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**INDEPENDENT GOVERNANCE REVIEW OF
THE SCOTTISH HUMAN RIGHTS COMMISSION**

REPORT BY THE INDEPENDENT REVIEWER

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1 Executive Summary

I was commissioned in April 2023 to undertake a detailed Review, following a publicly advertised invitation to Tender. Terms of Reference criteria was drawn up by the Scottish Human Rights Commission and I have, within this report, set out my findings and recommendations on a review of the Governance within the Commission.

2 Introduction

2.1 The Scottish Human Rights Commission (SHRC)

The Scottish Human Rights Commission (SHRC) is the National Human Rights Institution for Scotland. It was established by the Scottish Commission for Human Rights Act and started its work in 2008.

The SHRC is an Independent Public Body supported by the Scottish Parliamentary Corporate Body (SPCB). It is accountable to the people of Scotland through the Scottish Parliament. It is separate and independent of the Scottish and UK Government but is still accountable for its public funds.

SHRC seeks to promote and protect the human rights of everyone in Scotland as well as working to increase awareness, recognition, and respect for human rights to make them more relevant and easier to apply in everyday life. The Commission aims to help everyone understand their rights and the shared responsibilities everyone has to each other and to their community. You can find their responsibilities and Mandate set out in the Scottish Commission for Human Rights Act 2006 under General Duties.

The SHRC is the newest of three National Human Rights Institutions (NHRIs) in the United Kingdom and similar to the Northern Ireland Human Rights Commission (NIHRC) and the Equality and Human Rights Commission (EHRC), they have secured "A status" accreditation from the International Co-ordinating Committee of National Human Rights Institution (the ICC).

When establishing the Commission in 2008, The Scottish Parliament ensured they complied with United Nations Principles related to the Status of National Institutions, known as the Paris Principles, which is a series of recommendations on the role, status and functions of NHRIs.

2.2 The Rationale behind the Review

In February 2021, a Governance Review was commissioned to independently evaluate the governance model of the Commission.

This review was undertaken with a report produced, however, not all its recommendations were fully considered or followed up.

Nor did that Review set out any options for changing the SHRC's legal mandate in order to improve internal governance.

In addition, there has subsequently been a complete change in SHRC leadership following Commissioner resignations and staff departures.

2.3 Scope of the Review

As the Independent Reviewer, I have been asked to deliver on a Terms of Reference agreed by the Commissioners of the Scottish Human Rights Commission (SHRC) to reach conclusions and offer strategic recommendations.

The Terms of Reference instructed me to look at the following:

- **The composition of the Commission, role and remit of the Chair and other Commissioners respectively and as a Body Corporate.**
- **The Commissioners Handbook and Scheme of Delegation arrangements along with the appropriate level of sign-off by Commissioners.**
- **Whether there is sufficient clarity and a shared vision on what counts as strategic oversight versus operational delivery.**
- **Arrangements for grievance handling and whistleblowing in relation to staff, Chair and other Commissioners.**
- **Adequacy of arrangements for SHRC's financial oversight including the role of the Risk and Audit Committee established in 2022.¹**

The structure of this Executive Summary and the main body of the Report is organised according to this scope.

The scope of the review excludes: a review into the Pay and Terms & Conditions for staff within the Organisation and the Commission's relationship with Right Holders.

In carrying out this Governance Review it has been undertaken within the main components as outlined within the Tender:

- (i) introductory meetings to understand and determine the scope of the Review;
- (ii) information gathering to review and analyse relevant internal and external legislation, policies, and other documentation;
- (iii) interviews with commissioners, staff and the wider group of stakeholders including Scottish Government to understand how the governance is working within the SHRC;
- (iv) how SHRC is fulfilling its role and identifying possible adjustment needed within the new Human Rights Bill; and

¹ Full Terms of Reference (ToR), including definitions of this scope, can be found at Annex B.

- (v) the development of the report and recommendations for considerations by the Commission.

For information purposes, whilst I have covered all areas within the Terms of Reference, due to the complex nature revolving of certain issues it was agreed in discussion with SHRC that my focus for this review should be to cover the main aspects of Internal Governance.

It was agreed that the financial aspect and the Mandate elements within the terms of reference, would have less of a focus from the main concerns of Governance. However, for clarity these function areas were addressed during my review.

3 Conclusions and Recommendations

3.1 Key Conclusions

The Review's full list of recommendations are set out in the table below with the key recommendations based around the review's six main areas:

Documentation (Governance) issues; The role of the Commission and Commissioners; Structure; Engagement; Financial Management; and Changes within the SHRC Mandate.

All of these main areas have identified issues within the SHRC which are currently inadequate and restricting its ability to deliver its statutory duties as well as how the organisation could better manage its operations in some areas to improve efficiency and effectiveness.

I therefore recommend commitments from the Parliament, alongside a package of reforms to enable the SHRC to undertake its Human Rights legislative responsibilities, while maintaining its operational and functional independence and recommendations to the SHRC to improve its efficiency and performance as an organisation.

I am satisfied that these recommendations offer a positive new direction with a constructive response from all parties to the key issues raised. I would expect this report to provide a basis for more productive working between the SHRC, Scottish Parliament Committees, SPCB and all Stakeholders with a recognition that it is a complex picture, however, something which will only be improved by concessions and commitment on all sides.

I have grouped conclusions and recommendations according to the scope provided in the Terms of Reference and have indicated to which body or bodies my recommendation is directed. The main body of the report provides these recommendations in full to consider following my detailed review.

In addition to the review, I feel it's important to mention that my findings have shown there has been a toxic culture within the Organisation, as experienced by Commissioners and staff alike. In my view the dysfunctional Governance arrangement have contributed to this over many years. Although this has improved since 2023, in order to maintain this positive trajectory, in addition to the amendment to the Governance of the SHRC, I would recommend that a RESPECT (*Responsibility Equality Supportive Professionalism Excellence Communication Transformation*) Agenda and a cultural change programme is necessary in order for the Organisation to fully move forward and deal with its statutory responsibilities to provide a productive and well balanced place of work.

4 Table One: Recommendations and Implementation Checklist

This review recognises that the SHRC is an independent Public Body of the Scottish Parliament. The SPCB is responsible for overseeing the delivery of the SHRC mandate, and the Review has identified some of the recommendations will require agreement and engagement from the SPCB in relation to the Mandate. Therefore, I have labelled some recommendations to SPCB, and some specifically to the SHRC .

Theme	Recommendation	Implementation responsibility	6 month update	12 month update
Documentation (Governance) issues	Code of Governance	To develop a document covering the set of rules to outline the Organisational Structure for roles and responsibilities	SHRC	
		To ensure that there are clear Standing Orders of the Commission governing the rules and procedures of meetings of the Commission	SHRC	
Code of Conduct		To develop the draft Code of Contact to set out standards expected of Commissioners	SHRC	
		At a future date the Code of Conduct for the Commissioners should be aligned with the Staff Handbook.	SHRC	
Staff Handbook	Progress to update Staff Handbook	SHRC		

Theme	Recommendation	Implementation responsibility	6 month update	12 month update
	<p>Realignment of staff handbook with the new Commissioners Code of Conduct procedure</p> <p>Staff progression and Development Plan for all Staff</p> <p>Seconded Opportunities</p>	<p>SHRC</p> <p>SHRC</p>		
Commissioner Handbook	Full review of Commissioners Handbook and aligned with the requirements within Commissioners Appointment Letter	SHRC		
Grievance Procedure	<p>Urgent development of a Grievance Procedure</p> <p>Procedures for both Commissioner & Staff drawn together in a single document within the revised Governance Framework.</p> <p>Significant effort to resolve outstanding Grievances</p> <p>Discussions to be held between SHRC and SPCB around Grievance Solutions</p>	<p>SHRC</p> <p>SHRC</p> <p>SHRC</p> <p>SHRC and SPCB</p>		
Whistleblowing Policy	Development of Whistleblowing Policy (Consider PROTECT Charity)	SHRC		

Theme	Recommendation	Implementation responsibility	6 month update	12 month update
	Or: liaise with the SPSO to utilise their advice via the existing Shared Services Agreement	SHRC		
The Role of Commission and Commissioners Recruitment	Develop a clear and transparent understanding of Recruitment Process Interaction between SPCB and External Human Rights Institutions Appointment Process developed to include external NHRC in advisory capacity	SPCB SPCB SPCB		
Induction of Part-Time Commissioners	Set out the Criteria of Induction Sessions for new Appointees Timetable and input of Induction Programme	SHRC and SPCB SHRC and SPCB		
Role of the Commission	Recommendation of Induction Programme to understand fully the operations of SHRC Clarity of Part-Time Commissioners Role	SHRC SHRC		

Theme	Recommendation	Implementation responsibility	6 month update	12 month update
	<p>Meeting with Staff and Commissioners to cover the Roles and Responsibilities of each part of the Organisation</p> <p>Recommendation for an annual review of Strategic Objectives</p> <p>Internal Management System for Community and Media Engagement</p>	<p>SHRC</p> <p>SHRC</p> <p>SHRC</p>		
<p>Structure</p> <p>Role of Chair/CEO/Accountable Officer</p>	<p>Removal of CEO Position from this Role</p> <p>Transfer of Accountable Officer responsibilities</p> <p>Commissioner Restructure to reduce Chair position from full-time to part-time</p> <p>Increase number of Part-Time Commissioners</p> <p>Review the number of weekly hours required for each Commissioner.</p>	<p>SPCB</p> <p>SPCB</p> <p>SPCB</p> <p>SPCB and Scottish Government</p> <p>SHRC</p>		

Theme	Recommendation	Implementation responsibility	6 month update	12 month update
Development of Senior Management Team	Establishment Leadership of Legal and Policy Team Develop Senior Leadership Team for Key lines of Management clarification Structure Reorganisation	SHRC SHRC SHRC		
Engagement Stakeholder Engagement	Greater visibility for SHRC Programme to enhance visibility on work of the Commission. Alignment of upholding SHRC's responsibilities of Human Rights Engagement Working Relationships Regular bi-monthly meetings with SPCB	SHRC SHRC SHRC SHRC and SPCB SHRC and SPCB		
Relationships between SHRC and other National and International HRCs	Engagement with National and International HRCs to be undertaken at earliest opportunity	SHRC		
Relationships – Commissioners and Staff	Develop a RESPECT Agenda for Culture	SHRC		

Theme	Recommendation	Implementation responsibility	6 month update	12 month update
	Discussions with External Facilitator for Cultural Change Staff/Commissioners	SHRC		
	Meeting re Terms of Engagement	SHRC		
Relationship between Organisation and Staff Representative Bodies	Develop process for regular dialog with Internal and External Representatives	SHRC		
	Clear structure for responsibilities between Commission and Parliament	SHRC and SPCB		
Financial Management				
Finance	Continuation of work within Audit and Risk Committee	SHRC		
	Meeting structure	SHRC		
Outsourcing of Finance and HR Functions	Remain under review with value for money and efficiency	SHRC		
	Monitoring of HR Functions	SHRC		
Changes within the SHRC Mandate				
Changes and Additions	Observations within the Review for consideration (section 13)	SPCB (and possibly Government Legislation)		
Research into the Structure of Three Other Human Rights Commissions	Observations within the Review for consideration (section 14)	Independent Reviewer and SCHR		

Theme	Recommendation	Implementation responsibility	6 month update	12 month update
Current Approach of Human Rights within Scotland	Collective Commissions within Human Rights	SPCB		

5 Main Body of Review

6 Introduction

6.1 The Scottish Human Rights Commission (SHRC)

The Scottish Human Rights Commission (SHRC) is the National Human Rights Institution for Scotland. It was established by the Scottish Commission for Human Rights Act and started its work in 2008.

The SHRC is an Independent Public Body supported by the Scottish Parliamentary Corporate Body (SPCB). It is accountable to the people of Scotland through the Scottish Parliament. It is separate and independent of the Scottish and UK Government, but is still accountable for its public funds.

Albeit that the Commission is independent of Government, individual Commissioners are public appointments. They are required to be familiar with, and operate within, the terms of the Scottish Government guidance for all those appointed under statute to be members of the Boards of Public Bodies in Scotland, contained within the document 'On Board: a guide for members of statutory boards', last updated in March 2017.

<https://www.gov.scot/publications/board-guide-members-statutory-boards/pages/1/>

This guidance is for all those appointed under statute to be members of the Boards of our Public Bodies, which includes Non-Ministerial Offices (whose Boards are directly accountable to the Scottish Parliament, rather than Ministers, for their statutory functions). The individual Commissioners and the Chair all have a responsibility to ensure the effective governance and financial management of the Commission as a public body within the context of public service delivery for the benefit of the people of Scotland.

The Commission seeks to promote and protect the human rights of everyone in Scotland as well as working to increase awareness, recognition and respect for human rights to make them more relevant and easier to apply in everyday life. The Commission aims to help everyone understand their rights and the shared responsibilities everyone has to each other and to their community. You can find their responsibilities and Mandate set out in the Scottish Commission for Human Rights Act 2006 under General Duties.

The SHRC is the newest of three National Human Rights Institutions (NHRIs) in the United Kingdom and similar to the Northern Ireland Human Rights Commission (NIHRC) and the Equality and Human Rights Commission (EHRC), they have secured "A status" accreditation from the International Co-ordinating Committee of National Human Rights Institution (the ICC).

When establishing the Commission in 2008, The Scottish Parliament ensured they complied with United Nations Principles Related to the Status of National Institutions, known as the Paris Principles, which is a series of recommendations on the role, status and functions of NHRIs.

The SHRC is independent of both UK and Scottish Governments and operates with a broad mandate to promote and protect human rights and act in compliance with UN General Assembly resolution 48/134 (the 'Paris Principles') on National Human Rights Institutions (NHRI). As mentioned previously, the SHRC is currently certified an 'A' status NHRI by The Global Alliance of National Human Rights Institutions (GANHRI).

6.2 Statutory Mandate of the SHRC

The Scottish Commission for Human Rights Act 2006 states the Commission has a duty: 'to promote human rights and in particular, encourage best practice in relation to human rights'.

The SHRC's duties and powers to protect and promote human rights are set out in Scottish legislation. This is primarily in the Scottish Commission for Human Rights Act 2006. A detailed outline of its functions and statutory origin can be found at Annex D.

The general duty of the Commission is to promote human rights and, in particular, to encourage best practice in relation to human rights. The SHRC provides for it to fulfil these duties through providing guidance, publications, awareness raising and research and by making recommendations for changes in law, policy and practice within Scotland, and through education and training. It also has powers to conduct Inquiries and to intervene in legal cases, however these powers have been used very infrequently.

The Commission generally only deals with issues relating to devolved matters. The issues concerning equality and some non-devolved human rights matters are the responsibility of the Equality and Human Rights Commission. The two NHRIs have a memorandum of understanding which set out the expectations and Terms and Conditions of the working relationship between the Organisations.

6.3 Scottish Parliament Corporate Body (SPCB)

The Scottish Parliamentary Corporate Body (SPCB) is a body of the Scottish Parliament responsible for the administration of the Parliament. It also has a role in the provision of services to Commissioners and other statutory appointments made by the Parliament.

The SPCB considers and makes decisions on a wide range of issues to do with the running of the Parliament including the property, staff and resources that the Parliament requires in order to operate. The Corporate Body administers the resources of the Parliament as well as the budget of the Parliament.

This includes the support for Office Holders: the Ethical Standards Commissioner; the Standards Commissioner; the Information Commissioner; the Scottish Public Service Ombudsman ; the Biometrics Commissioner; the Children and Young Peoples Commissioner and the Scottish Human Rights Commission.

The SPCB is responsible for appointing the Commissioners to form the Commission, who are set for a 6 year basis and who are responsible for overseeing the Strategy Direction, Strategic Plan, Policy and Resources Framework within which the SHRC is required to operate.

The SPCB is responsible for the allocation of annual funding to the SHRC as deemed appropriate for meeting the SHRC's expenditure, in accordance with departmental spending allocations which is set by His Majesty's Treasury as approved by the Scottish Parliament.

The SPCB delegates authority to the SHRC Chair/Chief Executive to undertake the role as Accountable Officer to use its allocated budget in an efficient and effective manner and to deliver against its Strategic Plan. The Accountable Officer is signatory of the Annual Accounts and Governance Statements.

6.4 National Human Rights Institutions and Accreditation

The SHRC is currently certified an 'A' status NHRI as accredited by the Global Alliance of National Human Rights Institutions (GANHRI). GANHRI, through its sub-committee on accreditation (SCA), accredits NHRIs according to the UN Paris Principles. 'A' status NHRIs have specific participation rights in UN processes and mechanisms. For example, these organisations have speaking rights immediately following their respective state in the Human Rights Council, for the Universal Periodic Review and before some Treaty Bodies. In Europe, 'A' status NHRIs are valued interlocutors for regional mechanisms, such as the Council of Europe mechanisms and European Union institutions and agencies. Through all of these activities, accredited NHRIs provide a bridging role between the national and international arenas.

According to the European Network of National Human Rights Institutions (ENNHRI): *“Accreditation provides evidence at the international level that an NHRI can be trusted as a credible and independent actor and that Accreditation provides legitimacy and standing at the national level. A-status accreditation identifies that an institution operates independently, with expertise, impartiality and accountability on the wide range of issues it addresses.”*

6.5 Independent Governance Review

In 2021, an independent Governance Review was commissioned by the SHRC Commissioners with the objectives to gain greater clarity and understanding around governance structures, together with the roles and processes currently in place at that time.

One of the key recommendations of the February 2021 review was the separation of the Chair and CEO roles within the Commission. A new Executive Director post was created by the incoming Chair in summer 2022 and the postholder joined the organisation in January 2023.

In addition, it is also relevant to note that in 2022, the SPCB decided to increase the time required of Commissioners from 2.5 days per month, to one full day per week. Both of these recommendations will be revisited within the undertaking of this current Review to consider their impact on the Commission and how they can be developed further if deemed appropriate.

One of the recommendations from SHRC's 2021-22 external audit was to undertake a "*root cause analysis*" following a significant level of departures both of Commission members and Staff.

A new Governance Review therefore allows a timely opportunity to consider whether there is an appropriate scheme of delegation in place from the Commission to the Chair and from the Chair to the staff. Additionally, it will provide greater clarity for staff and Commissioners alike with accountability and responsibility for the Commission's strategic and operational activities.

In addition, new legislation foresees the incorporation of further Human Rights Treaties into Scottish law which may entail expanding the scope of the SHRC's mandate and resultant resource capacity and also gives a rare opportunity to change the SHRC's mandate in order to improve internal governance and compliance with the Paris Principles.

As a Public Body accountable to the Scottish Parliament, it is important that the Commission has a robust Governance model in place which is future proofed for further evolution of the Commission as a result of these external factors.

Therefore, the current Commission considered it important to conduct a new Governance Review.

The Commission will consider all recommendations from this new Governance Review and will develop an implementation plan that phases any agreed actions over the short, medium and long-term to ensure alignment with external factors.

6.6 Terms of Reference

As the Independent Reviewer, I have been asked to deliver on a Terms of Reference agreed by the Commissioners of the Scottish Human Rights Commission (SHRC) to reach conclusions and offer strategic recommendations. The Terms of Reference instructed me to look at the following:

- A. The composition of the Commission, role and remit of the Chair and other Commissioners respectively and as a Body Corporate.

- B. The Commissioners Handbook and Scheme of Delegation arrangements for the Chair and Commission and from the Chair to the staff.
- C. The appropriate level of sign-off by Commissioners.
- D. Whether there is sufficient clarity and a shared vision on what counts as strategic oversight versus operational delivery.
- E. Adequacy of arrangements for SHRC's financial oversight, including the role of the Risk and Audit Committee, established in 2022.
- Governance arrangements including:
 - Scoping options to change the SHRC's legal Mandate in respect of governance, given that a new Human Rights Bill provides an opportunity to review the SHRC's founding legislation.
 - The relationship the Commission has with the SPCB and how assurances are being provided in respect of governance and financial accountability.
 - The relationship of SHRC with the Scottish Parliament, relevant Committees, the Scottish Government and other Stakeholders.
 - Adequacy of structures, resources and capacity in relation to SHRC's staffing and management.
 - Arrangements for grievance handling and whistleblowing in relation to staff, Chair and other Commissioners.
 - Lessons learned in relation to significant departures of staff and Commissioners as identified by the 2021/22 external audit.

The following areas are considered out of scope of the review:

- Staff pay, Terms and Conditions (which are negotiated separately with the recognised Union). However, the authority of the SHRC, as the employer of staff, and its relationship with the SPCB, should be considered.
- The Commission's relationship with Rights Holders. There is a separate workstream on embedding participation in the Commission's work and both that, and this governance review, will help inform the approach to ensuring lived expertise is part of directing the Commission's work.

6.7 Review Objectives and Scope

The scope of the Review involved 6 main areas of consideration:

Documentation (Governance) issues; The role of the Commission and Commissioners; Structure; Engagement; Financial Management and Changes within the SHRC Mandate.

The conclusions and recommendations of this report are structured according to this scope. The Terms of Reference also notes what is out of scope, although some of the areas identified, such as Stakeholders and staff/Union engagement will have a direct effect on recommendations for consideration. This report will offer recommendations at a strategic level.

7 Full Recommendations are set out below:

8 Documentation (Governance) Issues

The primary question of this review is whether or not the SHRC's Governance is sufficient to enable the Organisation to successfully deliver its duties and exercise its powers. This section of the report addresses this question by reviewing the overall governance model and its use to fulfil statutory duties.

8.1 Code of Governance and Standing Orders

The Review recognises that the Commission has recently appointed an Executive Director into the structure, and it is considered that the post will greatly assist in the development of Governance, documentation and direction.

However, at the time of this Review it has been noted that in governance terms there are some basic things which need to be put in place with two of the main documents being a requirement for a 'Code of Governance' and a set of 'Standing Orders'.

When undertaking a review of the extensive number of documents which the SHRC currently has, the Review didn't recognise them as meeting either of those two things and were conflicting personnel issues with standard Code of Conduct issues. The current documentation needs to be reviewed and separated so there is a clear reporting line between staff and Commissioners as well as a line between the Board and CEO.

Although covered in more detail within other parts of this Report, there are significant documental procedural absences within the other main areas as identified above and their related Recommendations have been drawn into this Section.

8.2 Recommendations for Code of Governance and Standing Orders

- *Recommendation to: the Scottish Human Rights Commission*
 - *My recommendation is; for Code of Governance for SHRC to develop a single cohesive document covering the set of rules decided by the Organisation that outlines the organisational structure, roles and responsibilities of the Commissioners, Executive Director and Senior Leaders.*

- *Recommendation to: the Scottish Human Rights Commission*
 - *My recommendation is; for Standing Orders for SHRC, is that there are clear Standing Orders of the Commission which will govern the rules and procedures of meetings of the Commission and set the criteria for decision making, in respect of outputs which deliver the objectives of the Strategic Plan. There is also a responsibility on the signoff of **key** policy and investigation outputs ,which is covered in more detail under 'The role of the Commission and Commissioners' section below.*

8.3 Code of Conduct

The Government expects all holders of public office to work to the highest personal and professional standards and in support of this, all non-executive Board Members of Scottish Public Bodies must abide by the principles set out in the Code of Conduct being the 'Onboard: A guide for Members of Statutory Boards.' In addition the Standards Commission has a model Code of Conduct for Office Holders of the Scottish Parliament.

It was noted during the Review that the Executive Director was developing a Code of Conduct policy for the Commissioners of the SHRC on the direction of the Scottish Parliament Corporate Body and in line with other Commissions and arm's length organisations.

The Code of Conduct should be a set of values, rules, standards and principles which outline what the Organisation and the Public expects from the Members of the Commission.

Although the Commissioners are held to a higher standard of integrity and conduct to that of staff as a Public Appointee, culturally, it is important that both Commissioners and staff work to a common standard of conduct and framework. Therefore initially the Code of Conduct for Commissioners needs to be developed and then at a future date, aligned with that within the Staff Handbook.

8.4 Recommendations for Code of Conduct

- *Recommendation to: the Scottish Human Rights Commission*
 - *My recommendation is for the draft Code of Conduct which is currently being developed to be enhanced to set out clearly and openly, the standards expected from those who serve as Commissioners. This Code of Conduct should make clear that harassing, bullying or other inappropriate or discriminatory behaviour is not consistent with what is expected of any Commissioners, and such will not be tolerated. Any breach of the Code should be viewed as a breach of the terms of their appointment. In this case the SPCB will be made aware of incident outcomes of such breaches.*

- *My recommendation is that, as Commissioners and staff should work to a common standard of conduct and framework, then at a future date the Code of Conduct for the Commissioners should be aligned with the Staff Handbook.*

8.5 Staff Handbook and Staff Development

From my discussions during interviews, it has been determined that the current Staff handbook has been under review for a considerable number of years. This is obviously out of date and has caused confusion for staff members when trying to access information.

Following the development and implementation of the Code of Conduct for the Commissioners, there is a need for an alignment between the Staff Handbook and the new document, so that the whole Organisation work to a common standard of conduct and framework.

Due to the size of staff numbers within the Organisation, there appears little opportunity for promotion or career progression. To ensure that staff are retained, consideration should be made on training and continued professional development together with possible secondment opportunities.

In regard to secondment, careful consideration must be given, on who to partner with in respect to secondment opportunities, to ensure that the Commission maintains an independent role. Generally the secondments would be with external independent Organisations and other Commissions rather than with Government departments.

8.6 Recommendations for the Staff Handbook and Staff Development

- *Recommendation to: the Scottish Human Rights Commission*
 - *Progress should be made as a matter of urgency to update the Staff Handbook to bring it in line with the current requirements of the Organisation. This together with other documents and policies which are absent are resulting in lack of clarity and difficulties throughout the Commission.*
 - *Realign the Staff Handbook with the new Commissioners Code of Conduct to ensure a common framework around conduct.*
 - *A career progression and development plan for all staff should be considered.*
 - *Opportunities for secondments should be made available if appropriate. This will also be an advantage for the Organisation, as it could bring in a new skill set and also allow incoming seconded staff to understand better the role and operations of the SHRC Commission.*

Care must however be taken to only partner with those Organisations which will ensure the SHRC maintains independence from the Scottish Government. Those partners will predominantly be external from Government departments or Government related organisations.

8.7 Commissioners Handbook

Within the current Commissioners Handbook it states that the purpose of the Handbook is to provide clarity to the Commissioners as to what is formally expected of their roles and to provide guidance for the practicalities of working within the Commission.

On reflection when reviewing the document, there is a lack of clarity with consequences and delegation, and it does not set out the Commissioners roles or their corporate responsibility.

The Handbook is too vague and does not have frameworks that sit beneath it. From discussions, I am advised that the Handbook has been “added to” rather than updated or amended over the past few years. The wording in parts is open to much interpretation.

During the review, it had been noted that this lack of clarity on the roles of the Commissioners has caused considerable confusion and resentment between Commissioners and staff.

The Commissioners’ Handbook needs to refer to the Appointment Letter for Commissioners, and the conditions detailed within those letters must be adhered to. Where there is specific mention of ‘Conflict of Interest’, mentioned by the SPCB, the individual concerned should recuse themselves from any decision-making or discussions, where it directly affects the decision making relating to that activity and where it could have biased impact on the outcome. It would be appropriate if there is a perceived indirect conflict of interest, then this is recorded for clarity of process.

8.8 Recommendations for the Commissioners Handbook

- *Recommendations to: the Scottish Human Rights Commission*
 - *My recommendations are for a full review of the Commissioners Handbook to determine what is current and what is needed to be updated. There needs to be far greater clarity on the strategic roles and responsibilities detailed within the Commissioners Handbook, to have a better understanding of their position and what is required of them as a Commissioner. The Handbook needs to be clear on the Commissioner’s role and the boundaries between strategy oversight and direction and the role of staff for operational functions.*

The Handbook should align with the requirement laid down in their Appointment Letter.

8.9 Grievance Policy

From detailed interviews, it is apparent that beyond the Staff Handbook, there is no Grievance Policy or procedures in existence within the Commission, in order to support Grievance issues between Commissioners and staff; between Members of the Commission; or between Members of the Commission and the Chair. This has previously and still continues to cause significant difficulties and challenges for both Commissioners and staff at all levels.

Where grievances have unfortunately occurred, they appear to still be unresolved, thus causing current relationship issues throughout the Organisation. Unfortunately, this has resulted in several highly capable Commissioners and staff leaving the Organisation.

Previous Commissioners and senior staff continue to feel aggrieved about how they were treated, and felt their grievances were not taken seriously or resolved during their employment.

From the discussions I have with the Scottish Parliament Corporate Body, they are ill inclined to become involved, as they see the SHRC as an independent body, despite the fact that SPCB appoint the part-time Commissioners and that the Chair is a Crown Appointment.

Although there is a clearly laid out procedure within the Staff Handbook to cover Grievances, in line with normal Human Resources protocol, the circumstances are confused and undefined between and within other sectors of the Organisation.

8.10 Recommendations for the Grievance Policy

- *Recommendation to: the Scottish Human Rights Commission*
 - *I would recommend there is a Grievance Procedure urgently written for the Commissioners and intra Commissioners and Staff. This is imperative for the Commission to move forward and to avoid any further complications where staff or Commissioners are concerned. Clear grievance policies need to be developed which show the process which will be followed. This needs to be robustly set out for the benefit of clarity for all parties.*

A solution could be for an external person/body to be the independent ear for any grievance. Both the Staff Handbook and the Commissioners Handbook should have clear guidance on how to proceed with any grievance. In the fullness of time this should be drawn together in a single document to cover the whole Organisation within the revised Governance Framework.

- *I would recommend that a significant effort is made to resolve any current documented and undocumented grievances which remain outstanding. Leaving them unresolved, can only lead to further distress and the Organisation being vulnerable. It may be worth considering that an independent arbitrator is engaged to review and resolve the long standing grievances which I understand are currently active.*
- *I would recommend the SHRC and SPCB have discussions around grievance solutions for specific types of grievances regarding Commissioners.*

8.11 Whistleblowing Policy

Whistleblowing is strictly about matters which are in the public interest and it was concerning to find there was no whistleblowing policy in place within SHRC.

There is often confusion between what is a grievance and what is whistleblowing, and I would suggest the areas which have been referred to me relating to whistleblowing would in fact come under a grievance procedure.

8.12 Recommendations for a Whistleblowing Policy

Recommendation to: the Scottish Human Rights Commission

- *I would recommend that a Whistleblowing Policy is discussed further in more detail to see how the Commission wishes to approach this particular matter. Due to the size of the Commission, it is unlikely that it would have the capacity or expertise to address any whistleblowing cases. From my discussions with both Whistleblowing and Grievance experts during my interviews, there are organisations which would give guidance to SHRC. One Organisation which can give further guidance to SHRC, which I have been made aware of, although, I have had no contact, is the charity PROTECT.*

PROTECT is a whistleblowing charity which provides legal advice to whistleblowers, supports employers with whistleblowing arrangements. I would recommend that contact is made with this charity to assist with your policy decision.

A further suggestion is to liaise with the Scottish Public Services Ombudsman (SPSO) to utilise their advice via the existing Shared Services Agreement.

9 The role of the Commission & Commissioners

9.1 Recruitment

From the interviews held and the documentation read as part of my Review, it is apparent that there is little connection between the appointment of the part-time Commissioners and Chair of the SHRC and any involvement from the Organisation.

During my research and interviews undertaken, it is apparent that within the selection criteria and during the interview process, there is no consideration given for the requirement in the understanding of Corporate Governance or of experience in Leadership for the Chair or Commissioners. Taking that the role of Commissioners is the oversight of Corporate Governance and to lead the Commission in their strategic role, this should be an essential part of job specification. The 'Leadership', however, must not be mistaken for the management of the operational organisation, which sits under the Executive Director.

The Commissioners are not introduced to the Chair or the Commission prior to their appointment and they are solely appointed by the SPCB on behalf of Parliament.

The SPCB does not appear to discuss the appointment or recruitment process with the Chair or any Senior Manager of the Organisation and this, together with many other areas regarding Commissioners and staff and the lack of understanding of the Commissioners role, has cause the ongoing discontent within the SHRC.

9.2 Recommendations for the Recruitment

Recommendation to; Scottish Government

- *I would recommend there is a clear and transparent understanding of the recruitment process, skill requirements and clarity on the roles of the new appointees.*

- *I would strongly recommend there is an involvement from a Human Rights Institution. This does not need to be from SHRC; however, it is important the SPCB are given support and advice on the Human Rights requirements prior to advertising the role of a part-time Commissioner.*
- *I would recommend during the appointment process there is involvement from an external Human Rights Commission who could act in an advisory capacity for the SPCB appointments panel.*

9.3 Induction for New Part-Time Commissioners

It has been noticed during the course of my Review, that over the appointment of the new part-time Commissioners of late and current appointments, that there has been no induction for the new post holders.

Both previous and current part-time Commissioners have raised that this has caused a real lack of clarity within their roles, albeit, some Commissioners had knowledge and involvement in other Commissions. This again, has caused unnecessary conflict between staff members and the newly appointed part-time Commissioners due to the lack of clarity of their roles. This is unfair to the new appointees and has perpetuated the continual discontent within the Organisation.

9.4 Recommendations for the Induction of New Part-Time Commissioners

- *Recommendation to; the SPCB and SHRC*
 - *I would recommend an induction session is undertaken immediately after appointment which would not only cover the legislative requirements of the SHRC but also the strategic roles and responsibilities for the Commissioners within the Organisation.*
 - *This induction can be either undertaken at initial appointment by the SPCB, with the involvement and assistance of an external Human Rights Commission official. Alternatively, this can be undertaken by the Chair and Executive Director of SHRC with involvement from the SPCB.*

9.5 Roles of the Commission

Throughout the Review, it has been identified across the whole Organisation of both Commissioners and staff that there is significant lack of understanding and clarity on the role of the Commissioners. Once again, this has caused real difficulties in relationships and working conditions within the Organisation.

The role of the Commissioners is: (a) to form the Commission; (b) to set the strategic direction of the Commission; (c) to oversee delivery of the strategic plan that is set by themselves; (d) to ensure effective use of the public funds which are used to finance the Commission and to ensure that the Commission provides impact to promote and protect Human Rights in Scotland.

The Commissioners delegate delivery of the above to the staff of the Commission.

Within the Governance Framework there needs to be an appropriate enabling Sign-Off Framework, which is undertaken through a risk process, allowing lower risk policies for sign-off to be undertaken at an operational level, and only the more strategic documentation undertaking at Commissioner level. Without this in place, the current protocols have a telling effect on the Commission, being able to provide agile commentary and advise on pressing Human Rights issues. This Framework of Sign-Off needs to be determined between the Chair and the newly appointed Executive Director position.

In order for this to happen, there is to be a common understanding between all Commissioners of the importance of the Chair's position, and the need of working together to support the Chair, in discharging the responsibilities of the Commission.

In short, the following areas identify the role of the Commission and Commissioners.

- Strategic Setting, Objectives and Oversight
- Governance Oversight
- Making available and offering their views, experience and Representation
- Mirror Society & Feedback to Commission
- Face of the Organisation

As the role of a Commissioner is both the face of the Organisation and there to mirror societies views, an internal management system needs to be set to ensure specific subjects and information on those subjects is available to ensure a common message for community and media.

9.6 Recommendations for the Roles of the Commission

- *Recommendation to: the Scottish Human Rights Commission*
 - *I recommend that during the induction course for the newly appointed Commissioners that the main roles of the Commission, are covered within this process.*
 - *I recommend that there is clear and undisputed clarity on the role and the responsibilities of the Commissioners by the staff. Without the Commissioners, there would be no Commission and therefore no requirement for any staff.*

- *I recommend that there is clear guidance to both staff and Commissioners on the understanding of the roles. Staff are appointed for the operational delivery of the mandate with the Commissioners responsible for the strategic direction, strategic plan and oversight as detailed above.*
- *I would recommend that an annual review is undertaken to monitor the strategic operations that are set within the strategic plan of the Commission.*
- *Review of the time commitment for Commissioners, i.e. the time and role requirements.*
- *An internal management system run by a member of staff to ensure Commissioners receive the relevant information for community and media engagement, attached to an annual timetable of events.*

10 Structure

10.1 Chair (CEO & Accountable Officer) and Commissioners

Within my interviews, on numerous occasions it was raised that there was significant confusion and difficulties with the Chair holding the positions of Chief Executive Officer as well as being the Accountable Officer.

Within the structure of the Commission, the Chair is also the appointed Chief Executive Officer and Accountable Officer. This is unusual and causes confusion in the responsibilities within both the strategic responsibilities and operational delivery.

The Chair performs their role within the operational arena, working closely with the staff and then has to take their developed work to the Commissioners meeting for scrutinisation and approval, which obviously causes the position holder difficulties as it is a case of “marking your own homework”.

In addition, the staff directly report to the Chair as their line manager rather than a member of the Board. This can give possibilities of over familiarisation which has previously occurred and currently causes conflict within the Commissioners environment.

With the Chair also holding the position of Accountable Officer, this again leads to a loss of organisational knowledge to the post, which I believe should be a post holding the history of the Organisation. Currently the Chair is recruited on a fixed term appointment for period of six years.

It is noted that the Organisation has for the first time appointed an Executive Director position, which should give stability and accountability to the Organisation.

Currently however, the structure still holds a CEO position via the Chair, together with an Executive Director role. Once again this causes confusion on the reporting line for staff and the presentation of policies, procedures, etc to the Commissioners Board.

With the appointment of an Executive Director within the Organisation, who would have the responsibility of heading up the operation part of the Commission, the Chair could reduce from full-time to part-time. This would greatly increase the attraction of more applicants for future Chair appointments on a fixed term contract, and provide a clearer distinction between Oversight and Operations.

Reducing the Chair's position into a part-time role would increase the 'catchment pool'. As examples, it would enable those who were not able to commit for 6 years on a full-time basis from their current roles, and also attract semi-retired senior applicants with Leadership and Governance skills who wish to stay within employment, however wishing to stay within employment with less commitment on days worked.

From my research and discussions with external National Human Rights Institutions, it is suggested that a part-time Commissioner compliment of a greater number of Commissioners would work to the advantage of the Organisation.

The current Scottish Commission of Human Rights Act 2006, schedule one, section one, states the composition should be no more than four members plus a Chair, however, an increase of five, six or seven part time Commissioners would enable a more pluralistic, experienced, and knowledgeable Board, who would be in a position to have constructive debates on relevant issues, rather than reliance on a single expert Commissioner. In addition this would allow greater diversity.

It is recognised that the SHRC is comparably smaller in headcount with 12 employees (10.8 FTE), to those of other NHRCs. This causes challenges in it being able to deliver on its full Mandate. However, it is encouraging to note on what the Commission achieves with its current staffing levels. Obviously, with any increase in Mandate, there would also need to be an increase in both finances and resources.

10.2 Recommendations for the Chair (CEO& Accountable Officer) and Commissioners

- *Recommendation to: the Scottish Government and Scottish Human Rights Commission*
 - *My recommendation is, with the appointment of an Executive Director within the Organisation, the position of CEO is removed from the combined role of the Chair. Therefore, the Executive Officer would in effect become the Chief Executive Officer, and would then head-up the operational side of the Organisation.*

- *I would recommend the role of the Accountable Officer is removed from the Chair and allocated to a permanent member of staff who holds a senior position within the Organisation.*
- *I would recommend the Executive Director also takes responsibility for the Accountable Officer position.*
- *I would recommend a Commissioner restructure with the role of the Chair being changed from a full time position to a part time position.*
- *I would recommend an increase on the mandated number of four Commissioners to a number of five, six or seven people, plus a Chair on the Board. All positions to be part-time and of various period of the working week. The increased number of Commissioners would ensure greater opportunities for discussion and decision making, rather than reliant on one Commissioner with expertise. This increase would provide an opportunity for a more diverse Organisation to meet the Paris Principles.*
- *I would recommend that consideration should be given to the number of weekly hours required for each Commissioner.*

10.3 Development of a Senior Leadership Team

I was pleased to see that there was an appointment for an Executive Officer which gives clear lines of reporting for the Organisation.

There are currently three main strands which sit below the Executive Director, these being Legal & Policy, Secretariat & Business Support, and Communication & Engagement.

As a consequence of the development and appointment of Executive Director's post, the position of Head of Legal & Policy has been removed from the structure of the Organisation. The other two strands have a Senior Management Head, who is responsible for their functions.

By removing the Head of Legal & Policy (which I understand was for funding purposes only) has resulted in an imbalance within the structure of the Organisation with regards to the Legal & Policy department. The Legal & Policy function is made up from five key members, currently reporting to the Executive Director. These five staff members deal with the development and implementation of policy, together with a policy and research project member. In my opinion, there needs to be a Responsible Officer of senior position to oversee this important department.

10.4 Recommendations for the Development of a Senior Management Team

- *Recommendation to: the Scottish Human Rights Commission*
 - *My recommendations would be to reinstate the position of Head of Legal & Policy, to the same seniority as Head of Secretariat & Business Support and Head of Communications & Engagement.*
 - *I would recommend in order to ensure key lines of management and responsibility, the three Heads of Functions together with the Executive Director would form the Senior Leadership Team, who would be responsible for the operation delivery for the Commission.*
 - *In due course, I would recommend a reorganisation of the structure is undertaken, to ensure that each of the three functional areas, are reviewed to clarify the roles and requirements of the Commission and its legislative Mandate. This of course would be necessary should additional responsibilities be made on it with the development of a new Human Rights Bill.*

11 Engagement

11.1 Stakeholder Engagement

Whilst undertaking this Review, it was apparent that the SHRC was not positioned in the most prominent position as the Lead Organisation for HR within Scotland. The SHRC does not seem to be visible within many arenas. It appears that because of this, there are other organisations which have stepped into the SHRCs space resulting in the SHRC not being the “go to” Organisation for the Parliament and Civil Society.

From the interviews undertaken, it was regularly mentioned that the Commission was too silent and was regularly considered ‘just an Organisation for consultation purposes’ rather than being the main voice for Human Rights and to hold Parliament to account.

From the interviews I held, it was said that the SHRC did not seem clear in their role or their responsibilities, and there is an uncertainty of what they actually do. In regard to the engagement with Parliament in particular, this could have the consequence on reduced funding.

During my research, it was mentioned on a number of times the SHRC were too close to Government and rather than holding Government to account when necessary, it seemed the Organisation was perceived as more of a critical friend, rather than a professional independent voice.

I was encouraged to note that the SHRC have adopted a Transition Strategy which focuses on taking the Organisation forward, and adopting a more proactive work program informed by Human Rights concerns, rather than responding to Scottish Government proposed legislation.

My observation is that whilst there is an impressive breadth and depth of professional qualification, experience, and commitment to Human Rights throughout the Commission, the lack of clarity and trust around the governance arrangements for sign off of all outputs of the Commission, has had a chilling effect on the ability of the Commission to be agile to respond to emerging Human Rights issues experienced by the people of Scotland. At times, it appears that the balance of focus of Commissioner time, has been on navigating different perspectives on sign-off arrangements, rather than strategic governance issues. This appears to have made it difficult for Commissioners to objectively assess the performance of the Commission within the evolving Human Rights landscape, and to empower the Commission to deliver the greatest impact within its Mandate around the protection and promotion of Human Rights in Scotland.

11.2 Recommendations for Stakeholder Engagement

- *Recommendation to: the Scottish Human Rights Commission and Scottish Government*
 - *I would recommend the SHRC seeks greater visibility within Parliament and their Stakeholders. This could be achieved by continuous and improved engagement with others, which would highlight the value and expertise within the SHRC.*
 - *My recommendation: the Communications & Engagement function of the SHRC embark on a campaign to enhance the visibility and showcase the experience and knowledge of the Commission.*
 - *I would recommend the SHRC are more aligned to their responsibilities of upholding the Human Rights engagement at the very forefront of the work which they undertake, irrespective of the position that at times, this may put the Commission in.*
 - *I would recommend a strong, however clear working relationship is further developed between the SHRC and SPCB, one example would be closer working with regards to recruitment of Commissioners as mentioned previously, albeit with the SHRC maintaining its independence.*
 - *I would recommend bi-monthly meetings between SHRC and SPCB to increase visibility and awareness of current issues, although fundamental that these meetings ensure the independence of the Commission away from Parliamentary control.*

11.3 Relationship between SHRC and other National and International Human Rights Commissions

From my interviews during this review with national and international Human Rights Commissions, it became very apparent the SHRC was not operating within the scope of its capabilities.

The structure and mandates of other Institutions were more capable of meeting the Paris Principles for a national Human Rights Institution.

The size of the SHRC is small in comparison, albeit this should not detract from the Commission being able to function as a national body.

There was no ill feeling towards SHRC I found from my interviews, however, there was considerable concern about the way in which it seemed to be operating.

11.4 Recommendations for the Relationship between SHRC and other National and International Human Rights Commissions

- *Recommendation to: the Scottish Human Rights Commission*
 - *I would recommend the Chair and Senior Management Team spend time to engage with other national and international Human Rights Commissions, to gain a greater understanding of the format and make up of their operating procedure. This would give a wealth of information on how other Institutions work effectively and efficiently.*
 - *I recommend this engagement with the other Human Rights Commissions is carried out as soon as possible.*

11.5 Relationship between Commissioners and Staff

From the very initial commencement of my Review, it was evident there is a significant issue around the relationships and interaction between previous and present Commissioners to Commissioner, and Commissioners to staff, and vice versa. These relationship issues are at the very centre of a dysfunctional Organisation of which it currently seems to be working within.

I would note in this Review, that not every member of staff or Commissioner has relationship issues, it's purely a hangover from the legacy of grievances and lack of clarity on roles and responsibilities as mentioned previously.

It must be stated however, that significant strides are being taken with the appointment of the Executive Director to resolve and give clarity through reviewing and implementing policies which are applicable to post holders.

During my interviews from a large majority of the discussions I have had, there has been a lack of clarity and process which seems to have led to an absence of respect and a toxic culture. In any Organisation and in particular a small one, such culture can lead to problems continuing within the workplace and not allowing the Organisation to move forward to meet its role and purpose in a full and professional capability.

I am pleased to note that the working environment has improved since the beginning of 2023, although there is still a need for a comprehensive cultural reform to be introduced, to ensure that SHRC is recognised as a place that Commissioners and staff continue to enjoy working within.

11.6 Recommendations for Relationships between Commissioners and Staff

- *Recommendation to: the Scottish Human Rights Commission*
 - *I would recommend in order to break the cycle which previously and currently is within the SHRC, there needs to be significant time and effort spent on developing a RESPECT Agenda to address the cultural issues.*
 - *I would recommend discussions with an external facilitator to engage with staff and Commissioners in the development of a road map of cultural change.*
 - *I would recommend there is a meeting of all staff and Commissioners as soon as possible to give real clarity on the roles, responsibilities, and terms of engagement for each individual.*

I would hope to see that by addressing the current situation between staff and Commissioners, and by the clear direction and clarity of the roles and responsibilities, there would be a new way of working to understand each person's position within the Organisation and the value in which they bring.

11.7 Relationship between the Organisation and Representative Bodies

From the interviews undertaken, it is apparent that in the past and more recently the Commission undertook changes within the Organisation and as an afterthought, then approached the Representative Bodies, informing them rather than having discussions and negotiations prior to any changes taking place.

It is noted that the staff within the Commission is highly unionised, therefore, it is important for good industrial relations that any proposed changes to Terms and Conditions, establishment alterations etc, are engaged throughout the process with the relevant Representative Bodies to avoid any industrial unrest. Representative Bodies can add a significant advantage to an Organisation, if engagement with them is in a correct and professional manner.

It was recognised that since the appointment of an Executive Director, good relations are being developed and engagement is at a positive level.

11.8 Recommendations between the Organisation and Representative Bodies

- *Recommendation to: the Scottish Human Rights Commission*
 - *I would recommend the relationship between the Representative Bodies and the Commission continues in the positive current way and that a process is put in place for regular dialog, both with the internal and external employee representatives for general updates and negotiation.*
 - *I would recommend the Representative Bodies are given a structure of responsibilities within both the SHRC and SPCB.*

12 Financial Management

12.1 Finance

From my Review undertaken on financial aspects, I was extremely encouraged by the financial management and oversight within this area.

The introduction on the recommendations of the previous review “Scottish Human Rights Commission Governance Review – February 2021” which was undertaken by Boardroom Development Limited, to amalgamate the Finance, Risk and Audit Committee and the Advisory Audit Board into one Committee, chaired by an independent member, has since been implemented.

Although in its infancy, having only one meeting, there is a defined structure set out with a suitable reporting mechanism of all financial matters laid out.

On a further matter, in line with the current work that the Executive Director is undertaking, the post holder has developed a “Scheme of Delegation” in respect to the signing off for goods and services. Once embedded this can be reviewed.

12.2 Recommendations on Finance

- *Recommendations to: the Scottish Human Rights Commission*
 - *I would recommend the Commission continues to work with the independent Chair of the Audit and Risk Committee and addresses any developments from within the Committee as required.*

- *I would recommend regular meetings of the Audit and Risk Committee are held once a quarter.*

12.3 Outsourcing of the Finance and HR Functions

During my interviews, it was brought to my attention that following an environment of a “single point of failure” within the financial management of the Commission and the omission of a Human Resources function, arrangements have been made to outsource both areas.

This gives greater resilience within the financial management environment and enables the Commission to be able to draw on Human Resources expertise as and when required.

In relation to the Audit reports, my findings and that of the previously 2021 Review, was they had been consistently unqualified and there were no items of major concern highlighted.

12.4 Recommendations on Finance and Human Resources Functions

- *Recommendations to: the Scottish Human Rights Commission*
 - *I would recommend as this is a new direction for the Commission, these outsourced functions are kept under review for value for money and efficiency.*
 - *As the Human Resource function has been outsourced, I would recommend the Organisation is fully involved with staff and HR matters, such as staff appraisals, performance management, pay reviews and any specific training requirements. Representative Bodies to be involved on all issues relating to staff.*

13 **Changes within the SHRC Mandate**

The review of the legislation and new Mandate should be a review of the Current Mandate and what is absent in terms of what the Paris Principles require a Commission to follow.

13.1 Changes and Additions

From my engagement with SHRC, I understand there is an opportunity via the proposed Human Rights Bill to amend the Mandate for the SHRC, with the possibility of increasing its powers.

Within the considerations of a new Human Rights Bill the SHRC may be granted new powers to raise legal proceedings in its own name and provide direct advice to individuals. This is in line with the legislative mandate of all other UK NHRIs. This would obviously come at a cost for resources and budget increase.

In respect to Governance, it has been noted during the course of my Review, on occasions following the departure of a previous Chair, and prior to their normal retirement notice period, there has been no facility to appoint a temporary Chair in their place and this has caused difficulties.

One consideration for the new Mandate would be to revise the appointment process with the current Scottish Commission for Human Rights Act, to facilitate an interim Chair until a replacement has been appointed. This amendment will require a change under Primary Legislation.

It is mentioned as a recommendation within the main body of the Report, for the number of part-time Commissioners to be increased from four, which is set down in the Scottish Commission for Human Rights Act 2006, to a greater number of up to seven. This will require an amendment under Primary Legislation.

My understanding, is that the recommendation as outlined within Section 10.1 for the position of the Chair be changed from full-time to part-time, will not require a change to legislation.

14 Other Human Rights Commissions

14.1 Research the Structures of Three Other Human Rights Commissions

Throughout my Review, I have had the opportunity to speak to a number of National and International Human Rights Institutions and look at the make-up of their Organisations and the effectiveness on the delivery of their legal requirements.

14.2 For Consideration - Research into the Structure of Three Other Human Rights Commissions

Looking at other Human Rights Commissions, I have listed below the structure of three separate Institutions which may assist the Scottish Human Rights Commission in moving forward.

The Northern Ireland Human Rights Commission (NIHRC) structure allows for a clear line of reporting and responsibility both for the Chief Commissioner, Commissioners and the CEO. The CEO is responsible for the 'Paid Services' part of the NIHRC, with the Chief Commissioner and Commissioners dealing with Strategic Direction and oversight through Committees.

■ Northern Ireland (NIHRC)

- 1 Chief Commissioner
- 6 Commissioner
- 1 Chief Executive

The Chief Commissioner (NIHRC) has responsibility and the line-management of the six Commissioners. The larger number of Commissioners also allows for greater diversity within the Commission as required within the Paris Principles.

The New Zealand Human Rights Commission (NZHRC) structure is very focused on having subject matter experts as the Commissioners. This can be seen as a positive structure given it is clear on who is responsible for specific areas of work within the Commission. This is another option for a possible change of direction.

■ New Zealand (NZHRC)

- 1 Chief Human Rights Commissioner
- 1 Commissioner – Race Relations Commissioner
- 1 Commissioner – Equal Opportunities Commissioner
- 1 Commissioner – Disability Commissioner
- 1 Commissioner – Commissioners Act Independent of Government
- 1 Chief Executive
- 1 Other Member of the Leadership Team

The Australian Human Rights Commission structure (AHRC) is similar to that of NZHRC, in that it appoints subject matter experts as lead Commissioners, which all operate under a single Human Rights Commission Organisation. In addition, I am informed that when required, there are other Commissioners who work alongside them on other Human Rights issues. Sitting under the Specialist Commissioners are subject matter officials, who are employed explicitly to deal with their specific subject matter, with other administrative staff employed for the running of the Commission.

■ Australia (AHRC)

- President
- 1 Commissioner - Aboriginal and Torres Strait Islander Social Justice Commissioner
- 1 Commissioner - Age Discrimination Commissioner
- 1 Commissioner - Children's Commissioner
- 1 Commissioner - Disability Discrimination Commissioner
- 1 Commissioner - Human Rights Commissioner
- 1 Commissioner - Race Discrimination Commissioner
- 1 Commissioner - Sex Discrimination Commissioner
- 1 Chief Executive
- 7 Specialist Subject Officials

14.3 Current approach of Human Rights within Scotland

I am becoming increasingly aware that within Scotland, individual separate Commissioners are being proposed and set up to undertake specific roles.

It appears from interviews both within the Commission and with Parliamentary Representatives, that due to the lack of visibility of the SHRC within Government circles and the lack of knowledge by Government, individual single Commissions are being proposed in isolation, rather than under one umbrella covering Human Rights Across the whole of Scotland.

Although probably requiring primary legislation, it would seem sensible that the SHRC is restructured, so that it undertakes the primary role for Human Rights, with the other individual focused Commissions forming part of the Human Rights Commission set up.

This option if considered, I believe would be significantly more effective to be under one banner, to provide costs savings and be more efficient as Human Rights with collective responsibility for the Scottish Community under “one roof”.

The steps outlined within this Review would positively strengthen the Commissions Governance to enhance and continue to achieve its current role. The recommendations would also enable SHRC to be ready for any change in their Mandate.

Annex A:

List of Stakeholder Organisations who participated in this Review

The review team spoke to individuals and groups from the following organisations:

- Scottish Human Rights Commission (SHRC)
 - Commissioners
 - All Staff
- Previous SHRC Chairs
- Previous SHRC Commissioners
- Previous Senior Members of Staff
- Member of the Scottish Parliamentary Corporate Body
- Northern Ireland Human Rights Commission (NIHRC)
- Children and Young People’s Commission, Scotland
- Officials from the Parliament’s Officeholder services (SPCB)
- Representative Official from PCS Union
- NHRI Stakeholders
 - Australia’s NHRI
 - New Zealand NHRI
 - NIHRC
 - Equality and Human Rights Commission (EHRC)

Annex B:

Terms of Reference

Areas that are in scope within the Review

The composition of the Commission, role and remit of the Chair and other Commissioners respectively, and as a Body Corporate.

The Commissioners Handbook and Scheme of Delegation arrangements for the Chair and Commission, and from the Chair to the staff. The appropriate level of sign-off by Commissioners. Whether there is sufficient clarity and a shared vision on what counts as strategic oversight versus operational delivery?

Adequacy of arrangements for SHRC's financial oversight, including the role of the Risk and Audit Committee, established in 2022.

Governance arrangements, including:

- Scoping options to change the SHRC's legal mandate, in respect of governance, given that a new Human Rights Bill provides an opportunity to review the SHRC's founding legislation.
- The relationship the Commission has with the SPCB and how assurances are being provided in respect of governance and financial accountability.
- The relationship of SHRC with the Scottish Parliament, relevant Committees, the Scottish Government, and other Stakeholders.
- Adequacy of structures, resources, and capacity in relation to SHRC's staffing and management.
- Arrangements for grievance handling and whistleblowing in relation to staff, Chair and other Commissioners.
- Lessons learned in relation to significant departures of staff and Commissioners, as identified by the 2021/22 external audit.

Issues Out of Scope

The following areas are considered out of scope of the review:

- Staff pay, terms and conditions (which are negotiated separately with the recognised Union).

However, the authority of the SHRC, as the employer of staff, and its relationship with the SPCB, should be considered.

- The Commission's relationship with Rights Holders. There is a separate workstream on embedding participation in the Commission's work and both that, and this Governance Review, will help inform the approach to ensuring lived expertise is part of directing the Commission's work.

Approach and Methodology

1. Staff from the SHRC will ensure that all relevant information is made available to the Review team.
2. The SHRC will meet the costs of the Review through a Tender process.
3. The Review team will include sufficient experience and a comprehensive understanding of good governance and to be able to test and challenge assumptions and provide sound conclusions. The makeup of the Review team is detailed below:
 - Simon Routh-Jones as the Independent Reviewer.
 - Additional infrastructure for the Review was made up of:
 - A qualified independent expert with a background and understanding of how national Human Rights institutions operate in general, to challenge areas identified, and
 - An Administrative Assistant, with significant experience of Reviews and Minute Taking was employed, to assist in the administrative function of the Review.
4. The methodology will include:
 - Desk research of key documents
 - Engagement with relevant stakeholders to explore any issues in detail
 - This should include the independent Chair of the SHRC Audit & Risk Management Committee, and Representatives of comparable Institutions
 - Site visits to the SHRC office to speak to Commissioners and senior staff to gain an understanding of how the Organisation operates and its effectiveness
 - Engagement with past Chairs, Commissioners, former senior staff, together with Parliamentary Committee Leads, Government Officials and Stakeholders

The review commenced in April 2023 is anticipated to be concluded by the end of June 2023 with a report published shortly afterwards.

Annex C:

Review Methodology

The SHRC Commissioners agreed this Review should be conducted by an Independent Lead. Simon Routh-Jones CBE. QSM. was appointed, through a publicly advertised 'Invitation to Tender Process' by the SHRC, to be the Independent Reviewer. Any administrative support costs were included within the Tender process. Lesley Henderson was appointed to undertake the secretariat role for Simon Routh-Jones.

Simon Routh-Jones is a former Chief Fire Officer & Chief Executive with nearly four decades of experience in the Public Sector. Simon has significant experience as former HM Chief Inspector of the Fire Service for Scotland, in providing Independent and Professional advice to the Scottish Government and ensuring that the Organisation operated in an efficient and effective manner.

More recently, Simon Routh-Jones has undertaken a Review of the Northern Ireland Human Rights Commission, reviewing; the Efficiency, Effectiveness and Value for Money of that Commission, and recommending measures in order for the NIHR to maintain its 'A' Status under the UN Paris Principles.

Review Research

The Lead Reviewer has conducted the Review through desk research and in depth interviews with key Stakeholders, as well as some written submissions. Desk research consisted of various documents provided by the SHRC and other NHRIs.

In depth interviews were conducted with Stakeholders from the Scottish Government, SHRC Commissioners (past and present), SHRC staff (past & present), and other comparable NHRIs. All interviews were conducted on an anonymous basis with only the names of Organisations included in this report. A full list of Organisations consulted as part of this review is included at Annex B.

Challenge Process

A Challenge Board model was adopted for this Review. The challenge for the findings of this Review consisted of an International Human Rights professional Chris Sidoti who is an Australian expert on International Human Rights law, a lawyer and advocate, and Chris himself, is a former Human Rights Commissioner.

The role of the Challenge Board is to hear from the Independent Reviewer, understand the evidence base and challenge emerging thoughts and recommendations in a rigorous and constructive manner. Simon and Chris met formally twice during the review process, with Chris offering insightful advice and challenge.

Annex D:

Statutory Mandate of the SHRC

Mandatory Duties

The general duty of the Commission is to promote Human Rights and, in particular, to encourage best practice in relation to Human Rights. The SHRC provides for it to fulfil these duties through providing guidance, publications, awareness raising and research and by making recommendations for changes in law, policy and practice in Scotland, and through education and training.

The Commission also has statutory powers to:

- Conduct inquiries into the policies or practices of Scottish Public Authorities;
- Enter some places of detention as part of an inquiry
- Intervene in civil court cases, where relevant to the promotion of Human Rights, and where the case appears to raise a matter of public interest
- Cooperate with others in the exercise of these functions while avoiding unnecessary duplication
- As a Public Body, the Commission must lay its Annual Report and budget before the Scottish Parliament. It is audited every 12 months by the Auditor General for Scotland

Scottish Human Rights Act 2016, part 2, s.1 - 7.