relating to individual employees in strictest confidence and should ensure that it is only passed on to colleagues on a

strictly need to know basis. Only those allegations which have resulted both in disciplinary charges and a finding against the employee will be noted in their Personnel record. Where an employee identifies and reports fraud, a note recognising this will be kept in their Personnel record.

External Fraud

34. External frauds are frauds perpetrated by third parties against SPSO (for example, contract fraud or fraudulent invoices). In the case of advisers, contractors and suppliers, a finding of fraud will normally lead to termination of their contract. If there is any suspicion of collusion on the part of employees in an external fraud, the procedures relating to internal fraud will be adapted to apply as appropriate, given any requirements arising from ongoing Police / Procurator Fiscal investigations. Subject to that condition, cases of suspected external fraud should be reported to and handled by the Accountable Officer (Ombudsman) as for internal fraud.

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Anti-Bribery and Anti-Corruption Policy (incorporating Gifts and Hospitality)

1. It is illegal to offer, promise, give, request, agree, receive or accept bribes so to induce or influence an action or decision. This anti-bribery policy exists to set out the responsibilities of the SPSO and those who work for us in regards to observing and upholding our zero-tolerance position on bribery and corruption.
2. It also exists to act as a source of information and guidance for those working for the SPSO. It helps them recognise and deal with bribery and corruption issues, as well as understand their responsibilities.

Policy statement

3. SPSO is committed to conducting business in an ethical and honest manner, and is committed to implementing and enforcing systems that ensure bribery is prevented. SPSO has zero-tolerance for bribery and corrupt activities. We are committed to acting professionally, fairly, and with integrity in all relationships.
4. SPSO will constantly uphold all laws relating to anti-bribery and corruption. We are bound by the laws of the UK, including the Bribery Act 2010. It is with this in mind that we commit to preventing bribery and corruption in our organisation, and take our legal responsibilities seriously.

Gifts and Hospitality

5. It is the policy of the SPSO that staff should not accept gifts or hospitality for personal benefit as a consequence of their position, to ensure the integrity, impartiality and probity of staff members are not compromised by the inappropriate offer, acceptance or rejection of gifts and hospitality. It is the responsibility of all staff to ensure that their actions do not give rise to, or foster, suspicion that outside individuals or organisations have gained favour or advantage through the offer or acceptance of any gifts or hospitality.
6. Additionally, SPSO staff must not offer, promise or give a gift, hospitality or other benefit to a third party which may be perceived as inducing that person or organisation to perform a relevant function or activity improperly.
7. Any gift or hospitality that is accepted by staff, or supplied by the SPSO, must be justified in terms of benefit to the SPSO.
8. Key principles:

- 8.1. In most circumstances, SPSO staff do not directly give or receive any gifts or hospitality from other organisations, stakeholders, suppliers or contractors. Where such a situation arises, the general test of caution is one of common sense.
- 8.2. Would the public question the appropriateness of hospitality or gifts received by an SPSO staff member?
- 8.3. Would a reasonable person, assessing the hospitality, sponsorship or any gift provided by the SPSO, judge that it was appropriate and represented reasonable value for money to the public purse?

Legal implications

9. There is a wide range of complex, primarily criminal, legislation dealing with bribery and corruption which may arise where seriously inappropriate business gifts are made or received. This legislation includes:
 - 9.1. The Corruption Act 1889
 - 9.2. The Prevention of Corruption Act 1906
 - 9.3. The Anti-terrorism, Crime and Security Act 2001
 - 9.4. The Proceeds of Crime Act 2002.
10. Careful legal advice requires to be sought if issues of bribery and corruption arise. It is an offence for public servants to accept or solicit any gift or consideration as an inducement or reward for:
 - 10.1. doing, or knowingly not doing, anything in their official capacity, or;
 - 10.2. for showing favour or disfavour to any person in their official capacity.
11. Other relevant legislation includes the Public Interest Disclosure Act 1998 which protects whistle-blowers from victimisation and dismissal where they raise concerns, in good faith, about misconducts and malpractices (see [Whistleblowing Policy](#))

Contractual provisions concerning gifts

12. A number of implied terms are automatically imposed by the law into an employment contract. These implied terms include a duty of fidelity whereby all staff should serve the SPSO faithfully and honestly. This implied duty encompasses an obligation not to accept bribes and to account to the SPSO for 'secret profits'.
13. Accepting a bribe may amount to a breach of a staff member's implied duty of fidelity.

Acceptance of gifts, rewards and hospitality

14. SPSO staff must not offer, promise or give a gift, hospitality or other benefit to a third party which may be perceived as inducing that person or organisation to perform a relevant function or activity improperly. If a staff member is in any doubt, they should seek guidance from their line manager before proceeding.
15. SPSO staff must exercise particular care in relation to the acceptance of gifts, hospitality or other benefit from any member of the public, or any individual or organisation with whom they have been in contact through official duties. This is due to the potential risks of creating a perceived obligation to the giver and of others perceiving such to influence your advice and / or decisions. Staff should only accept gifts of a trivial nature. Modest hospitality (for example, lunch, sandwiches) may be accepted, provided it is for a legitimate reason, is infrequent and that a situation is not reached where impartiality may be influenced, or be perceived by others to be influenced.
16. It is a disciplinary matter for an SPSO staff member to accept gifts or consideration as an inducement or reward for:
 - 16.1. doing or refraining from doing something; and / or
 - 16.2. showing favour or disfavour to any person or organisation.
17. Staff must not accept gifts and / or hospitality with an estimated value of £50 or more, without the express approval from a member of the Leadership Team. If the refusal of such a gift is likely to cause offence to the giver, for example, for cultural reasons, the staff member should discuss the facts immediately with their line manager. Isolated gifts of a modest or promotional nature (for example, a diary, calendar, confectionery, pen or key-ring) or modest hospitality such as a working lunch may be accepted without approval provided that this is not a regular occurrence.
18. The Corporate Services Manager (on behalf of the Ombudsman) keeps a central Register of Gifts and Hospitality. Where the estimated value of a gift or hospitality is in excess of £50, details must be reported to the Corporate Services Manager. Details should be provided in terms of the nature of the gift or hospitality, the giver, the relationship between the giver and recipient, the reason it was given, and the estimated value. The Ombudsman will advise as to the use and distribution of the gift.
19. Staff involved in procurement activity, or others who may be perceived to be in a position of influencing purchasing decisions, may not solicit or accept contributions of any kind from SPSO contractors, or those bidding for SPSO contracts. Invitations from suppliers or potential suppliers to attend social functions or offers of corporate

entertainment (for example tickets to sporting events, theatre and travel) must always be politely refused.

20. If there is any doubt about whether or not a gift or hospitality should be accepted, contact a member of the Leadership Team for advice.

Hospitality and entertainment which staff may provide

21. The provision of modest hospitality to third parties, in the form of refreshments and lunches, is permitted, so long as it is in the context of SPSO business. Prior written approval, including reasons why, must be obtained from a member of the Leadership Team. The written approval should be attached to invoices or expense claim forms as evidence.

Provision of alcohol

22. Alcohol may only be provided if appropriate to the occasion. Alcohol and associated costs will generally be approved in the case of evening receptions and dinners where the SPSO is the official host. Prior written approval must be obtained from the Ombudsman. This must be attached to invoices or expense claims before payment is made.

What happens if I need to raise a concern?

23. This section of the policy covers three areas:
 - 23.1. How to raise a concern.
 - 23.2. What to do if you are a victim of bribery or corruption.
 - 23.3. Protection.
24. If you suspect that there is an instance of bribery/corrupt activities occurring in relation to the SPSO you are encouraged to raise your concerns at as early a stage as possible. If you're uncertain about whether a certain action or behaviour can be considered bribery or corruption, you should speak to your line manager or a member of the Leadership Team.
25. Follow our whistleblowing procedures to raise your concern confidentially if required.
26. If you are offered a bribe by anyone, if you are asked to make one, if you suspect that you may be bribed or asked to make a bribe in the near future, or if you have reason to believe that you are a victim of another corrupt activity, you must tell your line manager as soon as possible.

27. If you refuse to accept or offer a bribe or you report a concern relating to potential act(s) of bribery or corruption, you may feel worried about potential repercussions. SPSO will support anyone who raises concerns in good faith under this policy, even if investigation finds that they were mistaken. SPSO will ensure that no one suffers any detrimental treatment because they reported a concern relating to potential act(s) of bribery or corruption.
28. Detrimental treatment refers to dismissal, disciplinary action, threats, or unfavourable treatment in relation to the concern the individual raised.

Disputes

29. There are a number of options open to a staff member if they do not agree with a decision or action relating to this policy:
 - 29.1. informal discussions with their line manager as there may be some simple misunderstanding of the procedure or facts which can be resolved by an informal route;
 - 29.2. use of the SPSO's Grievance Procedure – see [SPSO - Working for SPSO](#) handbook;
 - 29.3. use of the SPSO's Whistleblowing Procedure; and
 - 29.4. assistance from a third party such as a trade union representative or some other suitably experienced person.

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Incident Reporting

Immediate Management of Incidents

1. The member of staff who discovers or is informed of a high risk incident, if not a manager, is responsible for informing a manager immediately. The manager will take immediate necessary action to ensure the safety of those involved. The manager is responsible for assessing the situation and taking appropriate immediate action to:
 - 1.1. ensure the wellbeing and safety of all those involved;
 - 1.2. manage the incident and minimise potential adverse effects of the incident, and
 - 1.3. minimise the risk of the incident occurring again in the future.

Reporting Incidents

2. The manager is responsible for ensuring that the incident is fully recorded on the [Specific Incident Log \[template\]](#) and stored in the appropriate Incident Log folder with any documentation relating to the incident. There is additional guidance in the [Information Governance](#) handbook for data security incidents, which must also be reported immediately to the CIGO or DPO. The Head of Corporate and Shared Services (or in their absence another member of the LT) should be informed as soon as possible of the incident and the action being taken. Once the incident is closed and the log has been completed, the manager should forward a link to the LT, including recommendations to update the operational risk register.
3. All incidents where there is any suspicion of fraud, bribery, corruption or a similar offence must be reported to the Ombudsman immediately. The Ombudsman will notify the Chair of the AAB.
4. In the Ombudsman's absence or if the matter concerns the Ombudsman it should be reported immediately, in confidence to the Chair of the AAB.

Management and Investigation of Incidents

5. The completion of the Specific Incident Log must be within ten working days of the incident. Please see the [Information Governance](#) handbook for additional guidance on data security incidents, which must potentially be reported to the ICO within 72 hours. This log will record:
 - 5.1. the significant action, decision or event
 - 5.2. mitigating actions taken, noting the dates and time, and
 - 5.3. any follow-up action required.

6. The purpose of reporting incidents is to ensure that learning and improvements are made that may prevent similar incidents from occurring in the future.

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