OFFICIAL REPORT
AITHISG OIFIGEIL

Public Audit Committee

Thursday 21 March 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 21 March 2024

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PUBLIC AUDIT COMMITTEE
10th Meeting 2024, Session 6

CONVENER

*Richard Leonard (Central Scotland) (Lab)

DEPUTY CONVENER

*Jamie Greene (West Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Graham Simpson (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Kersti Berge (Scottish Government)
Stephen Boyle (Auditor General for Scotland)
Roy Brannen (Scottish Government)
Cornilius Chikwama (Audit Scotland)
Lauryn Graham (Audit Scotland)
Carole Grant (Audit Scotland)
Leigh Johnston (Audit Scotland)
Professor Donald MacRae (Water Industry Commission for Scotland)
Robin McGill (Water Industry Commission for Scotland)
Martin McLauchlan (Audit Scotland)
Jon Rathjen (Scottish Government)
David Satti (Water Industry Commission for Scotland)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Public Audit Committee

Thursday 21 March 2024

[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 10th meeting in 2024 of the Public Audit Committee. The first agenda item for the committee to consider is whether to take items 4 to 7 in private. Are we agreed?

Members *indicated agreement.*

Section 22 Report: "The 2022/23 audit of the Water Industry Commission for Scotland"

09:00

The Convener: The next item on our agenda is consideration of "The 2022/23 audit of the Water Industry Commission for Scotland". We have a number of witnesses from the Scottish Government and from the Water Industry Commission with us this morning. You are very welcome.

Our witnesses from the Scottish Government are Roy Brannen, who is the director general of net zero; Kersti Berge, who is the director of energy and climate change; and Jon Rathjen, who is the deputy director for water policy and for the directorate for energy and climate change operations.

We are joined from WICS by Professor Donald MacRae, who is the chair of the board; Robin McGill, who is a member of the board and the chair of the commission's audit and risk committee; and David Satti, who is down in our papers as the director of strategy and governance, but I know that, as of yesterday, he was appointed as the interim accountable officer, so we will be asking him questions in that capacity, too.

We have quite a number of questions that we want to put but, before we get to those, I invite Roy Brannen and then Mr MacRae to make a short opening statement each. Over to you, director general.

Roy Brannen (Scottish Government): Thank you, convener, and good morning, committee. Thanks for the invitation to attend the committee today. I am joined by two colleagues: Kersti Berge, who is the director of energy and climate change, and Jon Rathjen, who is the deputy director for water policy, with sponsorship responsibility for WICS.

It is important to say at the outset that the Scottish Government fully accepts the findings and recommendations from Audit Scotland in the Auditor General for Scotland's section 22 report on the Water Industry Commission for Scotland's 2022-23 annual accounts. We recognise the seriousness of the report and we are working to ensure that each recommendation is fully addressed.

The team is focused on supporting WICS to resolve the governance issues and to strengthen its financial management in accordance with Audit Scotland's recommendations. As regards the Scottish Government's oversight, we are also focused on strengthening the sponsorship relationship. The primary focus is to ensure that WICS regains the trust of stakeholders and the public as an economic regulator. WICS has operated technically as an effective economic regulator, as is evidenced by Scottish Water's efficiency gains of around 35 per cent, which the commission has helped to achieve through its economic oversight since 2005. That is particularly important given the combined challenges that are facing us, which include those relating to assets, increasing climate change and the cost of living crisis.

As always, we will endeavour to answer the committee's questions, and we will follow up in writing if we are unable to do so.

The Convener: Thanks, director general. Over to you, Mr MacRae.

Professor Donald MacRae (Water Industry Commission for Scotland): Good morning, convener and committee.

WICS accepts the need for a greater focus on value for money and the need to operate to the highest standards of financial management. I want to tell you about the changes that have been made at WICS since December 2023 to meet those needs.

WICS is the economic regulator of Scottish Water, but it supports the Scottish Government's hydro nation strategy to the extent of generating international income of £1.2 million in the past financial year, which is 22 per cent of the total income.

What changes have taken place at WICS since December? The chief executive officer and accountable officer—being one and the same person—resigned effective from 31 December 2023, and that has allowed us to achieve a change of culture and a rapid refocus on value for money. As you have heard, we have appointed an interim CEO and accountable officer, who is sitting beside me. We have reinstated our approvals panel to ensure that all significant expenditure has the required approvals in place. We have also revised our policies on travel and expenses, with the focus on compliant expenses claims, to move towards the target of 0 per cent expenses claims with no receipt, from a level of 4.4 per cent—or one in 23—in 2022-23.

There is a lot more to set out but, in summary, we have agreed 27 actions opposite all the issues that were raised by Audit Scotland. Of those actions, 24 are now complete.

My colleagues here today are David Satti, who is now the interim chief executive officer and interim accountable officer, and Robin McGill, who is the chair of the audit and risk committee. We are happy to answer your questions.

The Convener: Thank you. On that last point, it would be useful to have sight of the actions that you have undertaken and understand the progress that you have made on those. It would be helpful for the committee to see that.

I hear what has been said about the role of WICS and what it has done to bring in extra revenue, but the focus of the section 22 report is on conduct, behaviour, appropriate action and so on. I think that reference was made to the governance framework, which, as I understand it, was last reviewed in April 2022. Kind of ironically, that is the start of the period that is under scrutiny by Audit Scotland, which has turned up some quite concerning findings.

The Auditor General description to us of WICS' arrangements was of

> "significant weaknesses in financial management and governance".—[*Official Report*, *Public Audit Committee*, 8 February 2024; c 2.]

He believed that those fell "far short" of what was expected. He identified issues that really stood out for him because he had never or rarely seen the like before in a public body. We will get into some of that this morning.

However, if

> "Governance is the over-arching structure and strategy that provides accountability and direction, and influences the behaviours and culture within WICS",

which is the very first sentence of WICS' governance framework, how have we got to the situation that is reported in this section 22 report?

Roy Brannen: The framework document, which was reviewed in 2022 by Jon Rathjen, Kersti Berge and the team, reflects the on-going relationship that we have with all our public bodies in ensuring that our framework documents are reviewed regularly. The issues that have been raised by Audit Scotland in particular would appear to be as a result of lack of adherence to the policies that are set out in the framework document, and that is really a question for Donald MacRae, the board, the audit and risk committee and, indeed, the new chief executive.

However, once I was made aware of the issues in early December, I sought to immediately speak to Donald MacRae on the back of the report and to ask for an implementation action plan to be put in place, which he has just spoken about. There are 27 actions over 13 areas to address the issues around governance, controls, policies, procedures, reporting and a couple of other issues around the estates themselves.

Jon or Kersti might want to say something about the framework.

Jon Rathjen (Scottish Government): The framework was put in place, discussed and published on the commission's website, so there is no doubt about it being in force in that sense. Putting those frameworks in place was a direct response to the report, "Progress Review of Scottish Government Relationships with Public Bodies", which was carried out by Eleanor Ryan. There has been an active piece of work across Government to ensure that all those frameworks are in place. Therefore, I do not think that there is any doubt about it being in force.

The Convener: Mr Rathjen, there is doubt precisely about whether it was in force. I do not think that there is any doubt that it was on the website. I do not think that there is any doubt that a written document exists. However, there is a huge question mark over whether the standards of governance, the standards of behaviour and the systems that were in place match up to the intention that is set out in the governance document.

I will bring in other members of the committee but, before I do, I want to check something off with you. The introduction to the governance framework, which was reviewed in April 2022, says that the power of the Scottish ministers to direct the Water Industry Commission for Scotland

"is confined to matters relating to the WICS' financial management and administration."

Has a minister been involved in what has happened here?

Roy Brannen: Yes, a minister has been notified. As soon as we heard of the section 22 report, Kersti Berge and the team notified our cabinet secretary of its contents. She has been closely involved all the way through the appointment of the new chief executive.

The Convener: But she was not involved, for example, in signing off the authorisation that Mr Rathjen gave to the £77,000 Harvard Business School course.

Roy Brannen: No.

The Convener: Okay. I invite Colin Beattie to put some questions to you.

Colin Beattie (Midlothian North and Musselburgh) (SNP): As we have just mentioned the £77,350 figure, I will focus on that to begin with. That money was for the chief operating officer attending a training course at Harvard Business School in Boston. How robust was the business case that was prepared for that, and what options were considered? I am not asking any particular person; the appropriate person can just respond.

Professor MacRae: I will start, then I will ask David Satti to follow up. WICS is, as you have heard, a small public body that operates in a very complex and specialised area. We find it difficult to compete on salaries with the private sector and retain staff. Our staff are frequently subject to approaches and to being poached. We recognise that our staff are our most important asset, and we take the view that we have to invest in them by offering advanced management training. In the case that you refer to—the Harvard Business School training—we accept completely that value for money was not fully demonstrated and that the business case was inadequate.

How will we proceed in future? We will still adhere to the policy of investing in our staff, but we will ask that a much more robust business case be given for any such proposal in future, and we will almost certainly ask to procure the training internally, either within Scotland or the United Kingdom, at much lower cost and with, frankly, better value for money.

David, do you want to explain how that process happened? That might be useful.

David Satti (Water Industry Commission for Scotland): I am more than happy to explain. In spring 2021, initial discussions with the CEO and COO on personal development took place. I understand that, at that time, those discussions included training courses at UK institutions but that, over the coming months, a preference was highlighted by the CEO for institutions in the US, following which a business case was submitted for the course in question.

Colin Beattie: Why was that the preference? Was it the quality of the course?

David Satti: I was not a part of those discussions, so I could not accurately say why the preference was for the course in the US. One of the actions that Donald MacRae spoke to was the reinstatement of the approvals panel, so there will be a collective conversation on expenditures such as that in future.

Colin Beattie: Is it possible to get a copy of the business case? I realise that, as Mr MacRae has said, it was inadequate, but it would be interesting to see the document itself and what the whole thing was based on.

David Satti: Of course—I am more than happy to provide that.

Colin Beattie: Can you run through the approval process for that piece of expenditure as it happened and as it should have happened?

David Satti: Sure.

Professor MacRae: Could I start off with a quick response to that before David answers more fully? This is a really important point. Going forward, I would very much like the approvals panel to make a judgment on such a proposition under the heading of “novel and contentious”. That is the judgment that was missing in this case, because if the panel had found this to be a novel and contentious decision, it would have asked the board—but we were not asked, actually—to approve it. We would then have made sure that all the relevant questions about value for money were asked.

I am sorry, David, I interrupted you.

09:15

David Satti: As I was saying, in spring 2021, there was a conversation on personal development and advanced management courses were highlighted as a need. Over the following months, there was a narrowing of the preferred institutions.

In April 2022, the CEO prepared an approval form for the course. I am more than happy to send you that form. It was approved by the CEO, as the Auditor General highlighted when he presented evidence. At the time, there was no group conversation—this relates to Donald MacRae’s point about the approval panel—during which the value-for-money case or the route to market were challenged, or in which the subsequent approvals were discussed and agreed among the decision makers in the organisation. The reason that we have reinstated an approval panel is to ensure that such items of expenditure are subjected to scrutiny.

Colin Beattie: I heard what you said. Clearly, there were many deficiencies in the process—not just with business case, but with the whole approval process.

I will move on, because some of my colleagues will probably pick up on that again. What decision-making and approval processes were carried out in relation to the £100 Christmas gift vouchers for each member of staff, at a total cost of £2,600? That was a taxable benefit that was later picked up by the commission.

David Satti: I am happy to answer that. At the time when the decision was taken to give staff £100 vouchers, the total amount was less than the £10,000 threshold that is in place for an approval form. A purchase order was put in place, and it was signed off by the budget holder and the CEO at the time.

The reinstatement of the approval panel means that such expenditure would now be deemed novel and contentious, even though it was below the £10,000 threshold. Given the point that Audit Scotland made when it presented evidence, the £75 limit for the gift threshold would have required both board and Government approval. The vouchers were not subjected to an approval panel process that was similar to that which took place in relation to the Harvard course but, in future, such expenditure will be subjected to an approval-panel process.

Colin Beattie: I ask that you be clear on one thing: is the information that you are giving us second hand?

David Satti: Yes. I was not part of the discussions about those gifts.

Colin Beattie: Where did the information that you are giving us now come from?

David Satti: It came from preparations from colleagues that were done ahead of today’s meeting.

Colin Beattie: Okay. Is it not a bit unusual for a public body to give staff members Christmas vouchers?

Professor MacRae: I will start off the answer to that. You must remember the situation. We were all operating remotely, and we were still in the process of recovering from the Covid pandemic. That was the context to the decision.

David, do you want to give some more detail?

David Satti: My commitment to you, Mr Beattie, is that we will not give staff any vouchers at Christmas from now on.

Colin Beattie: I was asking whether it is normal to do that. Is there precedent for public bodies giving such vouchers to staff?

The Convener: Maybe the director general could answer that.

Roy Brannen: I cannot say concretely that that is not the case, but it would be unusual for any of the public bodies that I have had dealings with to do so. We could come back to you on that question after we check whether the public-body landscape across the Scottish Government adheres to normal processes in relation to public sector values.

Colin Beattie: It would be interesting to know whether there are other cases in which that has happened.

Roy Brannen: I am not aware of any, no.

Colin Beattie: Do we have any examples of payments being made by the commission that have resulted in personal tax implications?

Professor MacRae: Yes, indeed. David, I think that you have the examples in detail.

David Satti: We undertook a review of our expenses during 2022. As part of the review, we had independent tax experts examine the expenses policy to deem whether any of the items could be seen as a taxable benefit. Certain items were seen in that light, such as the reimbursement of, or contribution to, the cost of personal eye care—glasses, for example. That led to the pay-as-you-earn settlement agreement to proactively disclose that to His Majesty's Revenue and Customs and pay for the tax related to those items.

Colin Beattie: I would have been able to get my specs for free had I worked for the Water Industry Commission during that period. Up to what value would I have been reimbursed?

David Satti: The expenses policy that was in place at the time was to reimburse a proportion of the eye care that staff would pay for.

Colin Beattie: What proportion?

David Satti: I do not wear glasses, so it is not something that I have had reimbursed. I will have to get back to you on the exact allowance.

Colin Beattie: You mentioned that as one example. What other examples do you have? How wide ranging is the reimbursement policy?

David Satti: Other examples include a leaving lunch for a member of staff who departed the organisation. It is items such as that, Mr Beattie. I would not say that it is wide ranging.

Colin Beattie: Will you give us a list of all the items that were subject to that agreement?

David Satti: Yes. I would be more than happy to write to the convener and provide the items that would be deemed potentially taxable.

Colin Beattie: I presume that the personal tax implications arising from that policy were dealt with by the commission.

David Satti: At that point in time, the personal tax was dealt with by the commission but, as part of the work plan that we have put in place, we have made it clear that, going forward, WICS will not pay for any tax or national insurance on such items of expenditure.

Colin Beattie: I am pleased to hear that but, as a Public Audit Committee, we tend to look backwards at what has happened and try to interpret that.

How aware were the board and the audit and risk committee members of the expenditure under that policy? Was there an approval process for individual members of staff? Was that just done at a departmental level? Was there some sort of human resources committee that looked at those personal items? How was that handled?

Professor MacRae: Is that question about the particular case of glasses?

Colin Beattie: It is about anything that raised a personal tax implication or was a benefit to staff that is perhaps out of line with what other public bodies do.

Professor MacRae: Perhaps David Satti can answer that question, and Robin McGill might want to come in.

David Satti: On the process, when we undertook the review of expenses, as an example, it was presented to the audit and risk committee. That committee approves it and recommends it to the board.

Colin Beattie: Each individual transaction or the policy?

David Satti: The policy itself.

Colin Beattie: Who approves the actual items?

David Satti: That would be a managerial decision, provided that the transaction adheres to the policy.

Colin Beattie: So powers were delegated down to whatever managerial level it came to, and those managers made the decision that the staff member qualified, but there was no consideration of tax implications at that point. Is that correct?

David Satti: At that point, it was delegated to the manager and, provided that it adhered to the policy, the manager approved it.

Colin Beattie: If the audit and risk committee laid down the policy, how aware was the board of it?

Professor MacRae: I suggest that Robin McGill, who is the chair of the audit and risk committee, should address that issue.

Robin McGill (Water Industry Commission for Scotland): I will link that back to something that Donald MacRae said earlier. The CEO at the time took the view, which we shared, that it was very hard to recruit talented staff, so there was a feeling that we needed to have a package of measures to retain the staff that we had. That sat within a general view that we had, which was that that sounded like a good thing, as opposed to the cost of recruiting and turning over staff. That was the background.

The change in policy came to the audit and risk committee for review. We reviewed the policy, but we did not review individual items or approve invoices. That was done further down the line, through budget centres. The general policy, with certain items in it, was deemed to be a good idea as part of an overall staff retention policy. We are changing our minds about that now, but that is for the future.

Colin Beattie: How was the board apprised of that?

Robin McGill: I am not sure. We would recommend to the board that we were content with a suite of policies that had been changed and that the board should review them. We did not see anything that would have caused us to tell the board not to approve the policies.

Colin Beattie: In that case, the board approved the policies and the package of measures.

Professor MacRae: As chair of the board, I will answer that. We had reports from the audit and risk committee at regular intervals throughout the year. The policy on that issue would have been among the reports that came to the board. The board was reassured by the audit and risk committee's report.

Colin Beattie: Would the board have approved that policy?

Professor MacRae: The board did approve the policy.

The Convener: I think that Graham Simpson has some more questions in line with that.

Graham Simpson (Central Scotland) (Con): I will turn to Mr Brannen first. Mr Beattie asked about taxable benefits, and we heard that commission staff were able to claim for glasses, for example. Do such benefits exist in the rest of the Scottish Government?

Roy Brannen: I have been trying to recollect that. I will need to come back to the committee, but I think that there is something about reasonable adjustments in order to be able to work. I seem to remember that there was a case for providing eye tests, but I would need to check and get back to the committee on exactly what the policy is in the Scottish Government on such issues. I do not have that to hand.

Graham Simpson: Can you get that for us?

Roy Brannen: Yes.

Graham Simpson: That might involve more than just eye tests; there might be other benefits.

Roy Brannen: Professional fees, for instance, are paid for in some circumstances. That is set down in policy. There are quite clear policies in the Scottish public finance manual and more generally across human resources on employee benefits and things that can be claimed. That is all pretty evident, and that information can be sent to the committee if necessary.

Graham Simpson: You said earlier that you were not sure whether any other part of Government gave Christmas gifts to staff.

Roy Brannen: That is certainly not something that I have come across, but it is a wide public body sector. I have 28 public bodies under me, and I cannot sit here today and say categorically that that has not happened. I know that, in the UK Government, for instance, there is a system in which individuals can get rewards if their team has performed particularly well on a task. There may be examples elsewhere, but I cannot say for certain.

Graham Simpson: Will you go away and check whether that applies to all the people who work underneath you?

Roy Brannen: I will endeavour to get an answer to that in summary form, if I can, regarding the public bodies that I am aware of.

Graham Simpson: Okay. I want to go back to the Harvard trip, Mr Rathjen. Have I pronounced your name correctly?

Jon Rathjen: Yes.

Graham Simpson: We have a couple of bits of correspondence with your name on them. There is an email from you, dated 3 November 2023, to "Alan"—I assume that that is the former chief executive—in which you wrote about a training course. You said:

> "had I been informed I would have agreed with the approach".

Why would you have agreed with the approach?

09:30

Jon Rathjen: First up, a business case should have come to us ahead of the expenditure being made. We should have had the full facts of the approach and the benefits of the course, and we could have scrutinised that properly. We would certainly have challenged the basis of using a UK provider or an international one.

It is highly unusual to be asked to approve expenditure retrospectively. I have never seen that before or been asked to approve retrospectively. My mindset at the time was clearly that the expenditure had been made. It was revealed in the accounts, so it was a retrospective issue, and that is highly unusual.

The part about agreeing with the approach refers to the single tender, which is why the matter should have come to Government ahead of time. The mistake that was made was that it was assumed to be within the delegated powers of WICS to make the decision based on value for money and so on, and to approve the business case. In fact, because a single tender approach was used, a business case should have been brought to Government for our appraisal. My approval was essentially based on the fact that the money had been spent, so there was no material benefit, at that point, in challenging it.

Graham Simpson: You could have challenged it. You could have pushed back and said that the decision was inappropriate and cost far too much money. Part of the approach, which was revealed in another email to you, was that the chief operating officer who went to Harvard identified Harvard as her preferred option. She got to pick where she went. That is part of the approach that you have just said is okay, but it is not okay, is it?

Jon Rathjen: No. I was assured by the CEO that the course best met the needs of the individual. He also assured me that the costs were comparable with those of other providers. In retrospect, it was an error of judgment not to have pressed for more information on those points. To repeat, I was asked to respond retrospectively to the event, and we had no material way of changing the outcome. That is a highly unusual place to be.

Roy Brannen: I can build on that point and on something that I said right at the start. From what I can see, there was a failure in the policies and their application. The framework was pretty clear about the responsibilities of the board, the chair, the chief executive and the sponsored team. In this case, the delegated authorities were breached and the proper process was not followed. As Jon Rathjen has said, it was a bad error of judgment not to have continued to challenge the decision at the time, but it was beyond the point of our being able to influence it. The course happened at the start of the year, and the first that Jon Rathjen was made aware of it was when the matter came forward in the section 22 report.

The bit that I am encouraged about, and which Donald MacRae and the team are taking forward, is the immediate action plan on the back of the issues raised by Audit Scotland, to address matters of governance, policies, procedures and reporting. That is the really important thing. I want to get WICS back to being a really well-governed public body. That is the important thing for me.

Graham Simpson: Mr Rathjen, you accept that you should have pushed back. You should have said, “This was unacceptable,” but you did not. That is fine: you admit that there was an error. To me, that is part of the culture that existed at the time: nobody was saying, “This is wrong.” Do you accept that point?

Jon Rathjen: I did push back on the point that the novel and contentious expenditure absolutely should have been brought to our attention. It was not acceptable for that not to have been done, and retrospection was simply not acceptable either. The matter of the gift vouchers was against the framework agreement, so that was clearly unacceptable, too.

I could have pushed back harder, but I did push back. In particular, I highlighted the point about novel and contentious expenditure. The point is that, internally, the culture should have been better in thinking about how such expenditure would be perceived outside the public body. I was trying to make clear that the thought process around novel and contentious expenditure was really the issue. The internal auditor highlighted that and brought it out, and the Auditor General brought it out further. Obviously, however, that was far too late in the process. There should be a proper appraisal of such things, with formal business cases, to really make sure that value for money is key to decision making. We were clear about that.

As I have said, it is highly unusual to have to deal with such things retrospectively. We have not seen that elsewhere.

Graham Simpson: The committee has heard that a number of people in the commission had credit cards that had no limit on spending, apparently. Maybe a number of people still have them. A person could just go out and spend whatever they liked with those cards. Is that still the case?

Professor MacRae: We recognised that some action on cards was required, and we have taken that. However, I point out that senior staff having cards is not unusual and is pretty important, given how we all operate these days. We recognise that our processes, checks and culture have to be correctly aligned in order to ensure proper operation.

David Satti can tell you about the action that we have taken on cards, which will be helpful.

David Satti: I am more than happy to do so.

At the time—this was also highlighted when the Auditor General presented evidence—many of the items of expenditure, including expenses, were incurred on office credit cards. Those cards were issued to the senior leadership, certain members of the operational staff and some of the individuals who were undertaking international consultancy work. Since the Auditor General’s identification of the issues and the work plan that we have put in place, those credit cards have been frozen. Members of staff will incur expenses on their own cards and will be reimbursed only if that expenditure is compliant.

Graham Simpson: Have you got rid of those corporate credit cards? You said that they were “frozen”. Does that mean that you are getting rid of them?

David Satti: They are frozen only because there might still be instances of expenditure on a credit card that is deemed to be appropriate—for example, for the purchase of information technology. If a business case is put forward ex ante and the expenditure is justified, the credit card will be unlocked and the expenditure will be incurred on the card. There are greater controls for the small subset of individuals who can incur items of expenditure on a card.

Roy Brannen: With the sponsor team, David Satti, Donald MacRae and the board, we will look at the policies on credit cards. In the Scottish Government, we have electronic purchasing cards. The policy on those was redone just at the start of the year. There are three separations: card holder, authoriser and card controller. A lot of learning can be done by the public body from what we do in the core Scottish Government before it starts to reintroduce the need for a credit card.

There is an opportunity in the Scottish Government to get a travel and subsistence credit card but, again, there are very strict rules about how that is used and adapted. One clear exclusion on it is a no-drink policy. Again, a lot of learning can be taken before David Satti moves too far forward into the interim position to ensure that the policies are as up to date as possible and in alignment with both the SPFM and Government policy.

Graham Simpson: One problem with the system is that people were able to go out and spend money and were not asked to provide receipts. For example, we heard that the former chief executive went for a meal with a water industry person from New Zealand in October 2022 at the Champany Inn near Linlithgow, and that the total cost for that meal for two was £402.41. I have been struggling to work out how you could arrive at such a figure for two people. Before I get into it, do you know what was eaten or consumed that night?

Professor MacRae: I will commence the answer, and I am sure that David and Robin will supply more details. The meal was at the Champany Inn in Linlithgow. The former chief executive officer attended with a senior official from the New Zealand Government. The meal was paid for by the CEO with a credit card. The payment was subsequently wrongly coded as subsistence when it should have been coded as business development. It was part of our hydro nation strategy, and it was part of a series of contacts with overseas visitors. The New Zealand contact was an instrumental part—although it was not the only instrumental part—of the contact that led to the development of the £1.2 million in income that I referred to earlier.

That said, I completely accept that we did not show value for money in that case. We have changed the rules to make sure that we demonstrate better value for money. The policy for such an event states that such expenditure has to be pre-approved. As you have heard, we have reduced the number of credit cards that are in use, and the meal would now be correctly coded as business development.

I want to make a final point that refers to Mr Simpson’s final point about culture. Having rules is very useful, but having a culture of knowing when to obey the rules is more important. That is where I want to see major change. We have sought to do that by training our senior staff on value for money, and by making sure that that is rolled out to all members of the WICS, so that when they come to look at such a proposition in the future, they will take the view that it is novel and contentious expenditure and seek further approval.

Do you want more detail on the process?

Graham Simpson: Yes. I have been looking at the menu at that fine establishment, and if you picked the most expensive item for starter, main course and dessert, you would get cold-smoked salmon at £12.95 a head, then move on to the chateaubriand, which is £16 per 100g, so if you got the minimum weight of 800g, that would be £128 for two people, then you would move on to a cheese course at £14.50 each. That all adds up to £202.90 for food, so where has the rest of the expenditure come from? Somebody should have queried the bill.

Donald MacRae: I suggest that David should answer first, then I will go to Robin, who actually looked at that expense.

David Satti: As the chair has highlighted, the dinner was attended by the former CEO and a delegate from the New Zealand Government. We were not provided with an itemised receipt of the expenditure, so we have no way of knowing the exact items that were purchased. It was reimbursed on an office credit card.

Those are among the items that we will now not allow. Such items of expenditure will be incurred on personal credit cards and will be reimbursed only if an itemised receipt is provided and is compliant with our policies.

Graham Simpson: It is unbelievable that nobody thought to question that expenditure. Now you would, but nobody at the time thought to question it.

Professor MacRae: Robin McGill will give more detail.

Robin McGill: Mr Simpson, I assure you that I challenged it at the time. I did so in the first instance because it came through coded as subsistence. I said that that was ridiculous, and sent it back and refused to sign it off. I then had a discussion with the CEO about the nature of the meeting and what it was supporting, and I took the view that, in the context of a lucrative business development, although the amount was eye watering, it was a legitimate expense. It absolutely was challenged at the time.

I also took every opportunity to speak to the CEO every time anything like that happened, in order to reinforce the need for itemised receipts, because such things lead you to wonder, as I did, "What on earth did you spend this money on?"

09:45

Graham Simpson: What was the answer, Mr McGill?

Robin McGill: The CEO just said that it was a business expense, that it enabled business and that it was good value for money. That serves to demonstrate where his thinking was. On many occasions, I had to say to him, "You know, it's not all about the bottom right-hand corner on the accounts. You have to be seen to be doing the right thing." Through my ARC meetings, we had regular conversations about public reaction to excessive spend, so there were challenges at the time. There was a lot of pushback, but we kept up that challenge.

Convener, if you will allow me a minute, I will give some context to the whole expenses situation. Audit Scotland did the sampling; since then, we have gone right to the bottom and have been through thousands and thousands of transactions.

We can give you the latest update, if you like. It is slightly different, but it basically says that, of all the expenses that came through, 92.5 per cent were itemised and fully compliant. A lot of people at WICS were doing the right thing—they were having expenses approved and getting the right documentation, which was good. It is worth noting that the monetary value of that 92.5 per cent of transactions was 99 per cent of the total value of transactions that were put through. The transactions that were not compliant in the period amount to about 162, or slightly more, and 58 of them related to non-itemised receipts.

I just want to make the point that a lot of people at WICS were doing the right thing in going about their business, and that only a few people were not doing the right thing. I think that that context might be helpful for the committee.

Graham Simpson: "A few people"? How many?

Robin McGill: If we do an 80-20, it is probably two or three people who account for most of the non-itemised receipts.

Graham Simpson: Two or three people.

Robin McGill: The CEO and a couple of others.

Graham Simpson: Who were the other two?

Robin McGill: There were senior directors who presented expense claim forms without receipts, and we are following those up. However, it is still a very small number. I think that the CEO was accountable for nearly half.

Graham Simpson: Are the other two people still with the organisation?

Robin McGill: They are. I think that it comes down to culture; there is a question about why they were behaving in that way when they knew perfectly well that it was not the right thing to do. Now that the former CEO has departed, I am pleased to say that, in January and February, we had zero non-compliance on expenses in the reports, so I think that the organisation has made a real shift. The action plan that has been delivered has also made a real shift towards a tighter system with no alcohol being reimbursed and pre-approval being sought for anything that is contentious.

There is a lot of tension in terms of approach between running a domestic regulator—a small body—and an international consultancy. We have been trying to fit those into one policy, and it is very hard. Going forward, we will take advice from the support group on how we can do that. Those tensions will continue as we continue to pursue business, so we need clear guidance.

Graham Simpson: I have one final question, convener. I know that I have had quite a long time.

Are you still sending people off to New Zealand? If so, are they flying economy or are they going business class or first class? What did they do before?

Robin McGill: No one ever went first class—

Graham Simpson: Business class?

Robin McGill: The policy currently states that, if the flight is over six hours, you are allowed to book business class. Obviously, going to New Zealand involves a long, long flight.

Graham Simpson: Nice work if you can get it. Thank you, convener.

The Convener: Mr Rathjen, I want to go back to you, because I feel as though you are almost misleading the committee. You said that you believed that it was an error of judgment and that you thought that what was going on was not acceptable, but when I read the email that you sent, I see that you said things like,

> "I am grateful for the opportunity to comment ...On the Christmas gifts I accept this was an oversight and do not think it is proportionate to try and recover the balance ... On the training costs, I rather agree that this is a unique training offering and can see why single tender was your approach ... I would have agreed with the approach ... Due diligence had been carried out".

That does not tell me that you are challenging the decision; it tells me that you are going along with it. You are complicit in what many people who are looking at the matter now would understand to be a waste of public money.

Jon Rathjen: I was saying that I felt that the commission should have come to us with a business case ahead of the expenditure being made. I was concerned that it had not done that. It had not brought that fact to us at a point at which we could have made a material difference to it. I was then given assurance—

The Convener: No—

Jon Rathjen: No—to follow up, I was then given assurance by the CEO that all the due diligence had been done. It was the right thing to do. I am saying that I made an error of judgment: it was an error of judgment to have relied on that assurance at the point when he gave it to me. However, I repeat that I could have made no material difference to the outcome at that stage. The point is that retrospection is the issue.

The Convener: Yes—but even with the benefit of hindsight, you did not challenge the expenditure. In fact, you agreed with it, then, in turn, you authorised the expenditure. It was in your gift to turn it down. That option was open to you, was it not?

Jon Rathjen: I could have rejected the expenditure but, again, it would have made no material difference to have done so. It had already been incurred months beforehand.

The Convener: Okay. Can somebody tell me what this chief operating officer does, and why they need £77,000 worth of training?

Jon Rathjen: That is a matter for the commission.

Professor MacRae: Can I start the answer, in that case, convener? As I explained, there is a policy of offering advanced management training to senior members of staff at WICS, for staff retention reasons and to ensure that we offer an attractive package at all times. Offering such training was part of that policy. I have to say that the policy was enacted through the CEO, who had a preference for North American courses at Massachusetts Institute of Technology, Harvard University and so on. As I am sure you know, convener, Harvard has a particularly high value in the world of education in management and business schools. Having said all that, I think that there was room for a much better business case to have been produced. I would look to do that in the future.

The Convener: You are a very experienced economics professor. The CV for Jo Armstrong, who was on Mr McGill's audit and risk committee, says that she holds two economics degrees and is a business economist. Therefore, you are familiar with the academic landscape. Earlier on, did you say that you were not aware of any of this at the time?

Professor MacRae: The board was not asked to approve the Harvard business training course.

The Convener: Okay.

Professor MacRae: I can categorically state that.

The Convener: Okay.

Professor MacRae: The first that we heard about it was on 2 November, which was well after the course. It had taken place by then.

The Convener: But what is your view of the fact that we have been told that the only institutions that were considered for this course were Harvard, Stanford and Yale?

Professor MacRae: I am sitting not far from an institution that has awarded me two degrees in the past, so it would be wrong of me to criticise any business school that is near at hand. In fact, I was a member of such a business school for a short period.

My main point is that we are not against a policy of providing such a high level of management education, but a robust business case that proves value for money must be produced for it. I cannot say what the board would have said had we been given the choice, but I am pretty certain that we would have asked for a very much more robust business case than the one that I eventually saw.

The Convener: The business case appears to have been written by the person who was benefiting from the course, which is quite extraordinary.

Professor MacRae: Hang on—

The Convener: Can I move on to Mr Brannen? What do we spend on the training of top civil servants in the Scottish Government in that area?

Roy Brannen: I cannot say for certain exactly what scale of courses is available. We use many of the courses that are provided through the Cabinet Office, the infrastructure and projects authority—for major projects and programming—and the Civil Service College.

I cannot comment on the individual or the learning and development gap or say whether that gap was filled by the course, but as the chair did, I would have expected to see a range of offerings that were able to match the gap in development or training that needed to be filled. I could not say for certain that nobody in the Scottish Government has gone through a similar course, but I have not come across that in all my time in the Scottish Government.

The Convener: You "have not come across" it. Okay, that is interesting.

As I understand it, mentoring programmes and such things are part of the fabric of personal development in the civil service. Is that right?

Roy Brannen: Mentoring and coaching are all available to members of the senior civil service—and indeed, to everybody in the civil service—to benefit from, either from their cohort of senior colleagues or from colleagues elsewhere in the UK Government.

The Convener: I presume that those programmes do not cost £77,000.

The final question that I have before I invite Willie Coffey to put some questions to you is about the chief operating officer. She benefited from £77,000 of public expenditure to attend the Harvard business school. I do not know how long the course lasted, but is there any condition on that expenditure that means that the chief operating officer will stay with the organisation for a certain period of time, or could she leave tomorrow?

Professor MacRae: We normally have such conditions. David Satti can give you more detail on that. However, in that case, no conditions were applied that I am aware of.

The Convener: Ooft!

David Satti: The course lasted for slightly under six months. There have been instances in the past of training opportunities of longer duration being subject to a lock-in for staff, which is normally for two years.

The Convener: Maybe that was another facet of the business case that was drawn up by the chief operating officer.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Thank you, convener, and good morning, colleagues.

This meeting is not particularly pleasant. I have been a member of the Parliament—and of the Public Audit Committee, on and off—for 17 years now, and I have to be honest with you and say that this is one of the worst sessions that I have ever participated in.

I have a few questions that I would like to ask Mr Rathjen. On whether the expense was retrospectively approved, you said that, ultimately, it did not make a difference, because it had already been incurred. Why would you do that? Why would you not state your case and say that it was unapproved? You cannot approve something that is clearly not approvable, if you understand my meaning. Why did you not do that? Ultimately, the public would like to know what the difference is between approving something and not approving it. If there is no difference in outcome, what is the point?

Jon Rathjen: Normally, we would get a business case prior to the expenditure—that is the normal way that a novel and contentious expenditure or something beyond the limits in the framework agreement set out for the organisation would come through. In that process, we would absolutely scrutinise the business case, we would go through the value for money aspects, ask questions, press for answers and come to a judgment on the particular expenditure. That would be the proper process and the normal way of doing it.

It is highly unusual to get a retrospective request. Essentially, a retrospective request follows something highlighted in an audit, saying, "This should have been requested, and it was noted to Government." However, when I received the request, I sought the chief executive's assurance about the appropriateness of the spend, and I received that assurance. As I have said, my error of judgment was in accepting that assurance, but my mindset was that it was a done deal and the expenditure was gone. I made the point that it should have come to us, and that the proper process should have been followed. That was my pushback, but no material change could be effected.

Normally, that would absolutely be the sort of thing that we would say no to and push back on. It is a straightforward matter, because it would be very hard for a business case to justify that level of expenditure.

10:00

Willie Coffey: I will come to the audit in a minute, but what would have happened in Government if you had not approved it? Surely there would be a difference between approving it and not approving it.

Kersti Berge (Scottish Government): My understanding is that it would just have been noted, because the expenditure had already been undertaken, but we can check that.

Willie Coffey: So, there would have been no difference.

Jon Rathjen: The point is that it is very unusual for it to be retrospective. I have never seen that in 30-odd years of Government. It is just not something that happens.

Willie Coffey: Turning to the issue of audit, I note that the issue was picked up by an auditor, but I am not sure whether that was an internal or external audit. Can somebody clarify whether an external or internal auditor picked up this issue?

Professor MacRae: I am sorry, but can you clarify which issue you are talking about?

Willie Coffey: The report says that the approval of the £77,000 for the Harvard training course was picked up by "the auditor". Was that an external or an internal auditor?

Professor MacRae: It was external.

Willie Coffey: Why was it not picked up by the internal audit team? Is there an internal audit team?

Robin McGill: There is an internal audit team. The challenge there is that the CEO had chosen to interpret the rules in a way that suggested that he did not need to refer the matter to anyone, to take anyone's advice or to run it by anyone. For the individual concerned, the advanced management programme at Harvard is a very hard course to get into, and the fact that somebody wrote a proposal does not suggest that they were somehow gaming the system. The proposal was put in, and the chief executive officer and accountable officer deemed it appropriate for him to just say yes and put the expense through, which is why internal audit would not have picked it up. It was picked up, largely because it was one of a sequence of things that caused the external auditor concerns about the quality of the chief executive's decision making.

Willie Coffey: Donald, did your organisation know that that type of expenditure had to be approved by the Scottish Government? After all, it was more than £20,000.

Professor MacRae: The rules in operation were that the board was not required to be told about that. The bit that I am really keen on changing—and which now has changed—relates to the approvals panel. If such a proposal comes to the approvals panel—which I should say was not in operation at that particular time—the panel will discuss the proposal and get input from all the other directors to ensure that the chief executive is not influencing that decision almost entirely on his own. That is a crucial change; the approvals panel is in place to stop that sort of thing.

The approvals panel has gone through a series of training courses to enable it to make a decision whether a proposal is novel and contentious. That judgment was wrong in this particular case, because the CEO at that time, if he was very keen on the proposal, should have said, "This is novel and contentious expenditure and I should get the approval of the board and the Scottish Government." That is the bit that was missing and which did not happen. We are working hard to change that.

David Satti, do you want to come in on that?

David Satti: Yes. When that decision was taken, it was not deemed a single tender purchase, because an options appraisal was provided, and therefore the threshold was £100,000 as per the governance framework. However, when Audit Scotland embarked on the audit, it reviewed the appraisal, did not find it sufficiently robust and classified it as a single tender purchase. Therefore, the £20,000 threshold was applicable, which then led to the retrospective approval by the former CEO in November last year.

Willie Coffey: Did declaring it as an options appraisal somehow give some comfort with regard to making that decision and not seeking approval? It is clearly not a tender process—an options appraisal is not a tender process. Who introduced the notion that it was an options appraisal process and therefore did not need Scottish Government approval?

David Satti: That is why I made the point that at the time the group did not discuss looking at the value for money case, the procurement approach or the requisite approvals that followed. Regardless of whether an options appraisal was put forward or whether it was deemed a single tender purchase, it should have been deemed novel and contentious expenditure and therefore put forward for approval to the board and the Government as a matter of course. That brings us back to the organisation's culture, which we are now trying to change.

Willie Coffey: Thank you.

My last question on this is for Roy Brannen. As you know, the committee has over the years engaged on sponsorship issues with regard to the sponsor team, its relationships with public bodies and so on. This hardly stands out as a great example of a successful relationship in that respect, and there are issues that we have come up against time and again. What would you say to the committee and to the public about the nature of that relationship, particularly between you and the body in question? What lessons are being learned about how things have to improve in the future, so that we as an audit committee are not continuing to pick out these problems year after year?

Roy Brannen: First, I agree that it is unacceptable to be sitting here with a public body that has not complied with the policies set down in the framework document. Donald MacRae and David Satti have done their best to set out why that has occurred—it is the result of the former chief executive not complying with those policies.

As for my own perspective, perhaps I can set out the timeline first of all. The first that I was made aware of the matter was when Audit Scotland approached me for a quiet word about the section 22 report that was about to come forward. It then went through the report in a bit more detail. Once those issues were surfaced, I spoke to Kersti Berge and Jon Rathjen, and we immediately moved to speak to Donald MacRae on the eleventh of the month. I conveyed my severe concern over what had arisen out of the audit, on which the sponsor team was unsighted—it found out at the same time that the section 22 report came forward.

On looking back at what more could have been done through the sponsor relationship, I would have thought that the commission would have been, out of all my bodies, the one to operate in a highly efficient way. Clearly, however, that was not the case, and we have been talking about the things that we are now trying to put right to help Donald MacRae and the team get back to that position.

There was regular engagement from Jon Rathjen, supported by Kersti Berge as director responsible for the body, on the policy regulation element of the work of the board. Previous accounts had not indicated any issues with the board—that is not a defence, but a matter of fact—and I think that there was more attention on the commission's operation as a technical and efficient regulator, rather than on its inner workings.

For instance, we would not normally get sight of expenses within a public body, and we would not normally be party to the policies set up on such things as travel. Those are matters for the board, as is set down in the framework agreement, which is very clear on what the responsibilities are—they are linked to the SPFM—and very clear on the responsibilities in my role as portfolio accountable officer and the chief executive in their role as accountable officer. In this case, clearly, there was a derogation of those duties in terms of that accountable officer's responsibilities. As we move forward, the key thing for us is to re-establish the trust of this committee and others in the board's workings and in how we, as the sponsor team—that is, Kersti, Jon and the wider team—start to work with the board on improvements.

I will just say two more things. First, in the discussion that I had with Donald MacRae in November, I said to him that I would undertake an independent review of governance, and the procurement of somebody to undertake that review is being worked through just now on our side. We will also look at sponsorship in order to strengthen that role as much as we can, and the public bodies support unit will provide a dedicated piece of work to David Satti and the team to try to improve governance.

Since the meeting on the eleventh, we have had a monthly meeting with Donald, Kersti and the team, to go through the action plan. Twenty-four of its 27 actions are now complete, which is good, but there is more work to do. Making culture change happen in order to get things back on to an even footing will take real hard graft from the chair, the board and the chief executive.

More widely, the DG is responsible for quite a big portfolio and a number of public bodies. On the back of the Ryan review, which you probably know about from what the permanent secretary has said previously, we undertook a couple of new initiatives to make sure that we as accountable officers got assurance on all our public bodies. For instance, we were one of two DGs to trial having our lead directors give a red, amber or green rating on a range of questions that reported on the state of the public body and to give an idea of where things were running appropriately. That document is discussed with DG assurance and at the quarterly meetings that I hold with all our directors as well as with internal and external audit. We review that regularly, as do the directors. On the day that Audit Scotland told me about the section 22 report, I immediately put that information out to all directors in the portfolio, with a clear message that they must ensure that frameworks were regularly reviewed in accordance with the guidance and that they had regular engagement with their chairs and chief executives.

It is difficult for me to meet everyone. I try to do that on a cycle and have a formal programme of cyclic engagement. I do that where I can, to tie in with the work being done by Kersti Berge and Jon Rathjen. The framework agreement sets out pretty clearly that delegated engagement with the board is through Kersti, Jon and the sponsor team.

I reinforced that on 20 December. Since then, I have six times this year brought up at senior management team meetings the importance of ensuring that public body sponsorship works properly. Really good guidance is available from the public bodies unit and is cascaded through teams to ensure that they are following best practice and are helping our public bodies to be highly efficient and operate well.

It all comes back to the clearly set out responsibilities in the framework agreement for the chair, the board, the chief executive and the sponsor team. It would be inappropriate for us to get into all the work of the board, because it has been set up in law as a non-departmental public board, with particular responsibilities.

Willie Coffey: I really appreciate all of that, but are you saying that what happened cannot happen again? There should be no need for a quiet word from the Auditor General before the sponsor team becomes aware that something has happened. There must be some sort of earlier, better and quicker engagement to stop such a problem arising. Internal audit did not fail: instead, it was ignored, because of the circumstances that your colleagues have described. You were not aware of that until the tail end, and that must change. The sponsorship relationship should be closer and more engaged in whatever way is necessary.

Roy Brannen: I will bring in Kersti Berge to talk about that, but what you have said is absolutely the case. Issues have to be surfaced and brought to the attention of the sponsor body—and there was regular engagement with Jon Rathjen and the organisation—but it is difficult for the sponsor body to get to that level of detail. The key thing is to learn lessons that will help our sponsor teams ask difficult and challenging questions so that they—and, in turn, I—can be assured that we are doing everything possible to ensure that the board, the chair and the chief executive are complying with what is written down in the framework and the SPFM.

Kersti Berge: Maybe I can add—

The Convener: I am sorry to interrupt, but we are really running against the clock and the deputy convener has some questions to ask. I am going to bring him in now. If you get the opportunity, Kersti, you can respond to Jamie Greene's questions.

Jamie Greene (West Scotland) (Con): Some of my questions may give you the opportunity to say what you were about to say, Kersti.

Before we look at wider issues with other public bodies, I will start with the issue of WICS itself. I am new to the committee and did not attend the previous meeting, although I watched the footage. I thought that that was uncomfortable, but this is 10 times worse.

I am hearing about a wide range of issues. People who worked in the organisation got a number of what you might call perks in working practices, including free personal eye care, boozy lunches, retail vouchers, expensive training courses at Harvard, business class flights and so on. None of that would really ring any alarm bells for anyone who has worked in the private sector, where that is all quite common practice and is how businesses work. However, WICS is not in the private sector. It seems to me that there is a private sector culture of spending profits and shareholders' money, but it is in the public sector.

Has the organisation been run like a business in the private sector instead of like a body in the public sector?

10:15

Professor MacRae: The Water Industry Commission for Scotland is indeed a public body, but it is quite different from other public bodies in that it generates 22 per cent of its income from international consultancy. That is a grey area, and I feel strongly about that. We are charged with developing an income from international consultancy, which means that we have to invest, and that means sending people abroad to attend conferences, give papers and build up the reputation of WICS, which has been done. I can tell you that WICS enjoys an excellent reputation. We are continually asked to host visiting delegations from other countries to see how we do it. I am proud to say that Scotland's water and the way in which it is regulated have an excellent reputation. That is what people come to see, and then they often ask us to take part in consultancy.

If you recognise that we have an objective to develop international income to supplement that which we receive as a levy from Scottish Water—and it is quite substantial—you have to recognise that that means undertaking activities that you would not normally expect a public body to undertake.

I am going to ask for further clarification from the Scottish Government on what is appropriate for a public body that is tasked with developing external income. On one day, staff are asked to behave in a certain way with a potential customer with a lucrative contract that might lead to extensive income, and the next day they are asked to adopt a very low-cost event on domestic regulation. Frankly, that is not easy to do.

We have started a degree of accounting segregation of those activities, and Robin McGill can give you more detail on that. We have had discussions about how we should proceed, even to the point of considering setting up a different legal entity that might be responsible for international income.

That issue is still there, and it is a grey area. I welcome further clarification from our colleagues in the sponsor team on it. I look forward to that.

Jamie Greene: I have a lot of questions, so I will rattle through rather than ask the whole panel to respond. I ask for brief responses.

That is a valid conversation. The reason why I raised the issue is that those of us sitting round the table, and the public who are watching, are absolutely right to be outraged by £400 boozy lunches and people flying first class for training courses.

Professor MacRae: They were never first class.

Jamie Greene: Well, business class—£5,000 to fly to Boston is quite a lot of money, I would say. However, that is by the by. My wider point is that there is a clear inherent conflict of interest between the work that people are doing on the ground and them forgetting that the cards that they are using are using public money. That is where some conflicts have to be resolved.

Having listened to the evidence, I have a wider issue. I read the commission's annual report—all 75 pages of it—and, on page 30, it states, in black and white, that

"There have been no governance issues identified during the year that are significant in relation to our overall governance framework."

If that was the case, why did the Auditor General say:

"The Commission demonstrated poor governance over the approval of expenditure, including insufficient engagement with its Scottish Government sponsor division"?

As we have heard, there was a wide-ranging Pandora's box of failures in governance.

My problem is that the report says that there were no issues with your internal audit processes, and indeed, your external audit processes—bearing in mind that you pay quite a lot of money to Grant Thornton UK LLP to do some of that work, which begs the question of what role it had in all this—but Audit Scotland and the Auditor General stepped in to say, "Hold on, something smells wrong." What went so catastrophically wrong for the board to have missed all those governance issues?

Professor MacRae: On the overall financial management of WICS, we have a budget that is approved by Scottish Government and by the board. We have regular financial reports and regular audit committee reports to the board. We also have external audits, and internal audit contributes to the ARC. I note that the accounts have not been qualified—ever—including in the last year, on which the Auditor General has reported. No issues have been found in all the 24 years of WICS.

We are agreed, of course, that we did not sufficiently demonstrate value for money—

Jamie Greene: But that is one of the four key accountability metrics that you as a board have to sign off. You signed off all four of them. Value for money is one, but there are others, including effective and robust internal controls and high standards of propriety in behaviour—there is a whole list of things that you have to sign off in the annual report. You signed them off and it is there in black and white. It says:

"There have been no governance issues identified".

If there were no issues, why did the Auditor General produce a section 22 report that said that there were issues? What did you—

Professor MacRae: Well, value for money—

Jamie Greene: Either you knew that there were issues but said that there were not any in the report, in which case the report was false, or you missed all those issues and, if that is the case, how could you have missed them when Audit Scotland found them?

Professor MacRae: I will start with value for money. In each of its four strategic review periods, WICS has paid some money back to Scottish Water. The most recent payment, which was £1.5 million, was in 2020. Our costs per household are about the same as those of the Water Services Regulation Authority, and we compare well on staff costs, which are lower, so I suggest that, overall—I said overall—our value for money is good. The cost of WICS—

Jamie Greene: Yes, but my question is not about any of that. My question is about your role and the role of the gentleman sitting to your right and the fact that, as two members of the board, you failed to identify any of the corporate governance issues in your annual report. Why?

Professor MacRae: A report came to the audit and risk committee, which then came to the board in 2023, that highlighted a pilot of a new expenses policy that had been in place for six months. The report said that there was nothing to report—that it was going well. I will hand over to Robin McGill to answer the question on the expenses policy but, if I may, I will just finish my last point, which is that our expenses are, in total, 3.1 per cent lower than they were five years ago. That is my argument about value for money.

I know that Robin wants to talk about the expenses.

Robin McGill: We are in danger of conflating two issues. First, there is audit, which, as the Auditor General said in the previous evidence session, is a sampling process. It is risk based. The audit and risk committee applies similar processes. We look for where we think the big issues are, and I come back to the fact that 99 per cent of our expenses were done properly.

We were aware of the tensions and the difficulties of managing the expenses. As Donald MacRae has highlighted, two very different businesses were sharing the same house and the same set of accounts. That has been a live issue; it has been discussed at the board for years. We have been asking whether we should separate, whether we should do something different, how we can keep those apart and not allow one to cross-contaminate or subsidise the other. Those have been live debates and we have very much been working on those issues.

Therefore, with regard to the audits that were done, subject to the sampling, the materiality thresholds did not pick up the issues. The board was completely unsighted with regard to several of the big issues that caused the auditor to be concerned about culture. You have heard us talk about that at length. Therefore, it is a very unusual situation—

Jamie Greene: You held 10 meetings in the year that I referred to—five formal and five informal. Are you saying that no issues of culture around senior directors and the chief executive arose in those meetings?

Robin McGill: There were not issues around policy. The issues that we identified in ARC, to speak about my committee—the board was aware—were issues with compliance with policies. The approach that we were taking was, on a risk basis, to continue to tighten the policy as we went forward and to continue our scrutiny. We introduced a non-compliance report to highlight areas and to reinforce, every time that we could, how people should behave.

If people choose to go outside and do things away from the sight of the board and not bring them back to the board or the audit and risk committee, it is difficult to do risk-based sampling. The audit and risk committee meets four times a year and has a broad remit, so we have only so many hours. That is what we do, and we did our best. Those comments are reflected in the report.

With regard to the other things that were happening off to the side and under the table—yes, it took an audit to find them, and we rely on audit to give us feedback. I thank the external audit for unearthing those things, joining up some dots and saying, “You’ve got a major issue here—a lot bigger than you thought you had.”

Jamie Greene: It sounds as if you have work to do on your internal audit, though. If the issue was picked up only by the external audit, surely you need to have a conversation with your internal auditors.

Robin McGill: That is correct. Based on the policies, the governance framework and the interpretation of what I need to do to get that approved by the CEO, none of those issues flagged up. Internal audit would not have picked up those issues because they did not flag up properly. Therefore, yes—we have got work to do.

Since that happened, we have refocused the internal audit to really focus on processes, procurement processes, control and finance, so we will be well prepared for the governance review and any other review, because we have been digging into that ever since the middle of November.

Jamie Greene: I appreciate that time is against us, and I have a specific question. A lot of the conversation today has been about the former chief executive who resigned. It is easy to make a scapegoat of individuals, when there are wider systemic issues, especially if they are not here to defend themselves. Given the issues, he clearly did not resign with a heap of glory, but did he receive any financial settlement on his resignation? If so, how much?

Professor MacRae: The board had asked the CEO and the executive for a detailed response to the section 22 report, and we were still considering that response when the CEO tendered his resignation, which he said was for personal reasons. He had set up WICS; he had been there for 24 years; and he said that he had come to the end of what he thought he could do for WICS. The board decided to accept his resignation. His contract required him to give six months’ notice; we agreed that we would honour that, and he resigned on 31 December.

Jamie Greene: Was there any financial payment?

Professor MacRae: He was given exactly what he was due legally.

The Convener: Do you mean six months’ pay?

Professor MacRae: Six months’ salary.

The Convener: Wow.

Jamie Greene: He was not under investigation, but he was clearly under a lot of pressure to respond to a very serious allegation by Audit Scotland about corporate governance. While that process was going on, and you were, I presume, waiting on a response, he handed in his notice. He was required to give you six months’ notice so, rather than have him hanging around for six months, was he allowed to leave with immediate effect and a six-month pay-off?

Professor MacRae: It was not a pay-off. The CEO’s contract required him to give six months’ notice. That would have had him working as CEO for six months until June of this year and being paid for six months, and he was legally due that. Instead, the board agreed to pay him six months’ salary in lieu of notice, provided that he departed at the end of December. We took extensive legal advice and gained approval from the sponsor team for that approach.

Jamie Greene: Why did you not make him work his six months?

Professor MacRae: Well—

Jamie Greene: Why has the public funded him to go off and do something else for six months?

Professor MacRae: We wanted him to depart at the end of December to allow the board and WICS to quickly refocus on value for money; to produce an action plan, which has been referred to, in response to the section 22 report; to start the process of appointing both an interim and a permanent CEO; and to change the culture.

Jamie Greene: Mr Brannen, I have one final question, which is about a real cause of concern to me. What we have heard today has uncovered quite serious issues in a public body. You said that you are responsible for 28 other public bodies within your directorate. You talked about a new and very welcome process of red, amber and green ratings to identify bodies that may not be fulfilling their obligations. Would you be willing to publish that, in the interests of transparency, so that the public can see where any areas of concern are?

Do you personally have concerns about any of the other agencies that are under your control? There may be similar issues that we have not discovered because Audit Scotland does not have enough time, or a big enough team, to do a root and branch review of every public body, but I would hate to think that what we have seen at WICS might be happening elsewhere and that we would not know about that.

10:30

Roy Brannen: I will have to take your first question to the corporate team, because the rating is done across the whole Scottish Government and all DGs follow that process. I will take that away to the DG corporate and the permanent secretary.

On your second point, the sponsor teams work to different degrees across different elements. For example, the environment and forestry directorate was one of the first to do a stress test, which it did with NatureScot. For a two-to-three-year period, in a safe environment, governance relationships and approaches are taken forward. There is a willingness to ensure that we use best practice across the Scottish Government and roll that out to other teams.

I cannot sit here today and say categorically that no other governance issue will arise, although I would like to hope not. My approach is certainly to ensure that I, the sponsor teams and the directors responsible for looking after those teams fundamentally understand what is required of them by the frameworks that are in place and that they understand their duties to this committee, Parliament and the wider public.

I want to ensure that those boards are operating as efficiently and effectively as possible, which, by and large, they do. Some of the larger boards, such as those of NatureScot and the Scottish Environment Protection Agency, take a very good approach to governance. I am sure that the auditor general will attest to that for the bodies that he audits.

It is uncomfortable to have to sit here today and it is unacceptable to have ended up in this position, but I think that the work that I now have in place to support David Satti, Donald MacRae and the board and to get them back to a really good governance position should mean that, the next time you want to see us, we will be in a better position regarding the issues that have been raised.

Jamie Greene: I hope so.

The Convener: We are out of time, so I am going to wrap up this session and thank everyone for their evidence this morning.

You have given us quite a lot to think about, and I have one very quick final question. What is the value of six months' salary for the chief executive who was paid off at the end of December?

Professor MacRae: Rather than having me give you a figure that is not exact, can you allow me to give you that figure in writing?

The Convener: I would rather the figure was accurate, so I am happy for that to be the case.

I thank the witnesses for their time. I will suspend the meeting to allow for a changeover of witnesses.

10:33

Meeting suspended.

10:36

On resuming—

Section 23 Report: "NHS in Scotland 2023"

The Convener: I welcome everyone back to the meeting for consideration of agenda item 3, which is on the section 23 report on the national health service in Scotland in 2023. I welcome our witnesses for this evidence session. We are joined by the Auditor General for Scotland, Stephen Boyle. Good morning, Auditor General. The audit director, Cornilius Chikwama, is back with us for this session. You are very welcome, Cornilius—good morning. Leigh Johnston, a senior manager at Audit Scotland, is also joining us, as is Martin McLauchlan, who is an audit manager at Audit Scotland.

We are a little bit up against the clock this morning, Auditor General, but, before we get to our questions, I invite you to make an opening statement.

Stephen Boyle (Auditor General for Scotland): Many thanks, convener, and good morning, committee.

I am pleased to bring you my latest annual report on the NHS in Scotland. My previous reports on the NHS have largely focused on the immediate response to the Covid-19 pandemic and then on plans to move from response to recovery. The report before you takes a longer-term view, however, and reflects the need for significant service transformation to ensure the sustainability of Scotland's health services.

Health continues to be the single largest area of Scottish Government spending, accounting for around 40 per cent of the Scottish budget. Rising demand, operational challenges and growing costs have added to the financial pressures on the NHS and, without reform, may affect its longer-term affordability. If the situation continues unchecked, there is a risk that Scotland's NHS will take up an ever-growing share of the Scottish budget, resulting in less money for other vital public services.

In 2022-23, health boards saw the end of Covid-19-specific funding, but some associated costs continued. At the same time, general inflationary pressures, increasing utility prices and higher-than-expected pay deal prices significantly increased NHS spending. All boards met financial break-even targets in year, but more than a third of territorial boards needed financial support from the Scottish Government to do so. Seven boards failed to deliver planned efficiency savings and, overall, the NHS remains reliant on one-off savings. Even if ambitious future savings targets are achieved, boards are likely to require further financial support.

In addition to financial pressures, operational performance continues to be challenged. Services are yet to operate in the way they did before Covid. Activity in secondary care has increased but is outpaced by growing demand. There has been some progress in reducing the longest waiting times, but key waiting time standards are not yet being met, and overall waiting lists continue to grow, with new patients being added more quickly than existing patients are being seen.

The NHS workforce is its single biggest and most important resource. Staff are reporting that they are under significant pressure and face sustained challenges. Vacancies continue to be unfilled, and staff turnover and absence rates are increasing. More bank and agency staff are being used to cover those vacancies. In particular, the costs of agency staff increased by more than 25 per cent in the financial year in question. Operational performance and workforce challenges are having an impact on patient safety and experience. Concerns have been raised in relation to overcrowding, staff wellbeing and the continuing use of bank and agency staff.

Financial and operational pressures have contributed to the NHS struggling to implement elements of its 2021 to 2026 recovery plan, including the longer-term reforms that are required. The national policy context in which the NHS operates is complex, and we set out much of that in our report.

There are a range of strategies, plans and policies in place, but there is no single overall vision for how health services will look in future. The absence of that direction is hindering boards' ability to plan and deliver reform at the scale, pace and ambition that is required. To deliver effective reform, the Scottish Government needs to lead on the development of a clear national strategy for health and social care. It should include investment in measures that address the causes of ill health in order to reduce the longer-term growth of demand for healthcare, and it should put patients at the centre of those future services.

As ever, we will do our utmost to answer the committee's questions.

The Convener: I am going to kick off with a question that relates to the last point that you made, which was your critique that there is not really a long-term national vision for the national health service in Scotland. We have a new Cabinet Secretary for NHS Recovery, Health and Social Care in post. It is not your job to advise Government ministers what to do, but in the context of the job that you do have, what do you think the benefits would be of there being a clear national vision for the national health service? What effect would that have on the ability of boards to deliver the services that we need them to deliver?

Stephen Boyle: For the record, my role clearly excludes me from commenting on the merits of policy that is in place, but we make recommendations on financial sustainability, delivering value for money and improving performance of public services. That assessment lies at the heart of today's report. There are many policies, plans and strategies—we set out some of the timeline of the past 20 years in part 3 of our report—but there is no overarching vision.

We believe that such a vision is so necessary because of the pressure and challenge that health and social care services in Scotland are experiencing, as we set out in the report, and as many other organisations have commented on. Our assessment is that we are unlikely to see a significant departure from our current circumstances in the medium term if we do not have a longer-term vision of how Scotland's people will remain fit and healthy for as long as possible. Investment in preventative measures, at the expense of the investment that we are making in secondary, reactive and acute settings, can move us away from what seems to be a very challenging context for the delivery of health services to one that is sustainable and affordable.

I will end on a financial note. We continue to see this in our work, which draws on the work of others, notably the Scottish Fiscal Commission. It forecasts that, without change, in the years to come, approaching 50 per cent—we are currently at 40 per cent—of the Scottish budget will be consumed by health spending, which will mean less money for other vital public services. That need and the case for reform applies not only to health and social care settings but much more widely, in my view.

The Convener: Thank you for painting that bigger picture. That is a useful way to start the evidence session. I invite Graham Simpson to put to you some questions that follow on from that starting point.

Graham Simpson: I am aware of the time constraints, so I promise to be brief. Auditor General, your report provides a summary of progress by the Scottish Government against the recommendations in your 2022 report. You have made a third of the recommendations in that report again, so to what extent are you satisfied with the progress that has been made?

Stephen Boyle: We think that there is more to do in setting out clearly the progress that has been made against the NHS recovery plan. That can be measured and reported. There is a clear trajectory from the actions and intentions of the recovery plan through to what was delivered.

I will pass to Leigh Johnston in a minute. It would be helpful for me to set out for the committee our assessment of a range of measures and statements, but it is quite hard to track from the recovery plan to what is actually being delivered, hence why we repeat the recommendation from last year's report in today's report.

10:45

Leigh Johnston (Audit Scotland): We made that recommendation last year and, again, we call for greater transparency. The progress report on the recovery plan was published this year and, yet again, it is very difficult to track the progress that is being made on some of the commitments and the ambitions that are set out in the recovery plan.

For example, there is no mention of the progress that is being made towards additional capacity. The work on the national treatment centres is being paused. That was one of the key things that was going to offer the additional capacity in the system, and there is no mention of the delays to the NTCs in the progress update to the recovery plan.

There are other areas, such as the number of people who are self-presenting to urgent care services. Again, that is not being tracked in the recovery plan. Although different things have been done to try to improve cancer care, for example, the only reference in the median waiting times is against one of the cancer waiting time standards. There is no mention in the progress update of the poor performance with regard to cancer waiting times. Therefore, yes, we think that it would help to have more transparency on the progress of the commitments and ambitions that are set out in the recovery plan.

Graham Simpson: That is very interesting. Does it come back to the committee's recurring theme about the lack of data?

Stephen Boyle: You are right, Mr Simpson. A feature of many audit reports has been the need for better data and to really plan for outcomes. An Audit Scotland report from a number of years ago said that, when publishing strategies or plans, public bodies—and absolutely the Scottish Government—should know how they intend to measure, track and then report. Therefore, there is a very clear issue here, and I refer the committee back to the evidence, and the committee's own reporting, on adult mental health arrangements in Scotland, because there was a very strong theme in that that, although data exists in a stronger context in acute and secondary settings, there are still data gaps in primary care. Therefore, yes, there is much work to do on that.

Graham Simpson: It seems ridiculous that we want to see progress but that, as Leigh Johnston said, it is difficult to track it. That is an absurd situation. I am not asking you to respond to that; that is my view: it is absurd.

I will ask you about something else. This came up when we were questioning NHS Forth Valley health board. It has had its problems, but it broke even because it received extra money from the Government. In effect, it was bailed out. That has happened to other boards. Therefore, all the boards have broken even but some of them have had extra money. As you said, Auditor General, there is an overreliance, as we saw with Forth Valley, on non-recurring savings. Do we have a situation that is not sustainable?

Stephen Boyle: I will ask Martin McLauchlan to come in to set out in more detail what we set out in the report. However, to address your question directly, yes, that is our belief. In its current guise, the system is unsustainable.

Context is everything. During the pandemic, as the committee might recall, individual boards were supported. We did not see any experience of brokerage—the term that the Scottish Government used for providing financial support. As we have come out of that period, we have got back into a cycle that we perhaps remember from before the pandemic of individual boards experiencing financial challenges and, as they move towards the year end, engaging with the Scottish Government with regard to the fact that they are not going to be able to break even, and then a range of individual tailored financial support is provided.

You mentioned Forth Valley. However, as I mentioned in my introductory remarks, five out of the 14 territorial health boards required brokerage—financial support—to break even. Mr Simpson, you also looked to the wider context, which Martin can elaborate on, of the fact that non-recurring savings remain the vehicle through which health boards deliver their financial targets. That is not about the more fundamental aspect of system change, evolution and a longer term plan but moving from one challenging financial year to another. I will bring Martin in to elaborate on that.

Martin McLauchlan (Audit Scotland): Good morning. It is fair to say, and the Scottish Government and individual boards accept, that the financial challenges are stark. In 2022-23 we saw a reintroduction of brokerage arrangements. The rationale for setting out the financial support arrangements that the Scottish Government has introduced is to attempt to address such challenges. Under the previous regime, historic issues around brokerage would have led to formal escalation. The situation is now at a point where escalation would perhaps not be by exception, so the support framework aims to address that.

On reliance on non-recurring savings, a 3 per cent baseline revenue resource limit recurring savings target is now in place for boards. You will see from exhibit 3 that the achievement of savings in 2022-23 proved to be difficult. Without pre-empting what will come from the current financial year, which we are almost at the end of, and the new financial plans that will be submitted, you will see from exhibit 4 that, even if the savings were made, and the forecast savings were reliant on non-recurrent measures, there was still a residual deficit that had to be addressed.

Graham Simpson: I will be brief, because I know that other members will want to come in, but I have a final question. Did your report look at general practice?

Stephen Boyle: Fundamentally, no. We have not made an assessment of general practice in this audit. However, as our report mentions, it is my intention to do a wider, specific audit of primary care services in Scotland, which we will undertake in the course of 2024, with a reporting date to be confirmed.

I highlight, for the committee's interest, that the Accounts Commission for Scotland, which oversees local government services, of which integration joint boards are part, will publish a performance and financial overview of IJBs in the coming months. However, general practitioners will be covered in my audit of primary care services.

The Convener: The next questions come from Colin Beattie.

Colin Beattie: My first question is about staffing. Paragraph 25 of your report, on page 14, refers to the commitment to increase the NHS workforce by 1 per cent over the next five years, which equates to 1,800 whole-time equivalents. The NHS already has a record number of staff, although there are still many vacancies. The 1 per cent commitment does not take into account any reduction in WTE hours as the NHS comes down to a 35-hour week. Should it be reviewed in the light of those factors?

Stephen Boyle: Ultimately, decisions about the size and structure of the NHS and the number of workers are policy decisions for ministers. As we note in that paragraph and the preceding one, the number of workers in the NHS—whether WTE or actual—is increasing, but although the NHS is experiencing record cash funding levels and a commitment has been made to provide extra staff, demand is also increasing. In addition, there are wider pressures on Scotland's workforce, which we are reporting on.

If I may, I will address the point that the number of working hours will be a factor. My colleagues might want to come in on that, too. In the past few weeks, the NHS has moved from a working week of 37.5 hours to one of 37 hours, with the direction of travel being towards a 36-hour week in due course.

More widely—as the paragraph to which you referred mentions—the aim is to establish a 35-hour week, which is consistent with the fair work agenda and the public sector pay policy, which sets out the Scottish Government's ambition to move all public bodies and their staff to a 35-hour week. That will have a bearing on finances, productivity and outputs, so the Scottish Government will have to manage significant complexity if it is to deliver that level of growth in the workforce and the changes that underpin it through working hours.

Colin Beattie: Is the 1 per cent that is referred to entirely arbitrary, or is it based on need?

Stephen Boyle: Leigh Johnston might want to say more about how that will be delivered through an effective and clear workforce strategy. Our report refers to the need for such clarity and the fact that the workforce strategy, accompanied by workforce plans, gives the Government and health boards a model for making those changes.

Leigh Johnston: The 1 per cent figure was set out in the "National Workforce Strategy for Health and Social Care in Scotland", which was published in March 2022. Our report says that we are awaiting an update on progress with that strategy. As part of that, the Scottish Government has committed to publishing projections of what the future workforce will look like, based on modelling. We are still awaiting that, but we have been assured that it will be published in spring 2024.

I imagine that the 1 per cent figure might be reviewed as part of that. As I have said before, we know that the national treatment centres have been paused. Staff would have been needed for those centres, so there might be a slight reduction in the number of staff required if those are not going ahead. We will not know the answer until we see those projections and the update on progress on the national workforce strategy.

Colin Beattie: You are waiting to see the direction of travel regarding what will happen down the line with the 1 per cent, given the reduction in the working week and so on.

Stephen Boyle: Yes—that is a fair assessment. There is no doubt that the circumstances are complex and involve a number of variables. Leigh Johnston mentioned the role of capital investment in the national treatment centres. There are plans to address waiting lists and there are growing costs because of staff pay deals, drugs budgets and the need to invest in the estate. A huge number of variables will have to be fed into the workforce strategy and—as I mentioned in my discussion with the convener—the wider strategy.

Colin Beattie: It is pretty much impossible to tell much from such a crude figure, because we do not know how it is made up. Not all of the increase in staff will come from nurses, but we do not know what the breakdown is. I assume that there is no breakdown.

Stephen Boyle: The update to the workforce strategy, which Leigh Johnston mentioned, is central in that regard. It is welcome that that is imminent, because it should give NHS practitioners, patients and this committee some clarity. We look forward to seeing that.

Colin Beattie: Staying on the issue of staff, the increases in the use of agency and bank staff—which is a favourite topic of ours—are pretty eye-watering. In paragraph 26 of your report, you say that total agency staff costs increased by 25 per cent in 2022-23, and that there was a 79 per cent annual increase in spending on agency nurses. That figure continues to go up. Every time there is a report, we are assured that the NHS is working on that and that it will manage it down, but that does not happen. That is a huge cost to the NHS. Is there any belief that that figure might reduce in future? It is such a significant cost.

Stephen Boyle: It is probably more for NHS leaders than it is for me to give you a reliable response to that question. Our intention is to highlight the fact that, as you said, the increase in the use of agency staff has been a recurring issue in health service delivery, although it was interrupted by controls and relaxations both during and after the pandemic. As I said in my introductory remarks, our report draws attention to the effect on the patient experience and on the staff whom agency staff work with, as well as to the additional cost of agency workers.

We think that it would be appropriate for the national workforce strategy to refer to and address that issue, which has recurred for many years, but NHS leaders are probably best placed to address that.

11:00

Colin Beattie: I will move on to estate management. For a number of years, the capital budget that has been available to the NHS has been fairly generous, relative to other areas of the public sector, and there have been lots of new building projects and so forth. In paragraph 27, on page 16 of the report, you say:

"Around 70 per cent of the estate is in good condition and used efficiently."

However, it is likely that there will be some constraints on that budget in the future, given the cuts to the capital budget. In the briefing, you recommend that the Scottish Government should

"develop and publish a national NHS capital investment strategy"

to clarify how its spending will be prioritised in the future and how the overall estate will be managed. Why do you believe that that strategy is so important? Do you know whether the Scottish Government intends to accept that recommendation?

Stephen Boyle: I will tell you why I believe that it is important, and Martin McLauchlan will update you on our understanding of the Government's position on accepting the recommendation.

I refer to the infrastructure briefing paper that we produced last year and the evidence that the committee recently took from Scottish Government officials on that matter. We deliver health services in safe settings—hospitals, general practitioner centres and health centres—across the country. You are quite right that 70 per cent of those buildings are in good condition, but, unfortunately, the arithmetic tells us that 30 per cent are not. That chimes with the fact that more than £1 billion of maintenance is required.

Government officials told the committee that the availability of capital budget means that they will have to make some very difficult choices that will have an impact on the progress of the plans for national treatment centres. There is also a sense that the Government is thinking about where to go next. In the infrastructure briefing paper, I made a recommendation on the need for a wider review of the use of Scotland's public buildings—not only its administrative buildings, but its operational assets. I still believe that that is an important factor. Public services need to be assessed and reviewed in that way as part of the Government's thinking around reform.

The Government's position was that administrative buildings remain its focus currently. However, the ways in which we access health services will change in the future, so if we are genuine about moving to a preventative model and about having a national strategy that underpins that and takes us from the position of challenge that we are currently in to a more sustainable model, there needs to be a more encompassing national strategy that also looks at how the NHS and the Government plan to invest in their estate. That will mean that we can address the challenges of today and also be fit for the future.

I will pause and bring in Martin McLauchlan to talk about the interaction that we have had with the Government on that recommendation.

Martin McLauchlan: I will try to keep it brief. My understanding is that the Scottish Government has accepted that recommendation and is currently preparing an asset management and investment strategy.

The underlying point, as the Auditor General outlined, is that, if there is a lack of new investment and there is already a substantial backlog of maintenance, the ability to address maintenance by way of replacement is not there. When there is a pause in investment, it is very important to look at how one can manage maintenance of the estate, but, more importantly—as we alluded to in part 3 of the report, and as the Auditor General mentioned—boards need to shape and manage their estates to be fit for the future. There has to be a longer-term aspect to the planning, not only for investment and maintenance, but for the likely nature of the estate that will be required in future to deliver services.

Colin Beattie: You said that the Scottish Government has accepted the recommendation. Did it give any indication of the timescale? I realise that it is probably quite a big task.

Martin McLauchlan: I believe that it has asked for submissions from health boards. My understanding is that, as part of the 2024-25 budget documentation and communication with boards, it indicated that the strategy was being prepared, but I am not 100 per cent clear on the exact timescale.

Colin Beattie: Will the Government come to you once that is in place, or will it just publish its strategy?

Stephen Boyle: I expect that it should be published without any liaison with us, Mr Beattie. If we have more information on that, we will come back to the committee, but it is perhaps for NHS Scotland to address that directly with the committee.

I omitted to mention that another thing to look out for over the next few weeks is the publication of the infrastructure investment plan, which will set out the Government's priorities as they relate to individual projects, alongside the medium-term financial strategy for the next few years.

Colin Beattie: My final question is on monitoring and support. Just before paragraph 37, in the subheading on page 20, you conclude that

"There is a need for greater clarity about Scottish Government monitoring and support".

What made you decide to make that recommendation? You sketch out a bit about it in some of the other paragraphs, but what led you to make it?

Stephen Boyle: You are referring to the second recommendation, which is that the relationship between new financial engagement arrangements and the support and intervention framework should be widely understood ahead of the submission of financial plans, as Martin McLauchlan mentioned.

That goes to the heart of the financial challenges that are being experienced by NHS boards. I hope that such understanding will lead us away from the circumstances that we find ourselves in, in which NHS board funding is a rolling one-year challenge, and we can move towards a more sustainable model of clarity on investment. That builds on some of the work that was reasonably referred to in relation to the financial improvement group—the roll-out of good practice and so forth. There should be clarity on the submission of financial plans and on what is asked of individual boards.

Jamie Greene: This is a wide-ranging report, but I appreciate that we are short of time, so I will focus on specific areas, particularly the operational performance of the NHS, which affects the public more than some of the other issues.

The first obvious area to cover is where we are on waiting time targets. In that respect, the report makes grim reading. Albeit that the exhibit goes up only to September 2023, it seems to me that none of the eight key metrics on performance against waiting times is being met, and that some are failing by quite some margin—in particular, accident and emergency treatment times, the standard that cancer treatment should start within 62 days, and the 12-week in-patient and out-patient targets. What is your general view on whether things are getting slightly better or whether the long-term trend, certainly from 2018 to now, has been a trajectory of increased waiting times?

Stephen Boyle: You are right: exhibit 8 sets out the challenges that the NHS is experiencing. Leigh Johnston might want to say a bit more about that in a moment. As you said in your assessment, challenges are being experienced in the round, and that reflects a five-year trend of deterioration in performance. However, the picture of performance within the past 12 months is more mixed; some indicators have improved, while some have deteriorated.

When you drew on the data, you mentioned, in addition to A and E performance, waiting times for initial cancer treatment. I would highlight that, in paragraph 46, we note that cancer in particular is a focus of the First Minister in the 2023-24 programme for government, and that the Cabinet Secretary for NHS Recovery, Health and Social Care has an objective of improving the time that cancer patients have to wait before they receive their first treatment.

Leigh Johnston might want to say a bit more about the longer-term trends.

Leigh Johnston: I do not think that things are improving; they vary across different boards. I should point out that there is information on our website on the performance of different boards, and it shows that, for example, no board is currently meeting the 62-day cancer waiting time target, the target for new out-patient appointments within 12 weeks, the target for in-patient and day-case treatment within 12 weeks or the 18-week referral-to-treatment target. As we say in our report, waiting times are longer—and waiting lists are substantially longer—than they were before the pandemic. Although there has been some improvement in activity, it is still well below pre-pandemic levels.

Jamie Greene: We know the obvious effect on people’s general health of waiting for longer to be seen and for treatment to start; clearly, it will be negative. Have we done any analysis of mortality rates in that respect? I am looking specifically at the numbers of those waiting for long periods of time—that is, over a year or over 18 months—and they are stark. In 2019, around 3,500 people in Scotland were waiting more than a year for out-patient treatment, and that figure is now up to 40,000, which is a massive increase.

As for the 18-month wait target for in-patient treatment, which is presumably for those with serious conditions, the number was only 486 previously—486 too many, it has to be said—but it is now up to 17,000. My suspicion and my worry are that not all of those people will make it to their treatment. Has there been any analysis of that?

Stephen Boyle: Extending our work into that analysis of mortality rates or excess deaths was not a feature of our methodology this year, although we have explored the issue, particularly in some of our reporting during Covid. Instead, our report makes a broader assessment of both the patient experience to which you are referring and patient safety in the round, drawing on the work of Healthcare Improvement Scotland and other bodies in setting out the experience that people are getting. That is not just to do with waiting times; the situation with pressures in hospitals is not where the clinical experts want it to be, either. Hence, there is work to do.

Your wider point is right, though, deputy convener. We do not have the data that you ask for to hand, unfortunately, but I am sure that the situation that you refer to would be supported by statistical analysis of the numbers and, regrettably, of what are likely to be increased mortality rates as a consequence of the longer wait times.

Jamie Greene: That is obviously very sad. We are talking about numbers, but we are also talking about people passing away while waiting for treatment. If the incidence of that is increasing, that is clearly worrying for all of the Government and the Parliament.

One issue that we discuss often and which frequently comes up is that of situations arising in accident and emergency. In your report, you cover specific issues of overcrowding in A and E, ambulances queuing outside and people not being handed over within the one-hour target. An hour is quite a long time to be sitting in the back of an ambulance anyway. Is there any evidence that that target is being substantially exceeded? As politicians, we have access to anecdotal evidence, but is there any statistical or quantitative data to support that? What is the situation in A and E across Scotland?

Stephen Boyle: I will pass to Leigh Johnston shortly to update the committee on our understanding of the situation.

A and E waiting times are not being met: that is the high-level message that we should be absolutely clear on, and we have set that out to the committee. It is reasonable to recognise that the Scottish Government and NHS bodies are doing their utmost to address that, and we refer to their work and engagement with the Scottish Ambulance Service to try and improve turnaround times and the extent of the waits that people are experiencing, not just at A and E departments but also, regrettably, in ambulances queuing to get people into A and E.

The other thing that I will mention before passing to Leigh is that, as we say in the report, neither A and E nor ambulances are suitable places for people to receive longer-term care. There has to be real consideration and change if the current arrangements are not working, in order to improve throughput in A and E. Stepping back a second, however, I would suggest that the issue is how we help people not to have either planned or unplanned attendance at A and E in the first place.

I will ask Leigh Johnston to elaborate if she wishes.

11:15

Leigh Johnston: As we have said in our report, the Scottish Government issued new guidance in April 2023 to support the safe and timely handover of patients who arrive at hospital in an ambulance. That guidance states:

"By August ... 100% of patients should be handed over within 60 minutes."

However, we know that turnaround times indicate that handover within one hour is not always achieved and that turnaround performance varies across boards.

I echo what the Auditor General said: a lot of work is going into trying to address those issues by trying to redirect people not just away from accident and emergency to the best place for them to receive care, but away from the need to call an ambulance in the first place, if there is somewhere better that they can receive care. When people arrive at hospital, how do we prioritise those who are sometimes queuing in the ambulances and ensure that most urgent cases are seen first? Lots of work is going on to reduce that pressure on unscheduled and emergency care.

Jamie Greene: It is very hard to identify which risk factor to address. I suppose that there are a number of such factors, one of which is the potential volume of people who go through the system, because it is the only option available. What work could be done to find out what percentage of those people would be immediately removed from the system if other options were available?

Another factor is the delays caused by a current shortage of staff on the ground, while a third is the throughput of people who, once they have presented to A and E, should be transferred somewhere else, but there is no somewhere else for them to go. The somewhere else is at capacity, too, so that creates a bottleneck in the system.

I presume that the answer is that all three risk factors are involved. Are there any specific areas where immediate action could be taken to alleviate the situation more quickly?

Leigh Johnston: It is a combination of all those factors. As I have said, work is going on to reduce unplanned A and E attendances, where people turn up and self-present. There have been lots of different initiatives, such as flow navigation centres and clinical triage hubs, to try to make sure that people are sent elsewhere or have an appointment to attend A and E—what we call planned attendance. We know that the numbers of unplanned attendances at A and E are lower than they were before the pandemic, but we do not have data on how many people are now turning up as planned attendances.

Through other initiatives such as flow navigation, some people will turn up with a planned appointment, but we currently do not have the data that will allow us to understand how many unplanned and planned attendances there are. We know about the unplanned attendances, but we do not know about the planned ones, and Public Health Scotland is working on trying to make that data available and robust.

Jamie Greene: Perhaps I should declare an interest, convener, having gone through that process of getting a planned A and E appointment. Such appointments were news to me, but the approach seemed to work reasonably well.

In the interests of time, I will ask my final question, which is on appendix 3. I am new to the committee, but I am aware that you have produced previous reports on the NHS and made very specific recommendations to the Scottish Government. Appendix 3 contains nine key recommendations covering a wide range of areas for consideration. My analysis shows that, of the nine, five are in progress, limited progress has been made on three and no progress at all has been made on one; in other words, none of those recommendations has been completely implemented. Is that a normal state of affairs at this point? Without giving a personal opinion, are you content that the direction of travel is a good one? I am thinking in particular of the NHS recovery plan, which, although clearly important post the pandemic, has seen no progress. How have you reached that conclusion?

Stephen Boyle: We are dealing with complex and sometimes intractable issues. Our recommendations are designed—and I would characterise today's report on the same basis—to acknowledge that the system has to change and move to a more sustainable model. Our recommendations are along those lines.

Some of those recommendations are in progress, and in some, limited progress has been made. Some involve quite direct things that we think can happen now, such as transparency on progress on the recovery plan. Others, such as the 10 or so recommendations that we make in today's report, will require action over a number of years, assuming that the Government accepts those recommendations—indeed, Martin McLauchlan has mentioned one of them—in the round.

There is some mitigation, in that the circumstances are complex. However, the convener asked about a clear national vision, and the committee might choose to take evidence on whether the Government accepts the recommendations. In the event that the Government did so, we would expect thereafter to see a clear programme and plan to implement them. However, today's assessment, in the round, is that there has been limited progress against last year's recommendations.

Jamie Greene: Is it inevitable that the health budget will reach 50 per cent of all Scottish Government spend? That sounds like a massive figure—perhaps one that the public is not even quite aware of sometimes. Could that be prevented?

Stephen Boyle: I think that it is not inevitable and I do not believe that it should be. I am recommending today that there should be an intervention so that there is a more sustainable, affordable model.

I know that we are short of time, convener, but this point is important. The Government's own assessment, which was undertaken with experts—it engaged with the Organisation for Economic Co-operation and Development on its approach to realistic medicine—is that around 20 per cent of spending on healthcare does not lead to improved health outcomes.

The system is the system, but that does not mean that it should be the only way in which we deliver health and social care services. It is absolutely appropriate that the Government, with the support of Public Health Scotland, looks at a three-horizons model. It has a vision and a plan to move from what is currently an unsustainable system to one that avoids the need for an ever-growing health and social care budget at the expense of other vital services.

The Convener: Thank you very much. I now invite Willie Coffey to put some questions to you.

Willie Coffey: On performance, I spoke to NHS Ayrshire and Arran's chief executive only last week about the specific 31-day target for cancer treatment. She said that the board continues to meet the 95 per cent level, and that it actually reached 100 per cent in November. I do not know whether there is a little discrepancy in the data-gathering period for your report, Auditor General, but that was what she clearly said to me last week.

Stephen Boyle: I will ask Leigh Johnston to comment on that. As Leigh mentioned, we have a more detailed regional assessment—we do not set out it out in our report, but it is accessible through a link to our website. In our national reporting in exhibit 8, we cite Public Health Scotland as the source from which we draw. For completeness, exhibit 8 reports that between September 2018 and September 2023, performance dropped from 81.4 per cent to 72 per cent, where it currently sits. We can certainly check how that relates to the information that you have had from NHS Ayrshire and Arran, if Leigh Johnston does not have that detail to hand just now.

Leigh Johnston: I do not have the exact data for NHS Ayrshire and Arran. The point that we make is that some boards are struggling to meet the target. Performance is just below target, as you can see, at 94.9 per cent—the target is 95 per cent. That slight reduction is because about four boards are struggling to meet the target.

Willie Coffey: I thought that I would mention that, because it was a positive side of what the chief executive described last week with regard to a range of indicators that are of interest to members.

Auditor General, I remember that your predecessors, Caroline Gardner and Bob Black, both said to the committee over several years that there was a need for service redesign and transformation. We know that demand on the NHS is going through the roof—it went through the roof during Covid, and it has not yet dissipated.

Have the recommendations for service redesign and transformation that you are urging the Government to embrace changed in any way since then? Is the model for service transformation that your predecessors envisaged the model that you are recommending now, given the huge change in demand in recent years?

Stephen Boyle: I recognise the point that you make. Certainly, my predecessors made known similar recommendations and views about unsustainability of health and social care services. I fear that we are in a more acute position today than we were under previous Auditors General.

How to discharge the recommendations is ultimately a matter for NHS leaders and the Government, but there is enough evidence—accident and emergency waiting times, more general performance targets and the financial implications of not changing—to make a strong case that the model that we have is not sustainable. The Scottish Fiscal Commission estimates are reasonable, of course, with regard to policy choices, in that we will spend as much as we need to spend on health and social care services, but the opportunity costs for other parts of public service delivery will be severe.

Willie Coffey: You cover delayed discharge in the report and you talk about the NHS Greater Glasgow and Clyde model, which is called GLASFlow. Can you give the committee a wee glimpse of what that means and whether it is having an impact by reducing our problem of delayed discharge?

Stephen Boyle: I will pass that question to Leigh Johnston. In paragraph 68 of the report, we set out the plans that NHS Greater Glasgow and Clyde is taking forward, along with its integration joint board partners.

Leigh Johnston: The best way to describe it is as a continuous flow model. It involves having a regular schedule of patients moving from A and E to in-patient wards; planning goes on behind that, so that you have a continuous flow of patients. However, that system relies on beds being available; a continuous flow of discharges is part of that.

A number of health boards are using a similar model. It is important to point out that the NHS in Glasgow has said that the model is not a magic bullet—you need to line up all the bits—but it has created greater partnership and joint working across the hospital system. The health board has seen some benefits from that in terms of getting people out of A and E quicker, into hospital beds and then ensuring that their discharges are happening when they should.

Willie Coffey: That is what I was going to ask about. Is that model getting people out the door more quickly at the other end and back into the community or to where they are supposed to go? Is it succeeding in that regard?

Leigh Johnston: I think that it is, in some wards. However, as we say in our report, delayed discharges remain stubbornly high across the NHS in Scotland.

Willie Coffey: Related to that issue, the chief executive of NHS Ayrshire and Arran said that one of the issues that affects discharge, interestingly enough, is power of attorney and families being able to grant and get that power. She said that that affects more than half of their discharge cases. Is that common throughout Scotland, and should we highlight that much more in order to encourage the public to embrace use of power of attorney?

Stephen Boyle: That is such an important point: we set that out in paragraph 69 of the report. The situation was consistent in the three case-study health boards. We worked with individual boards when we were preparing the report to test our theories and progress, and to hear their experiences in order to shape our reporting. Power of attorney and complementary anticipatory care plans were among the preventative measures that the health boards said make a big difference. If somebody falls ill unexpectedly and relatives do not have power of attorney or do not know what the patient's wishes are, there will inevitably be a delay due to consultation of and engagement with families in order to better understand what is needed. The feedback was that something that feels like a relatively small step could make a big difference.

Willie Coffey: On staffing and demand versus the ability to staff to meet demand, you mentioned clear difficulties. What more can we and the Government do to try to close that gap? We know that demand is increasing year on year, but we have difficulty in getting the right numbers of staff in health and social care to meet that demand. What are your recommendations for the Government on how it could help?

Stephen Boyle: We have made a recommendation about having a clearer republished workforce strategy, which Leigh Johnston has mentioned. However, I recognise that this is a complex situation. It involves ambitions to increase the NHS workforce—finding the right people to fill vacancies—and keeping the existing members of staff safe and healthy, including in terms of their wellbeing. We have already mentioned workforce conditions this morning, and working hours will be a factor in that regard.

11:30

There is a fundamental point about the environment that people are working in. We refer to that in our report, and the commentary that has come from NHS professional bodies since publication makes it very clear that it is a challenging, stressful and difficult environment to work in. Giving staff confidence to raise concerns or to blow the whistle is relevant.

We have set out a number of factors in today's report. I do not want to be glib by saying that a strategy will resolve the situation. NHS leaders will need to take a multifaceted approach, in partnership with their staff, so that they can get to a sustainable model for service delivery.

Willie Coffey: Digital transformation can offer opportunities, as you also say in your report. Are there, throughout the system, blockages that e-health strategies, telehealth or any other way of embracing digital technology might help to unblock? Could those things help with queues that people face in relation to general practitioner contact or consultation services? Do you see opportunity in that and are we embracing enough of the opportunities to help us?

Stephen Boyle: I am sure that Leigh Johnston, who looked at that closely during the audit, will want to say more. The adoption of technology to support transformation has been a recurring theme. Technology can give people access to services outside a hospital setting or allow for remote consultations with GPs. That is all well and good.

Before I pass over to Leigh, I note that one thing that might be of interest to the committee is that we are also looking at that outside the NHS context as part of our future audit work. We are currently undertaking an audit of digital access and exclusion, in order to explore in more detail the pace of change in adoption of technology. It is important that people are brought along at the right pace.

I will bring in Leigh to talk specifically about the NHS.

Leigh Johnston: There is a range of outcomes. The Near Me service has made a real impact and is making a particular difference in providing accesss for people in remote and rural areas.

As we say in our report, boards have some choice about the innovations that they adopt. I think that we need more monitoring and reporting so that we can determine how digital innovations and programmes are being adopted and the difference that they are making. If we can show how effective they are and how they are driving efficiencies, we might be able to encourage more boards to adopt innovations in the future. We make that recommendation in our report.

Willie Coffey: Do you find that patients are receptive to using digital technology if they think that it might let them be seen or heard a little quicker? Are they quite open to that, or would they still prefer a direct face-to-face model?

Stephen Boyle: It varies. Cornilius Chikwama might want to say a bit more about where we are at the moment. It is a mixed picture.

Cornilius Chikwama (Audit Scotland): We did not look specifically at patients' responses to digital technology, but the general picture from the work that we have done is that digital offers opportunities to respond to short-term operational challenges and, perhaps, to longer-term ones, too.

We highlight the Scottish Government's and Convention of Scottish Local Authorities' digital healthcare strategy, which is trying to make progress in such areas. The key risk that has been identified is the risk to capital budgets, which need enough funding to roll out digital options at scale. We highlight that risk in the auditor general's report.

The Convener: My final question is on leadership, especially at health board level. First, your report mentioned that four of the 14 territorial boards will be looking for new chief executives. Actually, the number might have gone up since the date of the report. My question is this: how much succession planning is there? The committee gets the impression that people move around from board to board. Is that too narrow a focus for recruitment to the senior positions? Have you a view on whether other parts of the public sector could be looked to?

The second part of my question is about non-executive board members. The committee has looked in some detail at the NHS Forth Valley experience, where there has been a governance review, fairly substantial recommendations have been made, people have moved on and so on. What are your views on recruitment, the standard of people who come forward for non-executive posts and whether the training that they receive is sufficient to equip them to do those important jobs? In the end, they are responsible for a huge part of public expenditure in Scotland—40 per cent, potentially rising to 50 per cent—under the devolved budget.

Stephen Boyle: You are right: there is real change on executive leadership at some boards. The leadership of NHS Scotland is not unsighted on the level of change. We recognise that it is addressing that through its approach to succession planning in developing programmes to identify future leaders and supporting them to make the transition into challenging roles.

As I recall, your predecessor committee looked into the matter in detail a number of years ago. It held round-table sessions on NHS leadership, the attractiveness of posts, and identifying relevant factors. If anything, the situation is more challenging now than it was then, given the Covid pandemic and all the other factors that we have touched on this morning.

There is absolutely an onus on the NHS in Scotland to ensure that it is giving support, setting the right conditions and creating the environment for people to thrive in. I think that it recognises that, but it is clear that there is work to do, as is borne out by the arithmetic on vacancies and turnover.

I will turn briefly to non-executive roles. Good governance is absolutely fundamental in that setting and work on that is under way. The final section of our report examines the blueprint for good governance, which gives a framework for non-executives discharging their responsibilities.

We have not looked specifically at how boards identify candidates and whether they are bringing in the right people. We know that there has been turnover at NHS Forth Valley and other boards. It is probably too early to make an assessment, but the work of the public appointments team is crucial to that. Working under the direction of ministers, the team knows who it is getting and which skills it is looking for, and a full assessment process is in place. Paragraph 126 of our report makes passing reference to that. There are plans in place, including an external review of board governance, so that the Scottish Government has assurance that its sponsorship requirements are being discharged appropriately. We will keep that under close review.

The Convener: Okay. Thank you very much indeed. I am sorry that there has been an air of rushing in the session. As the deputy convener remarked, your report is comprehensive and has given us a lot of evidence to consider. We will also consider whether we might want to invite more witnesses to give us their views on your findings in the annual section 23 audit of the NHS.

Auditor General, thank you very much for your evidence. I also thank Cornilius Chikwama, Leigh Johnston and Martin McLauchlan.

11:39

Meeting continued in private until 11:53.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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