

Briefing

SPCB Supported Bodies Landscape Review Committee Debate

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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Constitutional Law and Human Rights sub-committee welcomes the opportunity to provide comments ahead of the SPCB Supported Bodies Landscape Review Committee¹ debate on the SPCB Supported Bodies Landscape Review² scheduled for 18 September 2025. We have the following comments to put forward for consideration.

Our briefing includes the following key points:

- We have previously highlighted our concerns about the potentially crowded landscape of Commissioners, and we therefore welcome the publication of the SPCB Supported Bodies Landscape Review.
- We welcome the SPCB Supported Bodies Landscape Review Committee's recommendations on a new formal process for considering future proposals to create new such bodies. Clear ownership and accountability will be important in ensuring that the criteria are effective.
- We comment on specific recommendations regarding the powers of the SPSO and SHRC.
- Regarding the Review's recommendation that a parliamentary committee is given the specific responsibility for the accountability and scrutiny of SPCB supported bodies for a fixed period as a pilot exercise, we highlight a number of concerns regarding how this may work in practice. We call for any pilot to be carefully evaluated.

Our Comments

We welcome the publication of the SPCB Supported Bodies Landscape Review ("the Review"), which was published on 19 June 2025.

The Society has had regular contact over the years with a number of Commissioners including the Scottish Human Rights Commission (SHRC) and the

¹ [SPCB Supported Bodies Landscape Review Committee | Scottish Parliament Website](#)

² [SPCB Supported Bodies Landscape Review](#)

Scottish Commissioner for Children and Young People on matters relating to legal reform and other matters.

We note that the conclusions and recommendations of the Review are intended to create a clear strategic framework including much strengthened accountability and scrutiny mechanisms, an enhanced shared services approach and a new formal process for considering future proposals to create new Commissioner bodies.³ The measures are also designed to “encourage all existing and future Scottish Parliamentary Corporate Body (SPCB) supported bodies to adopt a more preventative approach with a view to avoiding the failures in public services, which appear to be the primary driver for seeking to create new such bodies.”⁴

In our engagement with recent Bills before the Scottish Parliament, we have highlighted the potentially crowded landscape of Commissioners and of organisations which do, could or should discharge functions relevant to the functions of the Bills.⁵ We have highlighted our concerns that the creation of further Commissioners could become a recipe for confusion, overlapping responsibilities, and inefficient use of resources. As well as being confusing for individuals, there is a risk that each commissioner or other relevant body will not gain a full overview of issues within their remit.

We note the recent report of the Finance and Public Administration Committee of the Scottish Parliament,⁶ the recommendations of which led to the establishment of the Review. The Finance and Public Administration Committee concluded that “Continuing the trend for creating new advocacy-type SPCB supported bodies is not sustainable”⁷ and called for “a coherent structure, with enhanced accountability, budget-setting, and scrutiny mechanisms, as well as effective delivery and measurement of outcomes.”⁸

We responded to the Finance and Public Administration Committee’s call for views⁹ and also provided oral evidence to the committee.¹⁰ In our response, we highlighted a proliferation of so-called “integrity branch mechanisms”¹¹ and legitimate questions regarding their accountability.

³ Review, para 140

⁴ *Ibid*

⁵ See for example our response to the 2023 consultation on the Proposed Commissioner for Older People (Scotland) Bill (https://www.lawscot.org.uk/media/1mplu3i0/23-10-23-equ-mhd-proposed-commissioner-for-older-people-scotland-bill_.pdf), our written evidence on the Disability Commissioner (Scotland) Bill (<https://www.lawscot.org.uk/media/5w4lt4h4/disability-commissioner-s-bill-written-evidence.pdf>), our consultation response on the Scottish Government’s proposals for a Learning Disabilities, Autism and Neurodivergence Bill ([24-04-21-mhd-crim-equ-ldan-bill-consultation.pdf](https://www.lawscot.org.uk/media/24-04-21-mhd-crim-equ-ldan-bill-consultation.pdf))

⁶ <https://digitalpublications.parliament.scot/Committees/Report/FPA/2024/9/16/9987d9fc-1699-4bfd-84ef-a742adf776c8#Introduction>

⁷ *Ibid*, at para 143

⁸ *Ibid*

⁹ [24-03-11-clhr-scotlands-commissioner-landscape-a-strategic-approach.pdf](https://www.lawscot.org.uk/media/24-03-11-clhr-scotlands-commissioner-landscape-a-strategic-approach.pdf)

¹⁰ [Finance and Public Administration Committee 18th Meeting, 2024 | Scottish Parliament Website](#)

¹¹ The recognition of a fourth branch of government in addition to the three traditional branches- the Legislative, Judicial and Executive- has been occasionally proposed in constitutional law

Headings below relate to headings in the conclusions and recommendations in the Review.¹²

New SPCB supported bodies

We note that the Review has concluded that “the SPCB supported body landscape should not be expanded to include new advocacy type SPCB supported bodies.”¹³

We welcome the SPCB Supported Bodies Landscape Review Committee’s recommendations on a new formal process for considering future proposals to create new such bodies, with essential criteria to be included in Parliamentary Guidance for Bills in the next parliamentary session.¹⁴ We consider that such criteria will go some way to addressing the concerns we have raised in our engagement with recent Bills (see above) and will improve coherency by establishing a more systematic approach.

We note the recommendation within the Review that a Standing Order determination should be sought to enable a specific mandatory committee to have ownership of the criteria and to assess whether it has been met in future proposals contained in Bills.¹⁵ Whilst we do not take a view on the mechanism by which this should be achieved, we agree that clear ownership and accountability will be important in ensuring that the criteria are effective.

We also welcome the request that the Scottish Government takes into account these criteria as it continues to develop its own Ministerial Control Framework for establishing new public bodies.

The existing SPCB supported bodies

We note the Review recommends no changes are made to where the existing SPCB supported bodies sit within the existing landscape.¹⁶ We further note that the Review recommends a number of targeted improvements that could be made

literature. James J. Spigelman in his article entitled *The Integrity Branch of Government* (Australian Law Journal, Vol. 78, No. 11, p. 724, 2004: <https://ssrn.com/abstract=1809582>) proposes the recognition of such a branch, termed the integrity branch: *“At a high level of generality, the purpose of the integrity branch is to ensure that each governmental institution exercises the powers conferred on it in the manner in which it is expected and/or required to do so and for the purposes for which those powers were conferred, and for no other purpose.”* Spigelman identifies Parliamentary Committees, the head of state, and creations of the executive that have a nominally separate character, such as audit offices, independent corruption commissions, royal commissions and ombudsmen, as fulfilling an integrity function. Perhaps this increased recognition of the “integrity branch” is responsible for the increased interest in commissioners as a feature of our constitutional arrangements.

¹² Review, para 140 onwards

¹³ Review, para 148

¹⁴ Review, at paras 150- 153.

¹⁵ Review, para 152

¹⁶ Review, para 155

to how the SPCB supported body landscape and indeed the wider public sector operates.¹⁷

We note the recommendation within the Review that the Scottish Public Services Ombudsman (SPSO) should be given enhanced powers to enable them to conduct own-initiative investigations in the public interest.¹⁸ This would constitute a significant change to the SPSO's role. We welcome the acknowledgement that such a change would require additional resources to ensure successful delivery.¹⁹ We note that the Review asks the Scottish Government to work with the SPCB to identify an appropriate legislative vehicle to make this change in early course.²⁰

In the context of consultation on a Scottish Human Rights Bill, we have previously commented on proposed additional powers for the Scottish Human Rights Commission (SHRC).²¹ We therefore welcome the acknowledgement within the Review that there is a case for a wider review of the remit and powers of the SHRC.²² We also welcome the recommendation that the SHRC should annually seek views from Parliamentary Committees and MSPs on its work programme.²³ However, in our view it is crucial that this should not be the only source of input to the SHRC's priority setting. The SHRC should continue to engage with wider civic society and international human rights institutions and should retain the power to decide what issues are most relevant for it to investigate.

Governance and accountability

We note the Review's recommendation that a parliamentary committee is given the specific responsibility for the accountability and scrutiny of SPCB supported bodies for a fixed period as a pilot exercise.²⁴

In our previous response to the Finance and Public Administration Committee we highlighted that the SPCB is required under section 21 of The Scotland Act 1998 to make arrangements for the Parliament to be provided with the property, staff and services required for its purposes. It also provides funding to SPCB-supported bodies (Commissioners and Ombudsman). As the body charged with these responsibilities the SPCB also receives Commissioners' draft strategic plans and contingency requests. We therefore welcome the express acknowledgement in the Review's conclusions that legislative change may be required to implement the above recommendation.²⁵

¹⁷ *Ibid*

¹⁸ *Ibid*

¹⁹ *Ibid*

²⁰ *Ibid*

²¹ <https://www.lawscot.org.uk/media/ojjpaix/23-10-05-a-human-rights-bill-for-scotland.pdf> at page 31

²² Review, para 155

²³ *Ibid*

²⁴ Review, para 158

²⁵ Review, para 160

We do have some concerns regarding whether the existing committee structure has the capacity to take on the added responsibility for the accountability and scrutiny of SPCB supported bodies without diminishing the effectiveness of their primary work. The Review's recommendations do not explain how this can be achieved in practice. We consider that there may be other steps which could, and should, be taken within the SPCB to deal properly with its statutory responsibility, such as by delegating such work to a sub-committee of the SPCB.

We also consider that there may be a tension between scrutiny by a dedicated parliamentary committee and scrutiny by an appropriate subject committee. If the Review's recommendation is accepted, it will be important that scrutiny by a dedicated committee does not detract from subject committee scrutiny.

If a pilot exercise is undertaken, the results of that pilot should be carefully evaluated to determine its effectiveness and to address any unintended consequences which may arise.

Budget and audit

We note the Review's consultations and recommendations.²⁶ We have no specific comments.

Shared services

We note the Review's consultations and recommendations.²⁷ We have no specific comments.

²⁶ Review, paras 162-164

²⁷ Review, paras 165-168



For further information, please contact:

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