



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Audit Committee

Thursday 22 June 2023

Session 6



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Pàrlamaid na h-Alba

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PUBLIC AUDIT COMMITTEE

19th Meeting 2023, Session 6

CONVENER

*Richard Leonard (Central Scotland) (Lab)

DEPUTY CONVENER

*Sharon Dowey (South Scotland) (Con)

COMMITTEE MEMBERS

Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Craig Hoy (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stephen Boyle (Auditor General for Scotland)

Colin Cook (Scottish Government)

Neil Gray (Cabinet Secretary for Wellbeing Economy, Fair Work and Energy)

Kate Hall (Scottish Government)

David Hoose (Mazars LLP)

Bill Kidd (Glasgow Anniesland) (SNP) (Committee Substitute)

Rebecca Seidel (Audit Scotland)

Graham Simpson (Central Scotland) (Con)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Public Audit Committee

Thursday 22 June 2023

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Richard Leonard): Good morning. I welcome everyone to the 19th meeting in 2023 of the Public Audit Committee. We have apologies from Colin Beattie this morning; I welcome Bill Kidd who is substituting for him. I also welcome Graham Simpson, who is joining this morning's meeting.

The first item on our agenda is for members of the committee to agree to take items 4, 5, 6, 7 and 8 in private. Are we agreed?

Members indicated agreement.

Written Authority: Completion of Vessel 802

The Convener: Agenda item 2 is consideration of evidence on the written authority that the Cabinet Secretary for Wellbeing Economy, Fair Work and Energy issued in recent weeks. I am delighted to welcome our witnesses this morning. The cabinet secretary, Neil Gray, is joined by Kate Hall, who is the deputy director of strategic and industrial assets, and Colin Cook, who is the director of economic development, in the Scottish Government.

We have a number of questions to put to you, cabinet secretary, but, first, I invite you to make a short opening statement.

The Cabinet Secretary for Wellbeing Economy, Fair Work and Energy (Neil Gray): Thank you very much, convener. I appreciate the opportunity to provide the committee with an update in relation to the written authority that I provided in May to secure the continued build of vessel 802 at Ferguson Marine Port Glasgow.

During the meeting of the committee on 1 June, when the director-general economy was in attendance—as well as in the recent Public Audit Committee debate on 8 June, which I responded to—it was clear from the outset that the committee was interested in the process of written authority, as the steps that a minister takes in that regard have not been taken in quite some time. The process is rare in Scotland, so I am of course more than happy to discuss the detail of it during this session.

As part of the process for providing written authority, I was satisfied that the accountable officer—in this case, the director-general—scrutinised and interrogated the projected costs that FMPG provided and assessed those costs against alternative options. That work followed an independent assessment of the assurance work to test the underlying assumptions and robustness of the data on the estimated cost to complete vessels 801 and 802.

To be clear, if the written authority to complete vessel 802 at Ferguson's were not provided, we could be looking at a delay in deploying a new vessel to May 2027 at the earliest—four years from now and two and a half years after 802 is due to be delivered. As I advised at the time, I do not consider it acceptable to ask our island communities to wait that further period, and I continue to stand by that.

Although the impacts on our island communities and on our economy are not covered by the value-for-money assessment, they have guided the decisions that I have taken, which recognise the

broader social and economic benefits of completing both ferries and ensuring that the yard continues to have a strong platform on which to progress and prosper. I remain committed to supporting a sustainable future for Ferguson Marine; providing written authority confirms the Scottish Government's intention to deliver vessel 802 at the yard and provides a platform on which future success can be built.

As you have said, convener, I am joined by Colin Cook and Kate Hall, and we look to answer any questions that you have in your scrutiny of the process behind the latest written authority that I provided.

The Convener: Thank you very much.

Can you describe the timeline of events that led to the director-general economy's request for a written authority?

Neil Gray: I am happy to provide the full timeline of events in writing to ensure that I get the exact dates. The process that was undertaken led to the decision being taken on 14 May, when I gave the written authority. I was before Parliament on 16 May to ensure that I was informing it at the earliest possible opportunity, holding myself accountable to colleagues for the fact that I had taken that decision. I have a full list of the dates that run up to the decision, which I am happy to provide in writing so that the committee can see them.

The Convener: Thanks, and that is perfectly acceptable, because we understand that you are not long in post. We are happy to receive information in writing to ensure that the information that we have is accurate.

Obviously, you were in post at the time that the request for written authority was made, and it was based on the report that was produced by Teneo, as we understand it. Did you get direct access to that report?

Neil Gray: Yes, I requested access to it to ensure that I was fully informed about the work that had been undertaken and to ensure that I was confident that it was a robust assessment of the costs and that the value-for-money assessment was robust and accurate. However, I stress again that that is a relatively narrow value-for-money assessment that does not take into account the wider considerations that I must take into account, as a minister, including the delay for island communities and the future of the yard, the workforce and the local economy in Inverclyde.

The Convener: Therefore, you looked at that yourself. Were you also satisfied that the director general had scrutinised and analysed that to the depth that was necessary to arrive at the conclusion that written authority was required?

Neil Gray: Yes.

The Convener: That is fine. You will be aware of, and you have alluded to, the fact that Gregor Irwin, the director general economy, appeared before the committee a couple of weeks ago. During that evidence session, we spoke to him about access for the committee to the Teneo report and the information that led to the decision to request a written authority. At the time, he told us:

"What we are doing—and what we will work through with the Auditor General and his team—is seeing what we can do to share additional information. That process is on-going and is not yet complete, but we absolutely need to get it right, because we are committed to transparency."

Two weeks later, we got a letter back from Mr Irwin saying no to that request. What happened between 1 June and 14 June?

Neil Gray: A decision was taken in the Government, jointly by officials and ministers, that the commercial sensitivity of that information meant that it would not be appropriate to release the report. There is nothing in it to hide. There is no issue with the numbers—that is not the problem. The problem is the commercial sensitivity of the report and the fact that that report is the intellectual property of Teneo. That makes it difficult for us to release it. We do not want to put the competitiveness of the yard at risk. I think that you alluded to that, yourself, convener, in your letter. However, to put that in the public domain absolutely would put the competitiveness of the yard at risk and jeopardise its future.

The Convener: That includes the rationale for the request for written authority. That is quite a narrow focus. Gregor Irwin falls back on the use of the word "narrow" quite a number of times in his evidence to the committee and in some of the written information that we have seen. That rationale is quite a narrow focus, is it not? Why would that preclude even some of the Teneo report or even some of the information that was the basis for that decision—as you said, the decision was very unusual; it was the first time that there had been a written authority since 2007—being provided?

Neil Gray: To be clear—I hope that I am not putting words in Mr Irwin's mouth—I do not think that that was a decision that was requested because there was advice against proceeding in that direction from colleagues in the Government. The decision was made because Mr Irwin could not be satisfied, based on the economic uncertainty, inflation, the other elements of information that were available and the direct cost comparison between completing and procuring elsewhere, on that narrow value-for-money element.

Mr Irwin was satisfied on the other two elements—on the appropriateness of our proceeding—and I think that that has been set out to the committee. However, no, we are not able to release the report, as I have said. We hold very dear the future of the yard, and we want to ensure that that is protected, as I am sure that you understand, convener.

The Convener: Who made that decision?

Neil Gray: That decision was taken first of all by the director general, and I was asked to confirm it, and so I confirmed that that was the appropriate action to take.

The Convener: You vetoed the release of that report.

Neil Gray: No; I did not. That was a collective decision taken in the Government. Gregor Irwin suggested that it was the right—

The Convener: Did it go to the Cabinet, for example?

Neil Gray: No. That decision was taken by me and Gregor Irwin.

The Convener: The First Minister tells us in his document “Equality, opportunity, community: New leadership—A fresh start” that

“it is imperative that transparency underpins our approach to delivery. My government will ensure the people of Scotland have the information they need to hold us to account.”

How do you reconcile that statement of intent with what has happened with this issue?

Neil Gray: It has been acknowledged by the committee that we proactively released and published more than 200 documents on the Government’s website in relation to the on-going process at Ferguson’s. We have offered ourselves—Gregor Irwin has been before the committee, and I, as cabinet secretary, and Mr Cook and Ms Hall are here today—and we have published as much as we can without putting the yard at a competitive disadvantage. We are going as far as we can to be transparent and to let people understand the decisions that we are taking and why we are taking them.

The Convener: Surely there is nobody in the Government more familiar with what is in that Teneo report than the director-general economy. Why would he sit two weeks ago where you are sat today and say that work was on-going, that he was having discussions with Audit Scotland and that he hoped to release at least some of the information in that document?

Neil Gray: To be clear, I do not think that that characterises the director-general’s statement appropriately. We considered whether anything could be released, and it was decided that the

report and its contents were commercially sensitive and that releasing the report would put the competitiveness of the yard at risk, so it would not be appropriate for us to release it.

The Convener: That is the decision that you took as cabinet secretary.

Neil Gray: We took that decision as the Government, yes.

The Convener: I will ask about the process of written authority. We were told that not only you but the Deputy First Minister and the First Minister were involved in the decision to issue written authority. Were the Deputy First Minister and the First Minister involved in the decision not to release the report?

Neil Gray: My understanding of the written authority process is that the Deputy First Minister and the First Minister are required to be part of the process of issuing written authority because of its nature. I will need to check, but I am pretty sure that they will have been sighted on my decision to decline the publication of the report, but that was a decision for me and Mr Irwin.

The Convener: We may return to some of those themes, but we are quite tight for time, so I will ask the deputy convener, Sharon Dowe, to put some questions to you.

Sharon Dowe (South Scotland) (Con): Good morning. You provided written authority to the director-general the day after it had been sought. Did you give sufficient time to fully consider the request and consult officials and Scottish ministers as appropriate, particularly given that the request for and provision of written authority were completed over the course of the weekend?

Neil Gray: Yes. When I provide in writing the timeline of the process before issuing written authority on 14 May, it will become clear that sufficient rigour was given to interrogate that. I ensured that we had looked at all possible permutations of the cost analysis to ensure that I was confident that the process was rigorous and that it had been carried out fully and appropriately, not just within the Government but with our external advisers. We considered all possible permutations, and I was confident that that was the right thing to do.

Sharon Dowe: Did you have meetings prior to 14 May?

Neil Gray: Yes.

Sharon Dowe: How many meetings did you have, and who did you meet?

Neil Gray: I met colleagues present, who were at that time fed up of seeing my face on the screen, because I had requested quite a number of meetings and discussions. The First Minister

and the Deputy First Minister were part of those as well, because of the nature of the written authority process. We ensured that we had rigorously interrogated the information that was before us.

Sharon Dowey: Who requested the Teneo report and how long did it take to complete?

Kate Hall (Scottish Government): The Teneo report was compiled over a number of months following receipt of the original proposal from the chief executive officer. The revised cost estimates were provided in September and the report was completed shortly before the decision was taken in May.

09:15

Sharon Dowey: The report was asked for in September 2022.

Kate Hall: Correct. That was when the work was initiated as a consequence of the revised cost estimates from the CEO, and the work then took a period of time, given the scale of the consideration that was involved.

Sharon Dowey: There have obviously been issues with the costs for quite a few years. Has anybody asked for a report on value for money to be done previously?

Neil Gray: There is an on-going process of interaction with the management at the yard to ensure that everything possible is being done to keep costs to a minimum. Obviously, decisions have been made on the design of the ships that have contributed a significant amount to the additional costs, and they have been part of your deliberations over a long period of time. We continue to have discussions with management at the yard to make sure that everything possible is being done to minimise costs and that cost control measures are in place.

Colin Cook (Scottish Government): We have spoken previously about the decision that we took to establish the strategic commercial assets division, which Kate Hall heads up, and how that was a signal of our desire for a far more robust process of managing assets such as Ferguson's, Prestwick and our interests in Lochaber. The process that we followed to commission and interrogate the report is a sign of the new way of working and the robust approach that we have just discussed, which Audit Scotland helped us to create. That rigour is very much what you will see in the future, and I believe that the committee has welcomed it previously.

Sharon Dowey: Was any advice given in the past that it would not be value for money to complete vessel 802?

Neil Gray: No. If an accountable officer had been concerned at any stage, they would have had to request written authority to proceed.

Sharon Dowey: In your letter to the director-general, you refer to there being a

"narrow value for money case for continuing to build vessel 802 at FMPCG".

What is meant by a

"narrow value for money case"

and how did you arrive at that conclusion, given that the term is not specifically used by the director-general in his letter to you?

Neil Gray: The narrow value-for-money case that I describe is in the direct comparison between completing vessel 802 and procuring elsewhere, with elements of economic consideration being part of that. In his letter to the convener and to me, Gregor Irwin sets out some of the uncertainty that there is within the market. The cost comparison meant that, in the value-for-money assessment that he has to carry out as an accountable officer, he was not able to conclude with confidence that there was a value-for-money case for completing vessel 802 at the yard.

The consideration that I feel that I am duty bound to take is much wider. It includes the cost to the islanders of a further delay in the vessels. We already know that our island communities have suffered significant disruption. As somebody who was born and brought up on an island, I know how difficult a time people in the islands will have been having, so I am acutely aware of the need to deliver the vessels as quickly as possible. That was at the forefront of my consideration.

Alongside that, there is also the consideration of the future of the yard. The narrow value-for-money assessment is neutral on whether the future of the yard rests on vessel 802 being completed at Ferguson's or procured elsewhere. I felt duty bound not to consider that neutrally because I felt that, if vessel 802 was not completed at the yard, it would have been put at risk. That was part of my consideration, along with the workforce and the contribution that the yard makes to the local economy. I have heard directly from like likes of Stuart McMillan and Ronnie Cowan about their experience in the local community and about the discussions that they have with those from local businesses, who told them that, without the economic contribution that the yard makes, their businesses would not be viable.

I have to make a wider consideration that goes beyond what has been described as the narrow assessment, which is about the cost to complete at the yard versus reprocurring elsewhere and also elements of economic consideration beyond that.

What I have to consider goes much wider, and that is why I made the decision that I did.

Sharon Dowey: Obviously, we have concerns about the completion dates as well. We have heard that, throughout, there have been issues embedded in the Glen Sannox and vessel 802. How confident are you that no more issues will be found? Did the report highlight any other concerns that the committee should be aware of?

Neil Gray: I and my colleagues are in constant dialogue with Mr Tydeman and I am looking forward to having the opportunity to visit the yard in the summer recess in order to see for myself the progress that is being made.

Lessons are being learned for the delivery of 802 from what has happened with 801. We have spoken about the design difficulties that led to cost increases and delays with 801. My hope is certainly that that knowledge will minimise any further delays and any other cost increases. Clearly, it is not something that I can absolutely guarantee, but we are having discussions with the yard about ensuring that everything that is possible is being done to expedite the process and to minimise costs at all times while doing so—not least because of the overriding concern that I had in taking the decision to issue written authority, which was about delivering the vessels for our island communities as quick as possible.

I hope that, in Mr Tydeman's contribution to the committee, he was able to say that that is similarly his overriding objective at present.

Sharon Dowey: You say in your letter that you

"accept that the value for money assessment concludes that it would be cheaper to re-procure a new vessel",

but that that new vessel could

"not be deployed until May 2027 at the earliest."

How did you arrive at the May 2027 date for the potential deployment of a new vessel?

Neil Gray: We arrived at it through discussions, the market awareness that we have from work elsewhere with vessels that we have procured from Turkey and the awareness that we have of the estimated time that it would take to go through the procurement process and for the ship to be built and delivered. I stress that May 2027 would be the earliest possible date that we could see a reprocured 802 delivered from elsewhere.

Sharon Dowey: Did you look at the possibility of stopping the building of 802 and giving FMPG a new contract for a new ship?

Neil Gray: No. I will need to check, but I do not think that that was part of the consideration. The consideration was about completing 802 or reprocuring it elsewhere. Whether FMPG could

have been part of that procurement process is for deliberation, but it was purely about estimating the cost and the delivery timescale of reprocurement compared with those of completing 802 at the yard, which we are currently progressing.

The Convener: Was the May 2027 date one of the conclusions of the Teneo report?

Neil Gray: No.

Colin Cook: For clarity, I note that the Teneo report looked at the value-for-money case that we have been discussing.

The Convener: Yes—okay. Craig Hoy has some questions.

Craig Hoy (South Scotland) (Con): Good morning, Mr Gray. The assessment of value for money was detailed, but you said that it was narrow and that you had to set it against what you have described as a wider set of considerations. Can you provide to the committee or publish any detailed assessment of that wider set of considerations? You said that one of them was a conversation with Stuart McMillan, which does not sound particularly scientific.

Neil Gray: That was not scientific. I concur with Mr Hoy's assertion on that.

The overriding consideration for me was the impact on island communities of not completing vessel 802 at the yard as quickly as possible. Colleagues who are here at the meeting and other colleagues in the Parliament have acknowledged that it was the right decision to ensure that 802 was completed as quickly as possible because of the impact on island communities. It does not take a deep dive or a wide assessment to understand that impact, because we have been living it in the disruption that there has been for island communities for so long.

The reference that I made to conversations that I have had with Stuart McMillan and Ronnie Cowan was anecdotal and not scientific, as Mr Hoy suggests.

Craig Hoy: Do you not think that, given that we are talking about the commitment of a huge amount of taxpayers' money, ministers should undertake more than anecdotal or non-scientific assessments when they seek to override official advice?

Neil Gray: Again, I would not want to put words in Mr Irwin's mouth, but it was not his advice not to proceed, as Mr Hoy has perhaps suggested, although I might be wrong in that regard. It was rather that Mr Irwin wanted my authority to proceed, knowing that there was not a narrow value-for-money case for vessel 802.

I think that Mr Hoy wants to establish that we have brought the required rigour to ensuring that

we spend taxpayers' money appropriately. The Teneo report gives us a significant amount of information, but we also have our assessments of the work that is on-going at the yard. We know the impact that delaying any further would have on island communities and the impact that putting the future of the yard in jeopardy would have on the local economy in Inverclyde and the workforce at the yard. Another important consideration is the need to ensure the best possible future for commercial shipbuilding in Scotland.

Those were all important considerations, as colleagues have acknowledged, and that is why I gave written authority in this case.

Craig Hoy: As the convener identified, it is the first time that written authority has been used since 2007. Will you explain in a bit more detail specifically why you thought that it was necessary to provide that written authority? What were you seeking to achieve and what were you seeking to avoid occurring?

Neil Gray: In the written authority process, a minister does not seek to intervene in order to override a decision with written authority. Rather, an accountable officer—in this case, it was the director general, Mr Irwin—concludes through the green book analysis under the Scottish public finance manual that the value-for-money test or one of the two other elements of the accountable officer process has not been met. He or she then has to seek the authority of the minister—in this case, it is me—to proceed with the work.

There have been cases at the United Kingdom Government level in which ministers have sought to override advice from officials. In this case, however, Mr Irwin concluded that, on the narrow value-for-money assessment, he could not conclude that the work represented value for money, which is one of the three elements that he has to consider. He therefore sought my authority to proceed and I gave it, given the wider considerations that I had to take into account.

Craig Hoy: From this point on, a lot rests on your shoulders. You have asked the director general for economy, as the accountable officer, to ensure that both they and FMPG

“do everything possible to improve productivity, maximise operational efficiency and ensure that there is a tight control on costs”.

How do you expect that to be achieved?

Neil Gray: The work that Mr Cook has outlined is being led by Ms Hall. Mr Tydeman has already sought to deliver productivity improvements and learn lessons from the process of getting vessel 801 to the stage that it is at, which is very close to completion. The substantial element of cost and, therefore, risk to the overall contract is the completion of 802. There was no value-for-money

issue with 801. The issue was with 802, because it is further away from being completed.

As I have outlined, my hope is that, by being aware of the issues that there have been—which were, as I said, mostly due to the design issues of 801—we will be able to learn enough to mitigate as far as possible in relation to 802. That cannot be guaranteed until the process is continued, but it is certainly my hope. As I set out in that correspondence and as I have said in the meetings that I have had with Mr Tydeman, my expectation is that the yard will do everything possible to mitigate the risk of any further cost or time overruns.

09:30

Craig Hoy: Should tight control of costs involve stopping any further bonuses?

Neil Gray: The Government has been very clear about our view of performance-related bonuses. They are contractual obligations, and I am sure that colleagues on the committee would not wish us to be seen to be breaking contractual law, but we have made very clear to the yard our displeasure at there having been bonuses and at any likelihood of any future bonuses.

A process is on-going as to whether the contracts can be renegotiated in order to see those removed. I hope that that can be the case, because I share the upset and anger of colleagues on the committee, colleagues in Parliament and people in Scotland around those bonuses being paid when there has been such delay and there have been such cost overruns with the project.

Craig Hoy: On 27 April, the First Minister said:

“It is my expectation and the Government's expectation—the chair of Ferguson Marine knows this very well—that there should not be bonuses in the current financial year, 2023-24”—[*Official Report*, 27 April 2023; c 12.]

However, that was flatly contradicted at this committee by the chairman of the yard, Andrew Millar. Was the First Minister overspeaking or trying to somehow exert some remote pressure on the board?

Neil Gray: No. The First Minister set out the Government's position, which is that we do not expect that to be the case. The chair has a role to play and we have communicated our position to the chair very clearly. It is for the chair to go through the process that he needs to go through. I respect that and I respect his position in this case, but I also share what I presume is the displeasure of Mr Hoy and of colleagues on the committee and in Parliament at the idea of there being performance-related bonuses for a contract that has overrun in terms of both time and cost.

Craig Hoy: What assurance can you give the committee that there will be no additional funding beyond what has been forecast by the CEO of the yard and agreed by the Scottish Government—that is, no more than £97.5 million for vessel 801 and no more than £105.1 million for vessel 802? What assurance can you provide that that will not be exceeded?

Neil Gray: A process is on-going for each financial year, through the budget process, in terms of the allocation that goes to FMPG. Part of that is about assessing what money will be required in order to continue the work that is on-going. That is partly what has triggered my being here today, because there was a need for additional rigour in relation to the estimates that were given by the chief executive in September.

I am hopeful that we will be in a position where there will not be any further requirement for funding. However, it is not something that I can absolutely guarantee. We are in a very difficult economic situation. Everybody saw the very disappointing UK inflation figures yesterday. Inflation is sitting at a stubbornly high level and we are in a very turbulent economic situation, which will have an impact. However, I am hopeful that that impact can be minimised as far as possible. Obviously, there is a process to inform Parliament should there be any further requests, as there was last year, for an increase in funding. I will ensure that that process is followed, as it was last year.

Craig Hoy: You talked about the public's anger about the delays and the cost overruns. This situation has been going on for eight years and there have been six ministers, but there have been no ministerial resignations. If there were to be any significant increase in costs or significant delays, would you resign, given that you have issued the direction?

Neil Gray: If I, personally, did something that put at risk the delivery of a Government agenda, of course I would consider my position. However, in this case, the issues that we are talking about, particularly in more recent times, have not been due to ministers or Government issues. As I said in my previous answer, we are facing incredibly turbulent economic factors that are driving supply chain constraints and cost increases, not just for parts but also for labour. As a result, the situation is incredibly unpredictable. Mr Hoy is well aware of the economic situation that the UK faces, and the impact that that has on public contracts is obvious.

I therefore cannot foresee a circumstance where this would be something that I would resign over unless I had done something directly, myself, that had caused any issues. So far, I do not think that that has been the case, Mr Hoy.

Craig Hoy: You blame economic headwinds but, obviously, mistakes were made in the past. On that basis, should any of your predecessors have resigned?

Neil Gray: My predecessors in my portfolio, transport portfolios and others have made themselves more than available in the inquiry that has been conducted in this case. They can, obviously, speak for themselves on the decisions that they have taken. However, my overriding concern is to ensure that we complete the vessels as quickly, timeously and cost effectively as possible. That is what island communities deserve and it is one of the most important elements in my portfolio. I will keep pushing as hard as possible to ensure the timeous and cost-effective delivery of the vessels.

The Convener: As somebody who was born and brought up an islander, how do you think people will react to your answer, which suggests that the reason why the two vessels—both vessels—are five years late and three and a half times over budget is inflationary pressures and supply chain difficulties?

Neil Gray: Convener, to be fair, that is not the only suggestion that I have made about the reasons for the substantive elements of the delays. I spoke earlier about the design problems with the vessels, which are the substantive element. However, with regard to the more recent issues and Mr Hoy's questions about the future and progress on completing the two vessels, the overriding issues over the past number of months—and the reason why additional funds have been requested—have certainly been driven by the design difficulties but also by the economic factors. There is no doubt about that. Mr Irwin's seeking my authority made that plain. He was not able to forecast the final cost with sufficient certainty because of the economic turbulence in the market. I do not think that it would be fair to put that to one side and suggest that the project is somehow immune from the economic conditions that we are working in when other projects are suffering from those difficulties.

The Convener: Okay. I just reflect on the fact that, with regard to the supply chain, components were ordered so far in advance that they were rusting in the yard because they had not been used.

Bill Kidd has a question for you.

Bill Kidd (Glasgow Anniesland) (SNP): Cabinet secretary, to go off on a wee bit of a tangent—this is still related to what you have been speaking about—the Scottish Government has allocated many millions of pounds to ensure that the two vessels are delivered. However, on 24 May, you wrote to us and stated that £120,000 has

been provided to Ferguson Marine for capital investment measures. A lot of money is being spent on those two boats, but capital investment measures give an indication of where the yard will go in the future. I have to say that £120,000 does not strike me as a figure that will fill people with a huge amount of confidence with regard to the yard's future. Why has that money been allocated now? Will you give us a breakdown of how the money will be spent, please?

Neil Gray: I will bring in Colin Cook to comment on the particulars of that figure. The future of the yard will depend on ensuring that it is productive and competitive. Some of that work will require difficult decisions to be made about the future nature of the yard, including the capital investment that will be required to bring it up to competitive standard. A request has come in from the chief executive for work that he believes is required to bring it up to standard, and we must go through a rigorous process of ensuring that we are in line with subsidy control measures to take that decision—something that both the convener and I mentioned during the debate.

I bring in Mr Cook to provide further detail on the figure of £120,000.

Colin Cook: The figure of £120,000 covers three things. Money was allocated for a desktop study on potential future engineering work; to strengthen the internal audit function of the yard; and for a cybersecurity improvement programme. The chief executive recommended those three things to be necessary for the yard. They are not the entirety of the capital investment—or, indeed, of his ambitions for the capital investment—that would be required to ensure that the yard becomes fully competitive.

Bill Kidd: I have a question on the back of that. I understand those elements. I do not want you to have to predict things—that sum of £120,000 has been allocated now for those specific elements—but, as things go forward, are there likely to be further requirements in that business scenario?

Neil Gray: There is undoubtedly a requirement to do more. The request that I mentioned earlier has come in. From a subsidy control perspective, we have to assess whether that work would be forthcoming if the yard was in private ownership, and whether, by our providing it, we would be providing a subsidy or a competitive advantage to the yard that it would not have in the private sector.

That work is on-going, but, undoubtedly, work is required to ensure that the yard is competitive going forward. That is where some of the difficult decision making will be over the coming months in terms of ensuring that the yard is in as fit a position as possible to ensure a good future.

The Convener: We have got a final couple of questions from Willie Coffey.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Cabinet secretary, I want to explore a bit more the financial controls and the information that the Government will get from this point until the completion of vessels 801 and 802, and how Parliament can be made aware of those aspects and see that information.

Clearly, we have been concerned during the project that the flow of information is lacking. Those aspects have come up several times in this committee, and the Auditor General for Scotland has raised those, too. Therefore, what assurances can you provide to the committee and the public that the quality of information that you get—the accuracy of the financial forecasts and all that—is robust enough and that the regularity of that information is sufficient enough to give you the comfort that you need, and which the committee and the public will seek, from now until the conclusion of the project?

Neil Gray: I thank Mr Coffey for that question. The committee provides a critical function in holding the Government to account. Again, as I did during the debate, I thank you all for the work that you do to scrutinise not just this project but other projects and work that the Government delivers.

09:45

As Mr Cook said, we have the directorate in place and are doing the work, on which Ms Hall leads, to provide that rigour and put as much information as we can into the public domain, as well as providing it to this committee to ensure that you are able to discharge your duties. Again, I give the commitment that we will provide as much information as we can. I understand the committee's frustration that I am not able to go further with regard to the due diligence reports, but when we can provide information, we absolutely will do so, so that you are able to do your work and the public is able to have confidence in the decisions that we take.

Willie Coffey: Will there be monthly or quarterly updates? How frequently will the updates take place?

Kate Hall: We meet the CEO and his finance team weekly, and we provide regular internal updates to the cabinet secretary and other ministers. We also share on our website details of the monthly reports that we get from Ferguson's. There is therefore a clear beat and rhythm. There is also a process for internal escalation so that, if we think that something could be going awry, we can immediately share that with senior people, including the cabinet secretary, and ensure that

the accountable officer in the Scottish Government is fulfilling their duties.

Willie Coffey: Would we be notified of concerns or issues as they developed? I am sure that the last thing that we would want to hear would be a further announcement in Parliament about another issue with the finances. How would we get a quicker assessment of anything that happened?

Neil Gray: In relation to what we are discussing today, I took a decision on 14 May and made a statement in Parliament on 16 May—the next parliamentary sitting day. I hope that that gives some comfort to Mr Coffey and his colleagues that I am committed to providing information as quickly as possible to ensure that there can be public scrutiny and that this committee can discharge its duties as effectively as possible. We will seek to put information into the public domain as quickly as we can.

Willie Coffey: You have mentioned several times the current inflationary pressures that are having an impact on the costs for completion. I presume that that will be evident in the monthly updates or whatever we see.

Neil Gray: As I said in response to the convener, inflation and the wider economic conditions are obviously a factor. The design difficulties are a major factor relating to the cost overruns and delays. As I said, I hope that Ferguson's, in delivering the vessels, will be able to mitigate those difficulties as they relate to 802 as much as possible by learning from the problems that there have been with 801. I cannot guarantee that, and I do not think that the yard would be able to guarantee that until work on the vessels has progressed, but I hope that there will be a timely and cost-effective delivery of the two vessels for our island communities.

Willie Coffey: The committee has discussed the big issue of the written authority. In your opening remarks, you said that such a decision is a rare occurrence. Have there been any other written authority decisions in the current parliamentary session or in previous sessions? If there were any, would the Government publish those so that—

Neil Gray: We have to publish them. The Scottish public finance manual sets out how the accountable officer must go through that process. I believe that the previous written authority was in 2007, but there have been numerous such decisions at a UK Government level during that time. I am happy to furnish the committee with more details in my correspondence with the convener on the timeline, which I spoke about earlier.

Such decisions are a rare occurrence in Scotland. I am pleased that that is the case, and I

hope that they will not be required routinely, as they are elsewhere. Given that they are so rare, I understand the committee's interest in how the written authority came about, which is why I am more than happy to be here today and to provide as much information as I can about the process that was gone through to arrive at that decision, so that the committee can have confidence in that regard.

Willie Coffey: Thank you.

The Convener: I said that Willie Coffey would ask the final questions, but Graham Simpson has indicated that he wants to come in with a brief one.

Graham Simpson (Central Scotland) (Con): Cabinet secretary, earlier you said that there was no issue with the numbers. I would like to ask you about those. What is your estimate of what it will cost to complete hull 802, as opposed to what has been spent now?

Neil Gray: The figure that is in the public domain is £105 million to complete it, which is part of the overall cost of £202 million to complete it from when the yard was nationalised.

Graham Simpson: That £105 million is the gap between what has been spent now and what it will take to complete.

Neil Gray: No. That is the total cost from when the yard was nationalised.

Graham Simpson: What is the gap between what has been spent and—

Neil Gray: How much has still to be spent, from today?

Graham Simpson: Yes.

Neil Gray: I would need to come back to you in writing with that figure in light of the estimate that the chief executive issued last September.

Kate Hall: In September, it was £70 million.

Neil Gray: I do not need to respond to you in writing, then. [*Laughter.*] Ms Hall has assisted me by saying that it will take £70 million to complete 802.

Graham Simpson: Is that £70 million extra?

Kate Hall: From the September date that that was set out by the CEO.

Graham Simpson: Another £70 million. Okay. I think that that will help the committee to assess value for money. We can probably figure out that it would be cheaper than £70 million to buy a new ferry elsewhere.

Neil Gray: Hmm.

Graham Simpson: Okay. Thank you, convener.

The Convener: I have just got one final public audit question for you, cabinet secretary. It is on a much smaller scale, but it is quite important to us. It concerns the cost of the consultants. In the evidence session on 1 June, Mr Irwin said that the cost of the First Marine International report came in at a quarter of a million pounds for six months' work. He described it as

“first-class external independent technical advice”,

and acknowledged that

“that sort of advice might not come cheap”.—[*Official Report, Public Audit Committee*, 1 June 2023; c 13.]

So that was six months' work for the FMI report at a cost of a quarter of a million pounds.

In a parliamentary answer at the weekend, we were told that the cost of the Teneo report was nearly three times that amount—an estimated £620,000. Admittedly, that was not for six months' work—I think that Ms Hall said earlier that it was for eight months' work. Given that, earlier, Mr Cook said that the Teneo report just looked at value for money, why on earth is it costing such a huge amount of money? In light of that, why on earth is none of that report able to be published?

Neil Gray: I have set out why I cannot publish it. There will be a debate about that—and you, convener, will perhaps hold a different view on it than I do—but I am not willing to put the yard at a competitive disadvantage or jeopardise its ability to compete for future orders.

The work that Teneo did went into a substantial amount of detail. It worked with the yard to ensure that all potential permutations on risks to the contract were considered, particularly on 802. It was able to give advice off the back of that. The work involved more than just looking at numbers on a spreadsheet or comparing costs; it examined the processes that are in place at the yard. It is well recognised that Teneo is an international expert in the field, and the advice that it has provided has given me assurance that I was able to take the correct decision in issuing written authority to see the completion of 801 and 802.

The Convener: But there is not a single word or sentence of that report that you are prepared to release into the public domain.

Neil Gray: No—and I have said why, convener. I hope that it would be understood that, by releasing the report, we would be putting the yard at a competitive disadvantage. Yards—

The Convener: Even in redacted form?

Neil Gray: Yards around the world would be able to look at what is being said in the report and benchmark their own work based on what has been produced as part of it. Competitiveness is not the only element that I must consider; there is

also the intellectual property that is attached to the report from Teneo's point of view. Unfortunately, I am not able to release that information.

The Convener: Okay. But in light of that, I still question why Gregor Irwin—who was then sitting in the chair that you are sitting in this morning—was contemplating, in co-operation with Audit Scotland, releasing some of that material.

Neil Gray: Again, we were considering what could be released, but it has been concluded that we cannot release the report. We were not looking to—

The Convener: But he did not know, two weeks ago, that the release of the report—which you have just described as a report that, in its entirety, has got intellectual property rights attached to it—would jeopardise the commercial future of the yard.

Neil Gray: No, but we were looking to be as co-operative as possible. As Mr Irwin set out, we were looking at everything possible so that we could be as co-operative with the committee as we possibly could be, to ensure that it had as much information as it could have. The conclusion is that we cannot publish that report.

The Convener: Okay. Well, as I said in the debate:

“Governments are judged by what they do, not by what they say they do”.—[*Official Report*, 8 June 2023; c 75.]

I thank the cabinet secretary for giving evidence. It is greatly appreciated that you have done that yourself. I also thank Colin Cook and Kate Hall for joining you.

We will now take a short break to allow for a changeover of witnesses.

09:56

Meeting suspended.

09:57

On resuming—

Section 22 Report: “The 2021/22 audit of South Lanarkshire College”

The Convener: I welcome everyone back. We move to agenda item 3, which is consideration of a section 22 report entitled “The 2021/22 audit of South Lanarkshire College”.

I welcome our witnesses for this evidence session. We are joined by the Auditor General for Scotland, Stephen Boyle. With Mr Boyle are Rebecca Seidel, who is a senior audit manager at Audit Scotland, and David Hoose, who is a partner at Mazars LLP, which is the organisation that carried out the audit.

I invite the Auditor General to make an opening statement before we get into questions from committee members.

Stephen Boyle (Auditor General for Scotland): Good morning, committee. I have prepared a report on the 2021-22 audit of South Lanarkshire College under section 22 of the Public Finance and Accountability (Scotland) Act 2000.

In April 2022, I produced a section 22 report on the 2020-21 audit of the college, which highlighted governance issues that resulted in areas of non-compliance with the code of good governance for Scotland’s colleges. The committee considered that report in May 2022.

I have now prepared a further section 22 report to update the committee on the college’s progress in addressing those issues. I am pleased to report that the college has improved its governance and that it was fully compliant with the code of good governance by the end of the academic year 2021-22. The college has made progress against the external auditor’s recommendations from last year and is committed to making further improvements. The external auditor will continue to monitor its progress.

The committee will recall that, in November 2021, the college’s board agreed to commission two independent investigations into complaints and grievances against the chair of the board and against the principal and interim clerk to the board. The college’s board considered the final reports from those investigations in January 2023. The board agreed to terminate the employment of the principal and the interim clerk to the board; the tenure of the chair of the board ended in May 2022; and a new chair and principal are now in post.

10:00

The governance issues were complex and led to a long period of uncertainty in the college. Up to April this year, the college had spent around £800,000 of public money on the investigations and associated costs. The scope, content, process and outcome of the investigations were not examined as part of the annual audit and are not therefore the focus of my section 22 report.

As you have said, convener, I am joined by Rebecca Seidel and by David Hoose from Mazars. Between us, we will look to answer the committee’s questions.

The Convener: Thank you very much. I will get us under way and really home in on the compliance issue. When we received the section 22 report last year, there was concern that governance arrangements were way off what they should have been in relation to publication of minutes, internal audit procedures and, even, the convening of meetings. Big alarm bells were ringing at that time.

In this report, you are saying to us, in essence, that stabilisation has occurred and compliance with codes of good governance is in place. It is mentioned in the report that compliance was in place “by 31 July 2022”, which is very precise. Did things happen in advance of or in the lead-up to that date, or was that when the change took place?

Stephen Boyle: I will bring in David Hoose in a second because, through his external audit, he has tracked the progress that his colleagues made with the recommendations in the previous year. Before I turn to him, however, I will say a word or two on the precision of the 31 July 2022 date. It is worth noting that Scotland’s colleges follow a different financial year than the other public bodies across Scotland do. Colleges’ financial years and academic years are aligned, to the end of July.

David Hoose can take you through the detail shortly, but five recommendations were made in the previous year, which we set out in annex 1 to the section 22 report. There has been progress: two out of five of those recommendations are now fully implemented; two are mostly implemented; and one is in progress. I will stop and bring in David to say a bit more about how that has progressed.

David Hoose (Mazars LLP): Thank you, Auditor General. I second that comment: the progress that was made against the recommendations from the previous year was linear. We reported to 31 July because that was the year-end date, but, as you have seen, our audit opinion was only signed off in April this year, so we have taken into consideration the progress that has been made since the year end.

As the Auditor General has commented, our audit report last year identified five recommendations, against which good progress has been made. The areas that we have identified as being under way are those in which the progress that has been made needs to be further embedded. Good progress has been made in all other areas, such as harmonising timelines and reporting lines between the regional strategic body and South Lanarkshire College, but work still needs to be done to improve them further. Our summary, as the Auditor General has said, is that good progress has been made against three of the five recommendations, with the other two fully addressed.

The Convener: Thanks for that. I bring in Craig Hoy, who has a couple of questions to put to you.

Craig Hoy: After what appears to have been quite a protracted period during which the audit and risk committee and the board did not meet, they both did so in November 2021. What was the catalyst for those meetings resuming, and, in your view, are the board and the audit and risk committee now meeting regularly?

Stephen Boyle: That is our understanding, Mr Hoy. Again, David Hoose can talk you through the process and the chain of events up to where we are now.

We touch on this point in the section 22 report, as well, but I will just share with the committee that, on the back of various reviews that stretch back to the summer of 2021 on engagement with the college, the regional board and the Scottish Funding Council on governance matters, the progress against the recommendations that is set out in the report sits alongside a rolling governance improvement action plan, which is a welcome positive development. Instead of a one-off series of events, it is evidence of a college that is keeping its governance arrangements under regular review.

David attends the audit committee, so he can take you through its work and that of the board.

David Hoose: I am not party to what happened before November 2021, as I have come relatively recently to this engagement. However, during my time with the college, the board and all its committees have met regularly—we have been involved in a number of those meetings—and appear to have discharged their duties appropriately.

Craig Hoy: The audit body recommended that “the college should reduce or extend the tenure of some members to provide for improved continuity of membership at the end of individuals’ tenure”

and said that that is being considered by the college. Will you provide some detail on how the

college is taking that recommendation forward, and on the timescale for achievement?

David Hoose: The college has sought to recruit six new board members, in May 2023. That has gone out to advert. When it has those board members lined up, it can consider the length of the tenure of those board members and of its existing board member team and can appoint people to different tenures, so that there is succession planning, whereby not all those people’s terms of office will finish at the same time.

Craig Hoy: At the point at which the auditor signed their opinion—in March 2022—papers for the college’s board and committee meetings that were held after June 2021 were not publicly available on the college’s website. However, by 31 July 2022—the date that the convener alluded to—the college was compliant with that aspect of the code. It therefore sounds as though things have improved. To what extent, though, did the college take prompt action on that recommendation? Do you have any concerns that it was too slow in meeting it?

David Hoose: My recollection is that it was addressed promptly. As the report has mentioned, there were issues for the college in its clerking and governance professionals. However, once those individuals were in place, the matter was addressed promptly.

Craig Hoy: Do you have any niggling or on-going concerns about compliance in relation to the timely publication of minutes and reports of meetings?

David Hoose: No.

Craig Hoy: That is fine. Thank you.

The Convener: One issue that was highlighted last year, which is not just an issue in South Lanarkshire College and can exist in other public organisations, is to do with training, including induction training, for board members who are involved in the governance of those organisations.

In paragraph 18 of the report, reference is made to induction training that was organised in early 2022 and then in the spring of that year. My question is twofold. First, do you have any evidence that those induction sessions made a difference? Secondly, David Hoose mentioned that six new board members are in the process of being recruited. Do you know what the induction arrangements will be for them? Are programmed induction events and other support mechanisms in place to make sure that the people who are involved in the governance of the college understand what their roles and responsibilities are? Auditor General, I turn to you first.

Stephen Boyle: We also referenced in last year’s report that, inevitably, Covid had involved

an interruption to the ability of not just South Lanarkshire College but all public bodies to bring on new board members effectively during that period. We all recall that much of that would have been done online rather than as a series of face-to-face events to support new people into the college environment.

It is worth stating that colleges and public bodies are looking to broaden their reach when it comes to the diversity of those who sit on boards, and another dynamic in colleges is that they have staff member representation and students on the board, which is all the more reason for board member induction to be undertaken properly.

Coupled with that, as David Hoose mentioned and has been touched on, recruitment is out for six new board members. There are signs of progress, therefore, and David can speak about the arrangements that are in place.

However, to relate back to Craig Hoy's earlier question, there is a rolling programme of evaluation of the effectiveness of the governance that is in place. The induction is only one part of that. It needs to be done effectively. The chair of the board's interaction with board members, the appraisal arrangements and the effectiveness of board member networks are all part of ensuring not just that the induction runs smoothly but that that transitions into effective governance arrangements and contribution from board members for the duration of their tenure. I will bring in David Hoose to say more about the intervening arrangements.

David Hoose: I have very little to add about the training to what Stephen Boyle has said. I am aware that the college has made a concerted effort to make sure that the training is tailored rather than assuming that one size fits all. As the college seeks to recruit board members who have specific skills, they will, by default, need training in different areas.

The Convener: That is helpful. Willie Coffey has some questions to put to you.

Willie Coffey: I would like to ask Stephen Boyle about internal and external audit issues. Your report says that there were delays to the appointment of internal auditors, which meant that the internal audit plan was not approved until later, but the audit function and internal audit work was carried out. What is your perspective on that work? Was it successful? What were the risks of carrying out audit work without a plan?

Stephen Boyle: You will recall from last year's discussion that, during the 2020-21 year, there was a change of internal auditors from Azets to Henderson Loggie. That was one of the reasons for the governance disclosures that were made by the college in its annual report and accounts last

year. The governors stated that not having continuity of internal auditors brought them into conflict with the requirements of the good governance code.

We note that there were delays in appointing Henderson Loggie that contributed to the delay in the production of the internal audit plan. The audit and risk committee would expect to see the internal auditors' plan, which is really the basis of that committee's evaluation of the risk to the control environment of the organisation, and it uses that to direct the internal audit of the organisation to best effect. That is now in place, and it was approved by the committee in May 2022.

The factors behind the period of delay were somewhat less clear. The college needs to assure itself that it is getting the right level of effective governance and assessment of controls across its operations. David Hoose might want to say a wee bit more about that because, as part of his annual external audit, he is required to consider the work of the internal auditors.

David Hoose: Two dates were involved with the internal audit plan. My understanding is that a draft plan was discussed at audit committee level in March 2022, and the final plan was agreed in May. In my experience, that is not unusual. That delay is about

the board challenging some areas that have been identified for review. As the Auditor General has said, one of the things that we do during our audit is consider the work of the internal auditors, and the plan of works that they agreed with the board in May was delivered fully during the year. The internal auditors delivered the fullness of their plan.

Willie Coffey: The college's annual report commented that internal audit considered that the college had

"adequate and effective arrangements for risk management, control and governance."

Do you share that assessment?

David Hoose: We have not found anything to contradict that. I refer you to our annual auditors' report. We did not identify any internal control recommendations from our work. There is nothing to suggest that that is not correct.

Stephen Boyle: You will recognise from your time on this committee, Mr Coffey, that auditors do not often engage in hyperbole, so "adequate" is usually an indication that there is nothing to report and, as David Hoose said, he did not find anything to report. That is probably a reasonable assessment in satisfactory language.

Willie Coffey: Thank you for that.

You are clearly saying that good progress has been made with the governance improvement plan but that some areas have not yet been addressed. What might those areas be?

Stephen Boyle: I will bring David Hoose in again here as he is closer to the detail on it. I will just take the chance to repeat my overall views that having a governance improvement plan and a rolling action plan is a positive aspect of the college's consideration of governance and its commitment to keeping those matters under review. David Hoose can speak to the committee about the steps that have been taken.

10:15

David Hoose: As the Auditor General said, significant progress had been made in relation to the governance improvement plan. These are a different set of recommendations to those from our audit last year. Some were time bound in relation to the college's ability to deliver against them. One of them related to the appointment of a permanent governance professional, which could not be completed until the investigation was completed in January 2023. There were recommendations that the college had progressed but, because of other factors, still had work to do on.

It is also pleasing in my mind that, as the Auditor General said, the college has accepted that there needs to be continued review of governance. The governance framework that it has put in place enables it to capture any governance actions as they arise—such as appointing owners or appointing timelines—and to keep them front and centre for the board to make sure that governance is continuously improved.

Willie Coffey: That is good.

There is another comment about the reporting timetabling of the college's board and committees "so that there is a timely and efficient report".

Will you explain a little bit about what you mean by that? Are we satisfied that that is also satisfactory and in place?

Stephen Boyle: Can you highlight the paragraph for me, Mr Coffey, so that I can make sure that I am commenting on the right bit?

Willie Coffey: I think that it is on page 11.

Stephen Boyle: Thanks very much. Yes, I have that now.

The committee will recall that there is a complexity to the arrangements in South Lanarkshire College in that it is part of a regional college arrangement. I will maybe say a further word or two about that in a moment, convener.

South Lanarkshire College operates as part of the Lanarkshire arrangement in which there is a strategic body, which we refer to as the Lanarkshire board in our report. The recommendation was that South Lanarkshire College's meeting arrangements should be aligned to those of the Lanarkshire board to enable the flow-through of decision making, co-operation, governance and accountability to operate effectively. David Hoose can say more about the progression of that.

It is worth coming back to the point about where the regional college arrangements sit. The committee may recall that the Scottish Funding Council made recommendations to the Government on the back of a review that largely stated—I am paraphrasing—that the current arrangement were not serving to best effect the operation of the accountability and governance arrangements of Scotland's colleges. As we recall, those recommendations were accepted by the Scottish Government, but we have not yet seen progress in relation to how structures that are currently in a regional setting will operate in future.

I have drifted off topic a wee bit from Mr Coffey's question, but I will turn to David on the alignment of meetings.

David Hoose: Our understanding is that, historically, the meeting timetables for the regional strategic body and South Lanarkshire College have sometimes been prepared in isolation. That has not facilitated matters that have been discussed at the South Lanarkshire College board that need ratifying at the regional strategic board being passed up in a timely manner. In addition, where there is possibly overlap of committee members, sometimes those meetings clashed. It was a case of making the two timetables work more coherently and efficiently.

Willie Coffey: Are you happy with the new arrangements?

David Hoose: We are happy with the progress. As I said earlier, there is still progress to be made, but we have seen good evidence of progression.

The Convener: Given the consolidation of the college sector that we have seen over the past decade, it seems a little bit excessive, does it not, to have a regional college board that has oversight of just two colleges?

Stephen Boyle: The SFC's review largely concluded that the arrangements were not well understood or accepted, and that they brought conflict into the arrangements. Whatever future structure the Government decides on, it will of course want to weigh up the number of colleges that exist in a regional setting or otherwise. The SFC's review recognises that the current regionalisation arrangements have the hallmarks

of some of that conflict and lack of understanding. We have perhaps seen evidence of that through some of our own reporting on Scotland's colleges as well. We are keen to see where the Government will go next on that.

The Convener: That is good. Thank you.

The deputy convener, Sharon Dowey, has some questions.

Sharon Dowey: Good morning.

We noted that the independent auditor is monitoring progress against the governance review programme. When was the programme implemented, and what has been the progress to date?

Stephen Boyle: Good morning, deputy convener. David Hoose, the independent auditor, is sitting beside me. I ask him to update the committee.

David Hoose: The governance monitoring programme was first implemented at the December 2022 board meeting and was first populated at that point in time. I understand that that is now a standing item of business at every board meeting.

Sharon Dowey: What progress has been made in appointing a permanent clerk to the board?

Stephen Boyle: David Hoose mentioned that the plan is to recruit for an experienced governance professional—I think that that is the language that has been used. With regard to progress on recruitment to that post, David might be able to provide an up-to-date position.

David Hoose: I do not have anything to add. I am not aware of where the college is at in that regard.

Sharon Dowey: The report states:

"The auditor considered the implications of the investigations for the college's compliance with the Code."

Can you provide more detail on the outcome of those considerations?

David Hoose: Certainly. As we mention elsewhere in the paper, and as Stephen Boyle mentioned in his introduction, we have not had full sight of the independent investigation reports—that was not considered appropriate. Therefore, we had to put in arrangements to assure ourselves as auditors as to whether any matters were raised in those investigations that would impact on our opinions. We requested that the college prepare a detailed paper for us that set out its consideration of those reports and whether there were any matters identified in them that could impact on our work on governance and on the financial statements.

To ratify that paper, I met the partner from the college's main legal adviser, who had had full sight of the independent investigation reports, to triangulate the college's paper with his understanding of what had been said.

The Convener: Bill Kidd has an important question to put to you.

Bill Kidd: As we all know, this is a time when everyone is facing some financial difficulty. Colleges are no different. Colleges across the country face issues with costs and financial stability.

During this period, £800,000 of public money has been spent on investigations and associated costs at South Lanarkshire College. To what extent has the expenditure of that large amount of money helped to improve the college's financial stability, compared with that of other colleges across the country?

Stephen Boyle: Good morning, Mr Kidd. There are a number of components to your question, which I will address in no particular order. I do not think that we could say that the spending of that £800,000 has directly contributed to improving the college's financial sustainability. The investigation was in respect of concerns and grievances relating to the principal, the interim clerk and the chair of the board. David Hoose might wish to say a bit more beyond what he has already said about the limited extent to which that related directly to our audit work.

However, we have drawn a connection with regard to the spending of £800,000 of public money on such matters at a time when not just South Lanarkshire College but many of Scotland's colleges are experiencing financial challenges. It is identified in the college's own annual report and accounts that the college anticipates that it will receive a flat cash financial settlement over the course of the next five years and forecasts that it will have a deficit in many of those years, to the extent that the college's board of management was able to offer assurance only on the in-year budget for 2022-23 and not on the budgets for future years.

Given those longer and medium-term financial challenges, the fact that the college had to spend £800,000 of public money in that way will not have contributed to its future financial sustainability. We are clear on that point but, again, David Hoose might wish to offer an additional perspective, based on his annual audit.

David Hoose: There is little for me to add. As Stephen Boyle said, there is a significant chunk in our report on the college's financial position. The report identifies that the college has identified an operational funding gap over the foreseeable future—the period to 2027. Stephen Boyle

mentioned the flat cash funding settlement from the Scottish Funding Council. That is a contributory factor, and it impacts on all the Scottish colleges at a time when they are facing inflationary pressures. That is a challenge for the sector as a whole, and South Lanarkshire College is no different.

Bill Kidd: Is there a way in which the large amount of money that has been spent in this instance will help the college to move towards being in balance? There is a financial issue across all colleges, as we have talked about, but it has probably been worse in this case during this period. Will the money help to bring back a degree of balance in terms of temporary staff and so on?

Stephen Boyle: That is not our understanding. The nature of the spend was in respect of investigations arising from concerns and grievances about the former chair, the former principal and the former interim clerk of the college, as opposed to consideration of wider financial activity or challenges. Rebecca Seidel might want to say a wee bit more about the financial challenges that Scotland's colleges face as they relate to their activity.

Rebecca Seidel: As has been said, the entire college sector in Scotland faces financial challenges going forward, and risks to financial sustainability are a theme that came through in a lot of our annual audit reports from 2021-22 on all Scotland's colleges.

South Lanarkshire College has historically operated on a balanced budget; it has always been in surplus. It remained in surplus and had an adjusted operating position that was a surplus in 2021-22 but, nonetheless, that does not take away from the fact that, looking ahead, there will be real pressures on the whole college sector. Some of those pressures have been mentioned: the flat cash settlement, inflationary costs relating to staff pay and other costs that colleges incur, such as increased costs through their supply chain. Although South Lanarkshire College remains in surplus, that does not take away from the fact that there are challenges ahead for the college and the wider sector.

Bill Kidd: Perhaps I was conflating two areas a wee bit. When you see large sums of money, you tend to look for the positive benefits, but those are two separate areas. Thank you for the answer.

The Convener: The £800,000 was spent predominantly on paying lawyers to carry out the investigations, as I read the report. Where did that money come from? Did the college have reserves that it could draw on? Presumably, that was an unanticipated outlay that would not have been budgeted for.

Stephen Boyle: You are right about that, convener. The majority of that £800,000—it straddles two financial years—was spent on legal fees. David Hoose can keep me right on this: £450,000 was spent up to the end of the financial year at the end of July, with a current expectation that that figure will be £800,000 in totality. As I said, the majority of that money is for legal fees, with other elements relating to interim postholders' fees, because some members of staff, including the principal and the interim clerk, continued to be paid by the college while they were suspended for the duration of the investigations.

It is also the case that, although there would be lawyers' fees, human resources investigations were undertaken alongside lawyers who would have overseen those investigations.

The Convener: You mentioned earlier that auditors are not prone to hyperbole, but you think that it is absolutely right to highlight that spend in your report as a matter of public interest, if not public concern.

Stephen Boyle: Indeed—£800,000 is a significant sum of public money. As Rebecca Seidel rightly says, Scotland's college sector has been under financial strain. The committee has taken a keen interest in Scotland's colleges, and you held a recent round table about some of the challenges that the sector faces. For South Lanarkshire college to have spent £800,000 of public money on HR investigations that do not relate to its financial future or its activities is regrettable at a time when the money would ideally have been better spent on its activities or in consideration of its future arrangements.

10:30

The Convener: We are joined this morning by Graham Simpson, who has a number of questions that he wants to put to you, Mr Boyle.

Graham Simpson: Good morning, Auditor General. This has been a bit of a sorry saga, to put it mildly. I do not want to go over the evidence that you gave last year, so I will not do that. Instead, I will concentrate on what is in your current report. As you said, the upshot is that the chair has gone and two highly respected public servants—the former principal and the interim clerk to the board—have lost their livelihoods. That is where we are at, and £800,000 has been spent so far. Where has the £800,000 come from?

Stephen Boyle: David Hoose can say a wee bit more about that but, as we mentioned, it is our understanding that the majority of that money has been spent on investigations, led by lawyers and supported by HR professionals, with the balance relating to interim costs for the college of

employing interim principals and interim acting clerk arrangements.

Graham Simpson: That was not my question; my question was that the £800,000 that has been spent must have come from somewhere and—given the risk to the sector, at the moment—I would like to know which budget it has come from.

Stephen Boyle: My apologies. David Hoose will pick up on the specifics of your question.

David Hoose: If you compare the college's financial statement for the year to July 2022 with the one for the year to July 2021, you see that the underlying result for the college is £500,000 to £600,000 lower in 2022 than it was in 2021. The main contributory factor to that is the £450,000 spent in the year on those investigations. It has come from operating budgets.

Graham Simpson: Is that the main reason for the funding gap that you referred to, Mr Hoose?

David Hoose: I do not believe so. The funding gap that I mentioned is primarily looking forward from the current financial year to 2026-27, and it is driven by the advice from the SFC that colleges should reflect a flat cash funding payment in their forecasts.

Graham Simpson: You have not identified where the money has come from or from which budget it has come, but it would be fair to say that, if the college had not spent that £800,000, it could have been spent on learning.

Stephen Boyle: If the college had not spent the £450,000 that is in its 2021-22 annual report, it would be at the discretion of the board of management, which is charged with governance, to determine how to spend that money, but, yes, it would have been able to prioritise its core function of delivering training and learning activities, rather than spending the money on legal and HR investigations.

Graham Simpson: We have mentioned the former principal, who has been sacked, and the former interim clerk to the board has also gone. My understanding is that both will go to employment tribunals. We do not want to get into that, but there is a risk of extra costs to the college from that process—particularly if the individuals are successful. Do you know whether the college has budgeted for that?

Stephen Boyle: I am not party to any potential or live employment tribunal arrangements. In any circumstances in which a public body has a potential liability, it needs to make an accounting judgment about whether that is live or realised, and it should consider how to disclose that as either a contingent liability or a provision in its future accounts. That is about all that I can say about the circumstances relating to the case.

The Convener: If there are any live cases, I do not want to prejudice them by discussing them at this meeting of the Public Audit Committee.

Graham Simpson: Absolutely, convener. I do not want to get into the rights and wrongs of anyone's case; it is merely a financial risk that people need to be aware of, and that is why I raised it. We do not know where that situation will end up.

It emerged last week that South Lanarkshire Council and its leisure trust were involved in a case that went to tribunal and has cost them £800,000—the same figure as in South Lanarkshire College's case—at the end of it, so such things can be enormously costly to public bodies.

There was a view in the sector, and when I say the sector I mean college principals, that that particular principal was—

In fact, let me rephrase that, because we do not want to get into the individual case. There was a concern from the college principals group that principals can be removed too easily if there is a falling-out with the board. If that happens, we can start to accrue the sort of costs that have been seen. Are you aware of that, Auditor General?

Stephen Boyle: No, I am not aware of the view that has been expressed by the college principals group.

Graham Simpson: The group wrote to the former education secretary about that, but you have not seen that.

Let us talk about this case. Do you think that, if procedures had been put in place, we could have avoided getting to the position that we are—

The Convener: Sorry, Mr Simpson, but procedural matters may well be the subject of future litigation, and I am not having anything played out at the Public Audit Committee of the Scottish Parliament that may later form parts of arguments that take place at employment tribunals or in other litigation settings. Please do not put that question to the Auditor General. If you have other questions about the report, please ask them, but if not, please draw your questions to a close.

Graham Simpson: I will draw them to a close at this point.

The Convener: Okay, thank you very much.

As no other member of the committee has a question to put, I thank you, Auditor General, for your evidence this morning. David Hoose and Rebecca Seidel, I thank you both, too.

10:37

Meeting continued in private until 11:27.

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