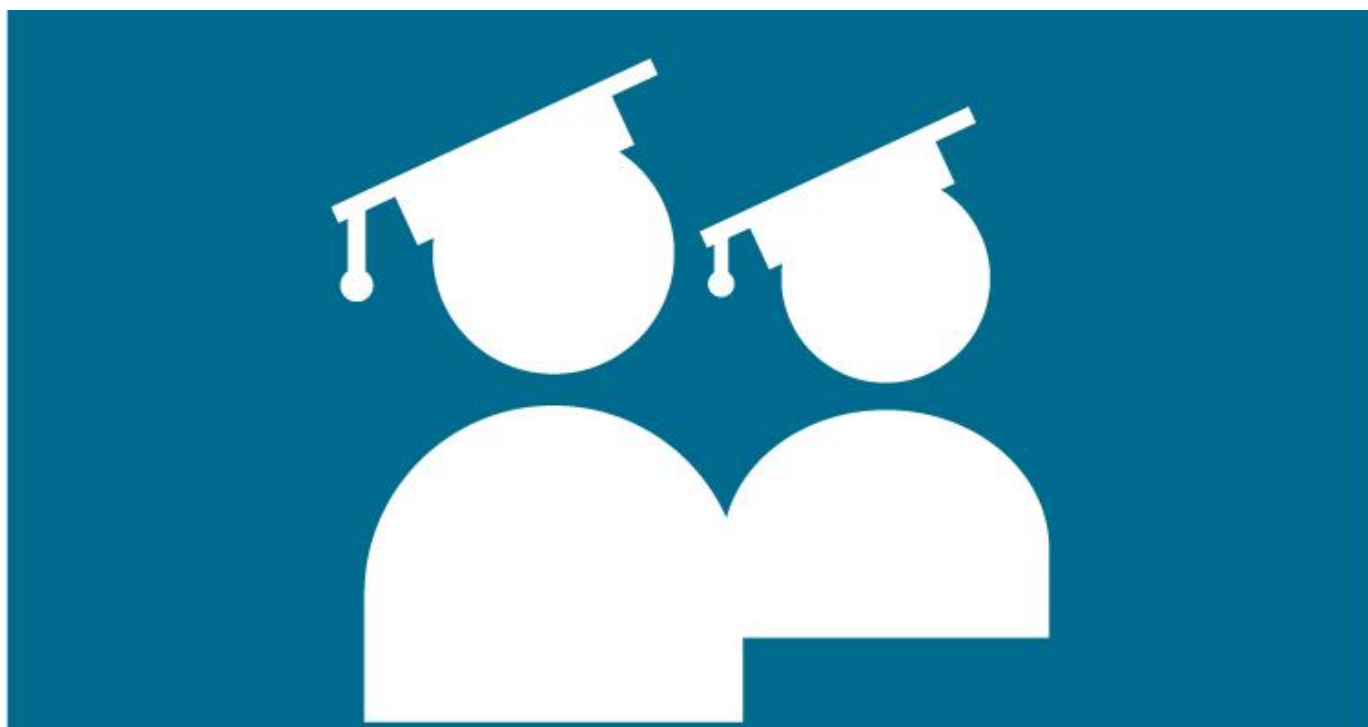


The 2022/23 audit of

Forth Valley College



AUDITOR GENERAL 

Prepared by the Auditor General for Scotland
Made under section 22 of the Public Finance and Accountability (Scotland) Act 2000
May 2025

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Key messages

- 1** The appointed auditor of Forth Valley College has issued a qualified regularity opinion on the college's 2022/23 annual accounts. The opinion resulted from non-compliance with procurement regulations in relation to a college-run environment-themed project, which ran from 2020 to 2023.
 - 2** The procurement breach related primarily to a failure by the college to draw up and agree contracts for expenditure totalling over £900,000 over the duration of the project, and a failure by the college to obtain approval to appoint a supplier without competition. The college had financial regulations and a procurement policy and procedures in place. These were not fully followed by college staff. College staff were aware of the absence of a contract and appropriate approvals from the early stages of the project in 2020 but the non-compliant spend was not reported to the Finance Committee until November 2022 despite the opportunity to do so sooner.
 - 3** In April 2023, college finance staff raised concerns over a change to the invoicing arrangements for the project. That change resulted in funds being paid into non-college bank accounts. The college commissioned its internal auditor to carry out an investigation and subsequently reported the incident to Police Scotland, which concluded there was insufficient evidence to pursue a criminal case. The money was ultimately paid to the college.
 - 4** There were weaknesses in the governance arrangements around the project that contributed to these issues. The college initiated investigations into the project to establish both the extent of the issues and what had caused them. The college has taken action to improve its arrangements for project management, reporting, governance and financial controls for future projects. It has implemented the recommendations made in a lessons learned report.
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Introduction

- 1.** I have received the audited annual report and accounts including the independent auditor's report for Forth Valley College for 2022/23. I am submitting these accounts and auditor's report under section 22(4) of the Public Finance and Accountability (Scotland) Act 2000, together with this report that I have prepared under section 22(3) of the Act.
- 2.** The auditor issued a qualified opinion on the regularity of transactions within the annual report and accounts of Forth Valley College for 2022/23. My report brings to the Scottish Parliament's attention a procurement breach related to the college-run Fuel Change project that led to the qualified opinion. It also highlights an investigation into invoicing arrangements related to the same project.
- 3.** Several college employees past and present were involved in the management and oversight of the project. The college brought in external support to help run the project. There are contrasting accounts of the above issues among those involved in the project and it is clear there are strained relations between those involved.
- 4.** It is evident that there were weaknesses in the college's processes for managing projects of this nature and failures to follow those processes that were in place. From the evidence we have seen, responsibility for those weaknesses and failures sits across multiple individuals and in some cases, it has not been possible to reach a definitive conclusion.
- 5.** It is not the intention of the report to attribute blame to individuals, but to highlight where processes could have been stronger and where and when processes should have been followed. This will allow Forth Valley College and other colleges to learn from these issues and minimise the risk of further issues arising with future projects.
- 6.** The report also draws attention to the effect of a retrospective change in accounting treatment in relation to the ongoing middle management and support staff job evaluation exercise. This was required by the Scottish Funding Council's revised Accounts Direction for 2023/24. This change required an amendment to the 2022/23 figures to reflect the new treatment, but came after the 2022/23 accounts were closed. The effects of the new treatment on the 2022/23 figures are therefore covered in this report.

Background

7. The Fuel Change project started in 2020 as an apprenticeship challenge aimed at solving climate-related issues in the run up to COP 26, the UN Climate Change Conference held in Glasgow. There are varying accounts of how the project came into existence, but college staff first sought approval for a pilot of the project from its Leadership Team in May 2020.

8. Over time the project grew and received over £1 million of public funding between 2020 and 2023. £811,000 was awarded by the Scottish Funding Council (SFC), £100,000 by Skills Development Scotland (SDS) and £126,000 came from other public sector grants. We did not carry out an audit of the performance of the project, but all involved in the project consider it to be successful and to have performed well against key performance indicators.

9. Several college employees played a key role in the project. The former Chair of the Board of Management was instrumental in setting up the project and securing funding for the pilot phase of the project from SFC and SDS. Two members of the Senior Management Team were involved in the project. The former Principal and Chief Executive had oversight of the project and was involved in elements of the project. The college's Vice Principal of Finance and Corporate Affairs (VPFCA) was involved in the governance around the project and had responsibility for the college's finance and procurement teams who were also involved in the project at key stages.

10. The college's former Director of Strategic Partnerships and Regional Economy (the project director) was the operational lead with responsibility for the day-to-day business of the project. The college appointed an external consultant (the consultant) to support the running of the project alongside the project director.

11. Some of the individuals involved in the project had, from its inception, considered the project to have the potential to spin off from the college. But all funding for the project went through the college and as such the project was subject to college processes. A college subsidiary was created with the intention that funding would initially go through it until the project reached a point where it could proceed without college support. The subsidiary lay dormant and never traded.

12. In September 2022, the college agreed to transfer the project out of the college and into the ownership of the project director and consultant. This was to coincide with Scottish Government funding for the project coming to an end.

13. In November 2022, a procurement breach was reported to the Finance Committee and then the Board of Management in relation to the Fuel

Change project. This related to the absence of contracts and failure to obtain the appropriate approvals for suppliers related to the project.

14. In April 2023, the college raised separate concerns in relation to a change in invoicing arrangements for the project, whereby funds were paid into non-college bank accounts. This resulted in an internal audit investigation, following which the project director was suspended and ultimately dismissed. The college halted the transfer and cut ties with the consultant.

15. The project director and consultant continue to run the project under a different name and within a new entity. Forth Valley College is not involved with the new entity.

The 2022/23 audit of Forth Valley College

A series of failures at Forth Valley College led to a procurement breach that spanned three financial years

16. The procurement breach was first highlighted in the college's 2021/22 Annual Procurement Report. It showed £348,135 (excluding VAT) of non-compliant spend with Paradigm Futures Ltd (the consultant's company) across 2019/20 and 2020/21 in relation to Fuel Change. The non-compliance issue given was that the work was not advertised and was awarded without competition. Although the college was aware there was no contract in place in relation to the spend, this was not given as a reason for non-compliance. There was no requirement to report the absence of a contract as only new contracts from that year had to be reported.

17. The annual procurement report was brought to the college's Finance Committee in November 2022 and to the Board of Management in December 2022. The Finance Committee requested that a report be prepared outlining how the breach had occurred.

18. The VPFA led a review of the procurement in relation to the Fuel Change project in November 2022. The review identified spend of £677,597 (excluding VAT) across three suppliers that were appointed without a procurement process being followed, and resulting in breaches of the Financial Memorandum. This spend occurred between August 2020 and October 2022. No contracts were in place for those suppliers.

19. Although the spend started in 2020, it did not reach the threshold for non-compliance until July 2021 and so was not reported in the 2019/20 Annual Procurement Report. It was also not reported in the 2020/21 Annual Procurement Report despite staff being aware there was no contract in place. The college acknowledges it should have been reported then.

20. The college's external auditors reported in the 2022/23 Forth Valley College Annual Audit Report (AAR) that expenditure with the above suppliers was awarded without contract and without single source supplier approval being obtained. The expenditure totalled £485,343 (including

VAT) during 2022/23, plus a further £417,762¹ (including VAT) in respect of previous years, meaning total non-compliant spend over the duration of the project was £903,105 (including VAT). This was the current external auditor's first AAR for the college since being appointed in 2022/23.

21. The procurement breach stems from the first engagement with the suppliers. It is unclear on what basis those suppliers were appointed to carry out work for the college or exactly who at the college initiated the relationships with those suppliers. There was no contract in place, and we found no record of a formal appointment. We found no evidence of a specification of service detailing the work to be carried out, or the duration and cost of the work. The college's financial regulations and procurement policy and processes detailed the need for a contract to be put in place. They also detailed the need for single source supplier approval. College staff responsible for implementing those processes failed to follow the college's financial regulations and procurement policy.

22. College staff were required to complete a new supplier form when engaging with a new supplier. The form for Paradigm Futures Ltd stated it was a one-off payment of £1,000. This was incorrect and the first invoice from Paradigm Futures was worth £3,600 and there were further invoices.

23. While the procurement breach stemmed from a failure to follow processes when suppliers were first engaged in 2020, the non-compliant spend continued until May 2023. Those running the project and college finance staff were aware that no contract was in place, but this was never rectified.

24. Payments were permitted to continue without a contract in place on the basis that there was an intention for funding to go through the subsidiary company. The college intended to request approval from the Board of Management to bring the subsidiary into operation. A delay in confirmation of funding from the Scottish Government meant that did not happen. Following the agreement to transfer the project out of the college, the subsidiary never became operational.

25. The college did try to address the absence of a contract by attempting to bring the subsidiary into operation with the intention of channelling funding through it. When that was delayed there was an opportunity to put a contract in place in the interim period that was not taken.

¹ This figure is consistent with the figure £348,135 figure in the Annual Procurement Report with the difference due to the inclusion of VAT.

Forth Valley College ended its involvement with the project after investigating invoicing arrangements

26. In April 2023, Forth Valley College finance staff became aware that, starting in November 2022, the consultant had drawn down funding for the Fuel Change project into non-college accounts. Those being the Paradigm Futures bank account and the account of Fuel Change Futures Ltd, a new entity created by the consultant and project director. Previously, all funding for the project had been drawn down into the college bank account.

27. This change in arrangements occurred after the college had agreed in principle to transfer the Fuel Change project into the ownership of the consultant and the project director. The transfer was due to happen when the project's Scottish Government funding ended in March 2023.

28. The consultant began to source funding for the post-transfer phase of the project to ensure its continuation when the Scottish Government funding ended. The consultant and project director considered this funding should not pass through the college. The college considered that all funding for the project should pass through the college until the transfer date. There was not clear communication between both parties at this stage about how the post-transfer funds should be managed.

29. Upon the college becoming aware that the consultant had drawn down funds to non-college bank accounts, it instructed its internal auditor to carry out an investigation into the invoicing arrangements. Following the investigation the college reported the matter to Police Scotland. Police Scotland concluded it was clear there was a mismanagement of funds but no way to prove any criminal intent. The college dismissed the project director. The consultant ultimately paid the funds to the college. The college then ended its involvement with the project.

There were other governance and project management concerns in relation to the Fuel Change project

30. Some of the individuals involved in Fuel Change, including college senior management, raised concerns around the governance and management of the project. These included:

- The VPFCA raised governance concerns with the former Principal and Chief Executive and was concerned that the consultant had become the senior partner in the day-to-day running of the project and was effectively managing the project director. As a college project, it was the project director who should have been managing the consultant as an external provider.
- The consultant raised concerns regarding a lack of proper governance around the project with the then Principal and Chief Executive in November 2021. This resulted in a meeting between them and the VPFCA later that month at which several actions were

agreed, including taking forward arrangements to bring the Fuel Change Ltd subsidiary into operation. The Principal and Chief Executive asked the VPFCA to take over the governance of the project, which they declined to do given their concerns above.

- The project director, who had several key responsibilities in relation to governance according to the college's financial procedures, was not always involved in discussions about project governance.
- A £1.5 million grant application was made to the Scottish Government, developed by the consultant and project director and approved by the then Principal and Chief Executive and then Chair. It was not approved by the college's Senior Management Team as required by the college's financial regulations.
- The consultant set up the Fuel Change Ltd subsidiary. There is no evidence of the college instructing the creation of the subsidiary, but initially no college officials were appointed as directors of the company.

31. The VPFCA is also the Secretary to the Board of Management. The college regularly reviews this arrangement and agreed in December 2024 that it should continue. The Board acknowledged this arrangement does not comply with the Code of Good Governance for Scotland's Colleges and we share that view. The dual role created the potential for a conflict of interest, including in relation to the Fuel Change project.

Forth Valley College has taken action to improve arrangements for college-run projects

32. The issues related to the qualified opinion on Forth Valley College's accounts were complex. What is clear is that there was a failure within the college to follow processes and put in place proper arrangements with external providers at the start of the project. That situation was not addressed and led to non-compliant spending that spanned three financial years.

33. The absence of clear communication around the finances of the Fuel Change project left the college at risk of losing funds. No money was ultimately lost to the college, but it found itself in a situation where an external supplier could have withheld funds intended for the college.

34. The college investigated governance issues related to the Fuel Change project and has taken action to strengthen project management, governance and financial control arrangements for college-run projects.

35. Following their investigation in May 2023, the internal auditor reported they were comfortable that the college had already recognised the procurement weaknesses around the appointment of the consultant. The internal auditor was also confident that the college had recognised the

importance of setting out the contractual arrangements in place with external partners to deliver partnership activity.

36. Forth Valley College reported the issues to key stakeholders and has taken action to minimise the risk of a recurrence of these failings. A 'lessons learned' report produced by the college in September 2023 included 12 recommendations designed to reduce the risk of similar failures occurring with future college-run projects. The recommendations covered project governance, procurement, financial controls and corporate governance. They included:

- An updated scheme of delegation to reflect responsibilities for subsidiaries and grant funding applications.
- Strengthened formal reporting processes for major projects and non-compliant procurement spend.
- A requirement that senior management team members have oversight of major projects.

37. The college has now implemented all these recommendations, three of which are being implemented on an ongoing basis. The college should continue to monitor the effectiveness of these recommendations and compliance with new arrangements. It should keep the governance of college-run projects under review to ensure that it remains fit for purpose.

38. There was no input to the lessons learned report from some of the key individuals involved in the project. The former Chair, former Principal and Chief Executive, the project director and consultant were not invited to contribute. Given the circumstances around the departures of the consultant and project director, the college believes it would be unreasonable to have expected to involve them in the report. But their absence from the process, and that of the former Chair and Principal, limited the objectivity of the report.

39. The annual audit report 2022/23 concluded that, with the exception of the issues related to the project, Forth Valley College has effective arrangements in place for financial planning, governance and performance management.

40. I will continue to monitor the governance and performance of Forth Valley College. Colleges and other public sector bodies should be aware of the risks associated with involving external bodies in projects. They should ensure they have the appropriate governance, project management and financial control arrangements in place to manage those risks.

Effect in 2022/23 of retrospective change in accounting treatment

41. I also draw attention to a change in accounting treatment required by the Scottish Funding Council's 2023/24 Accounts Direction, which applies to the expected costs and related funding associated with the ongoing middle management and support staff job evaluation exercise.

42. In its 2022/23 accounts, Forth Valley College included a liability at 31 July 2023 for the future costs expected to arise from the exercise of £3 million and a debtor for anticipated future income from the Scottish Funding Council of £2.8 million. This was in accordance with the applicable accounting requirements in force at that time and consistent with other colleges. Forth Valley College's 2022/23 accounts were signed and closed in August 2024.

43. In November 2024, the Scottish Funding Council's revised Direction for 2023/24 was issued and changed the accounting requirements with the effect that anticipated income at 31 July 2024 could no longer be included as a debtor in the balance sheet. That change reflected responsibility for funding the commitment transferring from the Scottish Funding Council to the Scottish Government in 2023. The revised Direction also required the liability to be reclassified as a provision, which is a form of liability that has specific accounting requirements.

44. The change in accounting treatment in 2023/24 applied to all colleges. The Direction for 2023/24, in line with normal accounting practice, required the amendments to be made to the 2022/23 figures contained in the 2023/24 accounts, rather than reopen the audited 2022/23 accounts. Accordingly, the 2022/23 figures were amended to reflect the required new treatment and explanations provided in Forth Valley College's 2023/24 accounts.

45. The change in treatment has been applied across all colleges. The 2023/24 accounts of Forth Valley College were laid on 30 April 2025. However, the complication with Forth Valley College is that the laying of its 2022/23 accounts was delayed as a result of the need to prepare this report. The 2022/23 accounts therefore appropriately do not reflect the change in accounting requirements as they were closed before the change was announced.

46. The effects of the new treatment on the 2022/23 figures are that the £2.8 million debtor would not be included as an asset in the balance sheet but would instead be disclosed as a contingent asset. The expected cost of £3 million would be a provision of £2.8 million. The net result would be reduced reserves and net assets at 31 July 2023 of £2.6 million.

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