

## **STRATEGIC ENGAGEMENT**

### **Framework document between the SPCB and the Scottish Human Rights Commission**

#### **Introduction**

1. The purpose of the framework is to support the efficient administration of the relationship between the Scottish Human Rights Commission (hereon in referred to as the “Commission”) and the Scottish Parliamentary Corporate Body (“SPCB”). It defines the roles and responsibilities which underpin the relationship between the Commission and the SPCB and forms a key part of the accountability and governance framework. It should be reviewed and updated as necessary.
2. The framework has no legal effect other than by virtue of the legislation to which it refers. It expressly does not restrict the Commission’s powers and independence or the powers conferred upon the SPCB.
3. The framework makes reference to the following associated documents-
  - Officeholders’ Finance Manual;
  - Memorandum to the Accountable Officer; and
  - Budgeting process agreement between the SPCB, the Finance and Constitution Committee and the Commission.

#### **Legal Origins and Status of the Commission**

4. The Commission is established under the Scottish Commission for Human Rights Act 2006.
5. The Commission is a body corporate and is not a servant or agent of the Crown and has no status, immunity or privilege of the Crown.
6. The Commission consist of a member appointed to chair the Commission and not more than 4 other members. The Chair is an individual appointed by Her Majesty on the nomination of the Scottish Parliament. The other members are appointed by the SPCB.
7. The Commission, in the exercise of its functions is not, unless otherwise provided for in the Act, subject to the direction or control of the SPCB, of any member of the Scottish Government or the Parliament.
8. It is a matter for the Commission members to familiarise themselves with their statutory powers and all other statutory provisions applying to their office.

#### **SPCB’s responsibilities**

9. The SPCB’s responsibilities under the Scottish Commission for Human Rights Act 2006 include-
  - i. Commenting on the Commission’s draft strategic plan under section 7;

- ii. Giving directions to the Commission under section 15 (form and content of an annual report) and under paragraphs 10 (location of office) of Schedule 1.
- iii. Under paragraph 1 of Schedule 1, appointing the other members of the Commission;
- iv. Determining the Commission members' tenure of office under paragraphs 5, 6 and 6A of Schedule 1;
- v. Considering the Commission's determinations under paragraphs 8 (acquisition and disposal of land and other property); 11 (staff), 11A (advisers and other services), 12 (sharing of premises, staff services and other resources) of Schedule 1 and under paragraph 5 (witnesses' expenses) of Schedule 2;
- vi. Appointing an Accountable Officer under paragraph 13 of Schedule 1;
- vii. Providing and agreeing funding requirements under paragraphs 13A and 14 of Schedule 1;
- viii. Indemnifying the Commission in respect of any liabilities incurred by it in the exercise of its functions under paragraph 14(1) of Schedule 1.

### **Scottish Human Rights Commission**

10. The Commission's functions are set out in the Scottish Commission for Human Rights Act 2006.

11. The Commission's general duty is to promote human rights and, in particular, to encourage best practice in relation to human rights.

### **Contact with the SPCB**

12. The normal point of contact for the Commission and its staff in dealing with the SPCB is Officeholder Services. Its specific duties include:

- i. Discharging support responsibilities in line with this framework and ensuring that the support provided to the SPCB and the Commission is suitably flexible, proportionate and responsive;
- ii. Ensuring that the appointment of Commission members is made timeously;
- iii. Undertaking proportionate monitoring through an adequate and timely flow of information on performance in relation to the Strategic Plan and budgeting;
- iv. Alerting, as it considers necessary, the SPCB to any significant problems arising;
- v. Identifying opportunities for shared services; and
- vi. Informing the Commission of any changes to (relevant) SPCB policies (e.g. HR and Procurement).

### **Role of Parliamentary Committees**

13. In accordance with Standing Orders of the Parliament, when the Commission lays an annual report, a report following an inquiry, or a draft strategic plan before the Parliament, the document will be referred to the parliamentary committee within whose remit the subject matter of that document falls for consideration.

14. It will be for each committee to determine the degree of scrutiny of these documents within the broader context of the committee's work programme.

### **Accountable Officer**

15. The SPCB is to designate a member of the Commission or of the Commission's staff as the accountable officer (AO). Appointment as the accountable officer is a personal appointment.

16. The AO is answerable to Parliament in respect of the following functions -

- Signing the accounts of the expenditure and receipts of the Commission;
- Ensuring the propriety and regularity of the finances of the Commission; and
- Ensuring that the resources of the Commission are used economically, efficiently and effectively.

17. The specific duties of the AO are set out in the *Memorandum to the Accountable Officer*.

### **Funding**

18. The Commission must, before the start of each financial year, prepare proposals for its use of resources and expenditure during the year (a "budget") and, by such date as the SPCB determines, send the budget to the SPCB for approval. The Commission may seek to revise its budget during the year by submitting a revised budget to the SPCB for approval.

19. Further information about the funding process is contained in the document entitled "*Budgeting Process Agreement between the SPCB, the Finance and Constitution Committee and the Commission*".

20. The SPCB has the discretion to pay, or not to pay, expenses incurred by the Commission which exceed or are otherwise not covered by its approved budget/revised budget.

21. The Commission is indemnified by the SPCB for any liabilities incurred in the exercise of its functions.

### **Commission's determinations**

22. The Commission's determinations under the 2006 Act are subject to the approval of the SPCB.

23. Where the Commission is seeking approval for a determination that is not related to a new statutory function and it will have a significant financial impact on its baseline budget, independent evidence should be submitted as part of the determination. A significant financial impact means (i) 14% of staffing costs for a staffing determination or (ii) 30% of non-staff costs for e.g. an accommodation determination.

24. When the SPCB has all the necessary information to consider the determination it will respond within 20 working days or as soon as practicable.

Where additional information is requested, the 20 working day time-limit will commence when all the necessary information has been received.

### **SPCB Directions to the Commission**

25. The Commission must comply with any direction given by the SPCB under the 2006 Act.

26. The SPCB will consult with the Commission before issuing a direction under paragraph 10 of Schedule 1. The Commission will be invited to consider the proposal and provide comments including the effect, if any, the direction will have on, contracts, liabilities or obligations already entered into by the Commission, and on the ability of the Commission to deliver its statutory functions within published targets and to quality standards.

### **Strategic Planning**

27. The Commission must, in respect of each four-year period, lay before the Parliament a plan (a “strategic plan”) setting out how it proposes to perform its functions during the four-year period.

28. A strategic plan must, in particular, set out -

- The Commission’s objectives and priorities during the four-year period,
- How the Commission proposes to achieve them,
- A timetable for doing so, and
- Estimates of the costs of doing so.

29. Before laying a strategic plan, the Commission must provide a draft of it to, and invite comments on it from the SPCB, and such other persons as the Commission considers appropriate e.g. a committee of the Parliament.

30. To allow sufficient time for comments to be received and considered, the draft plan will be provided to the SPCB for comment no later than 12 weeks before the laying date, and the SPCB will provide its comments no later than 6 weeks before the laying date.

31. The Commission must lay each strategic plan before the Parliament not later than the beginning of the four-year period to which the strategic plan relates. The Commission must arrange for the publication of each strategic plan laid before the Parliament and ensure it is published on its website.

32. The Commission may, at any time during a four-year period, review the strategic plan for that period and lay a revised strategic plan before the Parliament. Before laying a revised plan, the Commission must have consulted as set out in paragraph 29 above.

### **Annual Reports**

33. Within 7 months after the end of the reporting year, the Commission must lay before the Parliament a report on the performance of the Commission’s functions during the reporting year. A reporting year starts on 1 April and ends on 31 March.

34. The report must include-

- a) a summary of any inquiries conducted by the Commission during the reporting year; and
- b) a summary of any other activities undertaken by the Commission during the reporting year in pursuance of its functions.

35. The Commission must comply with any direction given by the SPCB as to the form and content of its annual report.

36. The Commission must arrange for the publication of each report laid before the Parliament.

### **Other statutory duties**

37. The SPCB expects the Commission to meet all other statutory duties applying to its office e.g. the duty to publish information on expenditure under the Public Services Reform (Scotland) Act 2010.

### **New functions**

38. Where the Commission is approached about proposals for new functions it should ensure that the party promoting the proposal/s contacts the SPCB. The SPCB's role is not to approve or otherwise, the proposal/s – that is the role of the Parliament - but as the body responsible for funding, the SPCB needs to be aware of proposed changes which could have financial implications for its overall budget.

### **Revision of Framework**

39. The framework will be reviewed and updated as necessary.

40. Any new requirement brought in by legislation will take precedence over any part of this framework