

MEETING: 12 MARCH 2020

MINUTES OF PREVIOUS MEETING

Minutes of the 465th meeting of the Accounts Commission held in the offices of Audit Scotland at 102 West Port, Edinburgh, on Thursday 6 February 2020, at 10.15am.

PRESENT: Graham Sharp (Chair)
Andrew Burns
Andrew Cowie
Sheila Gunn
Christine Lester
Tim McKay
Stephen Moore
Sharon O'Connor
Pauline Weetman
Geraldine Wooley

IN ATTENDANCE: Paul Reilly, Secretary to the Commission
Fraser McKinlay, Controller of Audit and Director of Performance Audit and Best Value (PABV)
Kate Berry, Seconded, PABV (Item 15)
Tim Bridle, Manager, Audit Services (Item 12)
Carol Calder, Senior Manager, PABV (Item 15)
Lynsey Davies, Audit Officer, PABV (Item 15)
Simon Ebbett, Communications Manager (Item 11)
Corrinne Forsyth, Senior Auditor, PABV (Item 9)
Brian Howarth, Audit Director, Audit Services (Item 12)
Mark McCabe, Audit Manager, PABV (Item 8)
Kathrine Sibbald, Audit Manager, PABV (Item 9)
Lindsay Stother, Audit Officer, PABV (Item 15)
Claire Sweeney, Audit Director, PABV (Items 8, 9 & 15)
Pearl Tate, Senior Audit Manager, Audit Services (Item 12)
Peter Worsdale, Audit Manager, PABV (Item 10)

Item Subject

1. Apologies for absence
2. Declarations of interest
3. Decisions on taking business in private
4. Minutes of meeting of 9 January 2020
5. Audit Scotland Board update
6. Update report by the Secretary to the Commission
7. Update report by the Controller of Audit
8. Strategic scrutiny update
9. Annual Assurance and Risks Report
10. Work programme: stakeholder consultation feedback
11. Audit Scotland communications strategy
12. Statutory Report: Fife Integration Joint Board
13. Statutory Report: Fife Integration Joint Board (in private)
14. New auditor appointments and Code of Audit Practice: update (in private)
15. Performance audit: draft report - New affordable housing (in private)
16. Commission business matters (in private)

1. Apologies for absence

It was noted that apologies for absence had been received from Elma Murray and Sophie Flemig.

2. Declarations of interest

The following declarations of interest were made:

- Sheila Gunn, in item 15, being a non-executive director of the Wheatley Group, in relation to social housing issues.
- Stephen Moore, in items 12 and 13, being a former chief officer in Fife Council who retired in September 2014.
- Christine Lester, in items 12 and 13, being a former Vice Chair of NHS Grampian Board and Chair of Moray Integration Joint Board.
- Geraldine Wooley, in item 9, being a committee member for the Audacious Women Festival, in relation to a reference to transgender matters; and in item 15, as a judge for the Royal Institute of Chartered Surveyors Social Impact Awards.

3. Decisions on taking business in private

It was agreed that items 13 to 16 be considered in private because:

- Item 13 requires the Commission to consider actions in relation to a report by the Controller of Audit. The Commission is then obliged by statute to inform the appropriate local authority of its decisions, which the Commission does before making the decision public.
- Item 14 requires decisions on various aspects of the approach to new audit appointments and associated Code of Audit Practice, which will require the Commission to consider confidential policy, business and commercial matters.
- Item 15 proposes a draft performance audit report which the Commission is to consider in private before publishing.
- Item 16 may be required if there are any confidential matters that require to be discussed outwith the public domain. The Chair will inform the meeting in public at the start of the meeting if this item is required and what it covers.

No business was notified by members for item 16 and thus the Chair advised that the item would not require discussion.

4. Minutes of meeting of 9 January 2020

The minutes of the meeting of 9 January 2020 were approved as a correct record.

Arising therefrom, the Commission agreed:

- In relation to item 5 (first bullet), to note advice from the Secretary that the Chair wrote to the Scottish Government to note the Commission's confidence in the evidence reported in the Local Government Overview Report in relation to local government budgets, and a copy of the letter was available on the members' sharepoint site.
- In relation to item 5 (fourth bullet), to endorse the conclusion of the Secretary, in conjunction with Audit Scotland, not to respond to the Scottish Government consultation on the draft vision and principles for Housing to 2040, but

nevertheless to maintain an interest in the consultation and to advise the Scottish Government of the forthcoming publication of the performance audit on affordable housing.

Action: Director of PABV and Secretary

- In relation to item 5 (fourth bullet), to endorse the conclusion of the Secretary, in conjunction with Audit Scotland, not to respond to the call for views by the Health and Sport Committee in its inquiry into social care, but nevertheless to maintain an interest in the consultation and to advise the Committee of the forthcoming performance audit on sustainability of social care.

Action: Director of PABV and Secretary

5. Audit Scotland Board update

The Commission noted a report by the Secretary providing an update on the business of the Audit Scotland Board.

Arising therefrom, in relation to item 19 of the minutes of Audit Scotland Board of 27 November, on hearing from the chairs of the Commission and of the Financial Audit and Assurance Committee, agreed that it was satisfied that its consideration of the Code of Audit Practice at its November meeting was consistent with good governance and due process requirements.

6. Update report by the Secretary to the Commission

The Commission considered a report by the Secretary providing an update on significant recent activity relating to local government and issues of relevance or interest across the wider public sector.

During discussion, the Commission agreed:

- To note advice from the Secretary that on 11 January, the Court of Session found that South Ayrshire Council had acted “unlawfully” by breaching its “public sector equality duty” in terms of section 149 of the Equality Act 2010 in failing to consult users of the Kyle Adult Day Centre service, and thus quashed the Council’s decision to close the facility.

The Commission noted further advice from the Controller of Audit that he would report this matter in his ‘current issues’ report to the next meeting of the Financial Audit and Assurance Committee.

- To note advice from the Secretary that on 21 January, the First Minister’s National Advisory Council on Women and Girls published its 2019 report and recommendations, including a recommendation that the Commission consider producing a set of scrutiny principles to support the Council’s proposal for co-production and participation in policy making by public bodies, similar to the *Principles for Community Empowerment* document published in conjunction with the Strategic Scrutiny Group.

The Commission noted further advice from the Secretary that the Deputy Chair would be liaising further in this regard with Audit Scotland, reporting back to the Commission in due course.

- To note advice from the Secretary that on 28 January, the Scottish Index for Multiple Deprivation was published, upon which he would report further at its next meeting.

Action: Secretary

- To note advice from the Secretary that on 28 January, the performance audit *Privately financed infrastructure investment* was published, upon which he

would report further at its next meeting.

Action: Secretary

- To note advice from the Secretary that on 31 January, leaders of the Convention of Scottish Local Authorities (COSLA) endorsed statutory guidance on Best Value, the progress of which he would report further to the Commission.

Action: Secretary

- In relation to paragraph 22, following a point made by Andrew Cowie, agreed to maintain a close interest in the progress of the National Islands Plan, particularly considering its implications for the Commission's work programme.

Action: Director of PABV and Secretary

- In relation to paragraph 26, following a point made by Sheila Gunn in relation to the impact on councils of Universal Credit, noted advice from Tim McKay on the progress of ongoing housing benefit performance audit work, to be reported to the Commission at coming meetings.
- In relation to paragraph 30, and in response to a query from Tim McKay, agreed that further information be provided on arrangements in place to deal with any lack of supply of early learning and childcare places in any council area.

Action: Director of PABV

- In relation to paragraphs 54 and 76, to note advice from the Secretary that on 4 February, the Scottish Parliament passed the Non-Domestic Rates (Scotland) Bill, upon which he would report further at its next meeting.

Action: Secretary

Following discussion, the Commission agreed to note the report, and in particular:

- Note the response to the Scottish Government consultation on extending the duration of Part 2 order making powers under the Public Services Reform (Scotland) Act 2010 (paragraph 9).
- Agree not to respond to the Scottish Government consultation on the replacement of European Structural Funds in Scotland post EU-exit (paragraph 16).
- Agree not to respond to the Scottish Government consultation on the first draft Corporate Plan for Scottish Forestry 2020-23 (paragraph 28).
- Agree not to respond to the Scottish Government consultation on Scottish public authorities sharing data (paragraph 40).
- Agree not to respond to the call for evidence by the Scottish Parliament's Finance and Constitution Committee on Scotland and the UK Internal Market after Brexit (paragraph 60).
- Note that the Secretary would be reporting further on the implications and progress of the Scottish Elections (Reform) Bill (paragraph 65).

Action: Secretary

- Note that the Secretary was liaising with Audit Scotland about reporting further on the implications of the final report from the independent review on the quality and effectiveness of audit (paragraphs 66 and 67).

Action: Secretary

7. Update report by the Controller of Audit

The Commission noted a verbal update from the Controller of Audit on his recent activity.

Arising therefrom:

- Noted advice from the Controller that he would report to the Commission on ongoing work by the Scottish Leadership Forum on planning and reporting outcomes.
- Agreed that further information be provided on the Independent Care Review, the report of which was published on 5 February 2020.

Actions: Controller of Audit and Secretary

8. Strategic scrutiny update

The Commission considered a report by the Director of PABV providing an update on the work of the Strategic Scrutiny Group.

During discussion, the Commission noted the progress made by the Strategic Scrutiny Group in key areas of its work.

Thereafter, the Commission noted the report.

9. Annual Assurance and Risk Report

The Commission considered a report by the Secretary introducing the Controller of Audit's Annual Assurance and Risks Report (AARR).

During discussion, the Commission agreed :

- Agreed that as part of its discussions around its refreshed strategy and work programme, it consider:
 - How councils' approach to and appetite for risk features in its work.
 - How the Commission can ensure it articulates risk, responds to and positively influences:
 - collaborative leadership (while noting that a briefing paper in this regard is part of the current work programme)
 - council capacity, knowledge and skills around, for example, long-term financial planning, horizon-scanning and strategic options appraisal.
 - In relation to its strategic audit priorities:
 - To note the Controller's conclusion that he is satisfied that audit work reported in 2018/19 does not highlight any significant areas of the SAPs that would require to be changed.
 - Notwithstanding this, to consider how the critical evidence set out in Exhibit 1 of the AARR is reflected in how the Commission articulates its SAPs.
- Action: Secretary*
- In relation to paragraph 45 of the AARR, noted the importance of the Commission's annual report on reporting progress by councils against their BVAR findings and recommendations.

Following discussion, the Commission agreed to endorse the Annual Assurance and Risk Report and thereby the assurance provided by the Controller of Audit on his reporting to the Commission of matters arising in audit work.

10. Work programme: stakeholder consultation feedback

The Commission considered a report by the Secretary to the Commission presenting the responses to the Commission's November 2019 consultation on its work programme for 2020-25.

During discussion, the Commission

- Noted, in relation to good practice, advice from the Secretary about ongoing discussion with the Improvement Service around articulating respective roles in relation to reporting and promoting good practice.
- Endorsed the usefulness of briefing papers as a medium for setting out its position on policy areas.
- Noted advice from the Secretary that all respondents and non-respondents will receive a communication on the outcome of the exercise, including directly responding to points raised by respondents.

Following discussion, the Commission:

- Agreed that the points raised in the consultation exercise be considered by Audit Scotland in developing work programme proposals, to be considered at its next meeting.

Action: Director of PABV

- Noted the next steps in considering the work programme and Commission strategy.

11. Audit Scotland communication strategy

The Commission considered a report by the Secretary outlining Audit Scotland's communications and engagement strategy for 2020-23.

During discussion, the Commission:

- Noted the importance of securing stakeholder confidence in its work.
- Agreed to consider further how the Commission implements the objective in the strategy to "maximise our work".

Action: Secretary

- Noted advice from the Audit Scotland Communications Manager that targets against the strategy's objectives are to be developed in an action plan, and he would keep the Commission apprised.

Action: Audit Scotland Communications Manager

Following discussion, the Commission agreed to note the report.

12. Statutory Report: Fife Integration Joint Board

The Commission considered a report by the Secretary presenting the Controller of Audit's statutory report on a matter arising from the 2018/19 audit of Fife Integration Joint Board

Following questions to the Controller of Audit, the Commission agreed to consider in

private how to proceed.

13. Statutory Report: Fife Integration Joint Board (in private)

The Commission discussed how to proceed in relation to the Controller of Audit's statutory report on a matter arising from the 2018/19 audit of Fife Integration Joint Board

Following discussion, the Commission agreed to make findings to be published on 27 February 2020.

14. New audit appointments and Code of Audit Practice: update (in private)

The Commission considered a report by the Secretary providing an update on progress made with audit appointments and the new Code of Audit Practice ('Code').

Following discussion, the Commission:

- Noted the updated position on the procurement strategy, upon which the Chair would report further in due course.
- Noted the helpfulness of a member workshop on the Code and thanked the Audit Scotland staff who had supported that event.
- Approved the consultative draft of the Code as a basis for stakeholder consultation, subject to the Code Project Group (and Steering Group as appropriate) considering points raised in discussion.
- Agreed that amending the Code to reflect the points raised should not delay issuing the Code for consultation, and if making the required changes in the timescale was difficult, then these should be made following consultation.
- Approved arrangements for consultation on the Code, including appropriate prominence being given to the commissioners of audit in email and other communications to audited bodies.
- Approved arrangements for stakeholder engagement on the approach to auditing Best Value.

Actions: Secretary

15. Performance audit: draft report - New affordable housing (in private)

The Commission considered a report by the Director of PABV seeking approval of the draft performance audit report, jointly with the Auditor General, *Affordable housing*, and of proposed arrangements for publication and promotion of the report.

Following discussion, the Commission agreed:

- To approve the draft report, subject to the audit team considering in conjunction with the report sponsors, Andrew Burns and Stephen Moore, points raised in discussion.
- To approve the publication and promotion arrangements for the report, including ensuring opportunities for the report sponsors to promote the report at relevant events such as conferences.

Actions: Director of PABV and Secretary

16. Commission business matters

The Chair having advised that there was no business for this item, closed the meeting.