

## Purpose

1. The purpose of this paper is to introduce the Controller of Audit's report on 'Council tax refunds – a significant fraud', produced following the 2023/24 audit of Aberdeen City Council. The paper also provides background and procedural information to assist the Commission in its consideration of the report.

## Recommendations

2. The Commission is invited to:
  - consider the Controller of Audit's report
  - approve the proposed publication arrangements
  - decide how it wishes to proceed.

## Background

3. The 2023/24 Annual Audit Report (AAR) for Aberdeen City Council was considered by the council's Audit, Risk and Scrutiny Committee on 27 June 2024, and was subsequently published by the council. The appointed auditor issued an unmodified opinion on the accounts – that is, the financial statements are free from material misstatement.
4. The auditor reported on a significant fraud identified by the council in September 2023. A former employee had diverted fraudulent payments totalling £1.109 million to his own bank accounts over a period of 17 years. Having pleaded guilty to criminal charges of embezzlement, the perpetrator received a four-year prison sentence at the High Court in Edinburgh in July 2024.
5. Full details of the background to the case are provided in the Introduction to the report.
6. Having reviewed the AAR, the Controller of Audit decided to use her reporting powers to bring this issue, and the council's response, to the Commission's attention.

## The Controller of Audit's report

7. This report is made by the Controller of Audit to the Commission under section 102(1) of the Local Government (Scotland) Act 1973 (as amended by subsequent legislation including the Local Government in Scotland Act 2003).
8. The legislation enables the Controller of Audit to make reports to the Commission with respect to:
  - the accounts of local authorities audited under the Act;

- any matters arising from the accounts of any of those authorities or from the auditing of those accounts being matters that the Controller considers should be considered by the local authority or brought to the attention of the public; and
  - the performance by a local authority of their statutory duties in relation to best value and community planning.
- 9.** A copy of the report was sent to Aberdeen City Council by the Controller of Audit on 4 December 2024 (the same day it was issued to Accounts Commission members). The council has been advised that it is obliged to supply a copy to each member of the council and to make additional copies available for public inspection. Once the Controller of Audit's report is sent to the council it is effectively in the public domain.

## Procedure

- 10.** The Commission will note that this report is made under the same legislation as the recent reports on best value. The process outlined below is therefore the same.
- 11.** The legislation provides that, on receipt of a Controller of Audit report, the Commission may do, in any order, all or any of the following, or none of them:
- direct the Controller of Audit to carry out further investigations
  - hold a hearing
  - state its findings.
- 12.** Findings may include recommendations and the persons to whom those recommendations may be made include Scottish Ministers, who have powers to make an enforcement direction requiring an authority to take such action as is specified in the direction.
- 13.** Members of the audit team will be present at the Commission's meeting and will be available to answer questions on the evidence and judgements presented in the report. This is done in the public part of the Commission meeting.
- 14.** The Commission is then expected to consider in private how it wishes to proceed. Subsequently, the Commission is obliged by statute to inform the council of its decision, which the Commission does before making the decision public.
- 15.** If the Commission decides to make findings, the council is required by statute to do the following:
- consider the findings of the Commission within three months of receiving them
  - publish in a newspaper circulating in the local area a notice stating the time and place of the meeting, indicating that it is to be held to consider the findings of the Commission and describing the nature of those findings (at least seven days before the meeting)
  - after the council has met:
    - notify the Commission of any decisions made
    - publish in a newspaper circulating in the local area a notice containing a summary, approved by the Commission, of the council's decision.
- 16.** The Commission asks the council for a meeting, preferably in the period between the Commission publishing findings and the council considering them, to do the following:

- for Commission members to hear what the council thinks of their findings
- to discuss what the council will do with the findings
- to confirm any next steps
- to review the audit process.

**17.** If the Commission decides to hold a hearing, arrangements and processes are largely down to the Commission to decide. Hearings are rare (the last was in 2010). As noted above, the Commission could make findings and then hold a hearing (actions can be taken in “any order”). But it would be more likely to hold a hearing to inform findings. The circumstances in which the Commission might wish to hold a formal hearing are likely to include:

- where the Commission has serious concerns about the performance of a council as demonstrated in the audit report
- where the Commission considers that its findings would be better informed by hearing directly from the local community and the council
- where there is a strong difference of opinion between the Controller of Audit and the council.

## **Publication arrangements**

- 18.** Whether or not the Commission chooses to make findings, and irrespective of whether it decides to hold a hearing or request further work, the Controller’s report (which is already in the public domain) will be ‘formally’ published as soon as is practicable after the meeting.
- 19.** Ordinarily this would be within two to three weeks, but due to the festive holiday period coinciding with this timescale, it is proposed that this report will be published on Thursday 9 January 2025. Publication of the report will be accompanied by the usual news release and media activity.

## **Conclusion**

- 20.** The Commission is invited to:
- consider the Controller of Audit’s report
  - approve the proposed publication arrangements
  - decide in private how it wishes to proceed.