



Scottish Information Commissioner

Report on the 2008-09 Audit

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1 Executive Summary

Introduction

We have audited the financial statements of the Scottish Information Commissioner (the Commissioner) for the 2008-09 financial year and examined aspects of the Commissioner's performance and governance arrangements. This report sets out our key findings.

Financial Statements

We intend to give an unqualified opinion on both the financial statements of the Commissioner for 2008-09 and on the regularity of transactions undertaken during the financial year. During the year, the Commissioner incurred resource expenditure of £1.571 million. The Commissioner manages his budget on a cash basis, however, and cash spending of £1.544 million during the year, matched the funding received from the Scottish Parliamentary Corporate Body (SPCB).

Staff costs are the main area of the Commissioner's expenditure and account for 69% of total costs during the year. Other areas of expenditure are legal costs (6%), depreciation costs (3%) and administrative costs (22%).

The Commissioner's draft financial statements and supporting working papers were presented for audit on 8 June 2009 and were of a high standard. This meant that few audit adjustments were required to be made to the accounts.

Our audit of the Commissioner's financial systems confirms that they continue to operate in a sound control environment. We submitted a detailed report to the Commissioner in May 2009 which made 5 recommendations for improving internal control arrangements. All recommendations were accepted by management and none related to high risk observations.

Governance

Overall, we found that the Commissioner's governance arrangements continue to operate well. The Advisory Audit Board and Management Team meetings are used to monitor the organisational risk register, financial performance and progress against the Strategic and Operational Plans.

Our review of both the internal audit function and the reports of the internal auditor confirmed that it complied with Government Internal Audit Standards and, as a result, we have been able to place reliance on their work for the purposes of our audit.

Performance

The Commissioner introduced a more strategic approach to monitoring organisational performance during the year which has improved overall performance management arrangements. Good progress was made in improving performance during 2008-09, in particular the number of cases being closed during investigation increased as the policy of SIC staff working more closely with public authorities and applicants to reach conclusions took full effect.

The Commissioner completed a detailed 'self assessment' exercise against the 9 best value principles set out in Scottish Government guidelines during the year. No major weaknesses were identified from the review, but the resulting report contains an action plan setting out how the Commissioner will take forward identified areas for development. The Commissioner's approach to best value now fully meets good practice guidelines and this represents a significant achievement

In reviewing overall performance outcomes, we note that the number of cases carried forward reduced from 147 cases to 131 cases during the year and all valid applications were closed after 3.7 months on average, significantly exceeding the 6 month closure target.

Looking Forward

The recent review of Commissioners and Ombudsman by the Scottish Parliament has brought forward proposals for consolidation of some existing bodies. The Parliament does not propose a significant change to the operations of the Commissioner but his office should formally consider how it will take forward the relevant recommendations from this review.

We note that the Scottish Parliament has indicated that a solution be brought forward to address a range of issues raised by the 'personal liability' status of a number of Commissioners and Ombudsman, potentially through individual designation as a 'body corporate'. We await the detail of the final proposal on this matter, but regard the development as a positive step in addressing this long standing issue.

The impact of the economic recession on public sector finances is likely to lead to a reduction in public sector funding for the period from 2010-11. It will become increasingly important for all public bodies to demonstrate economy, efficiency, effectiveness and best value in their operations and the Commissioner should ensure his Office has effective plans in place to address future financial pressures.

All public sector bodies will be required to prepare accounts on the basis of International Financial Reporting Standard (IFRS) for accounting periods from 1 April 2009. The Commissioner will be required to prepare 2008-09 IFRS 'shadow accounts' by end November 2009 in compliance with the Scottish Government's timetable, and should ensure it has effective arrangements in place to prepare full IFRS based 2009-10 accounts.

Next Steps

Our findings and recommendations are summarised in an Action Plan (Appendix A) that accompanies this report. The Action Plan has been agreed with the Commissioner and incorporates the Management Team's response to audit recommendations.

The report includes some specific recommendations to strengthen internal controls. It is the responsibility of the Commissioner to decide the extent of the internal control system appropriate to the organisation.

Acknowledgements

We would like to take this opportunity to thank the Commissioner's staff who have been involved in the audit for their assistance and co-operation.

This report is part of a continuing dialogue between the Commissioner and Grant Thornton and is not, therefore, intended to cover every matter which came to our attention. Our procedures are designed to support our audit opinion and they cannot be expected to identify all weaknesses or inefficiencies in the Commissioner's systems and work practices.

The report is not intended for use by third parties and we do not accept responsibility for any reliance that third parties may place on it. The report will be submitted to the Auditor General for Scotland and will be published by him on his website at www.audit-scotland.gov.uk.

Grant Thornton UK LLP

June 2009

2 Financial Statements

Our Responsibilities

We audit the financial statements and give an opinion on whether:

- they give a true and fair view, in accordance with the Public Finance and Accountability (Scotland) Act 2000 and directions made there under by the Scottish Ministers, on the state of affairs of the Scottish Information Commissioner as at 31 March 2009 and of the net expenditure, recognised gains and losses and cash flows for the year then ended
- they, and the part of the Remuneration Report to be audited, have been properly prepared in accordance with the Government Financial Reporting Manual (FReM) and directions made there under by the Scottish Ministers
- in all material respects the expenditure and receipts shown in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers
- information which comprises the management commentary, included with the Annual Report, is consistent with the financial statements.

We also review the Statement on Internal Control by:

- considering compliance with Scottish Government guidance
- considering the adequacy of the process put in place by the Accountable Officer to obtain assurances on systems of internal control assessing whether disclosures in the Statement are consistent with the information emerging from our normal audit work.

Overall Conclusion

We are able to conclude that the Commissioner's financial statements give a true and fair view of the financial position for the period from 1 April 2008 to 31 March 2009 and that, in all material respects, the expenditure and receipts shown in the accounts were incurred or applied in accordance with applicable enactments and relevant guidance.

We confirm that information which comprises the management commentary, included with the Annual Report, is consistent with the financial statements.

Standard of accounts and supporting papers

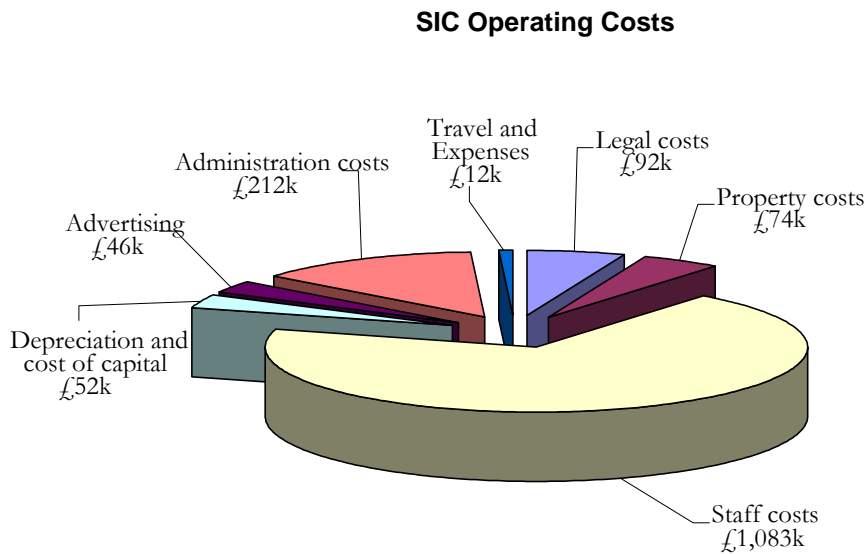
The Commissioner's draft financial statements and supporting working papers were presented for audit on 8 June 2009 and were of a high standard. This meant that few audit adjustments were required to be made to the accounts.

Financial Performance

The Commissioner receives cash funding from the Scottish Parliamentary Corporate Body (SPCB) for his annual budget. This year, the Commissioner drew on the Officeholder's Contingency Fund to meet costs associated with defending cases taken to the Court of Session on Appeal. The cash budget of £1.544 million included £67k from the Contingency Fund, and the return of £14k to the (SPCB).

Staff costs are the main area of the Commissioner's expenditure and accounted for 69% of total expenditure. Other areas of expenditure are legal costs (6%), depreciation costs (3%) and administrative costs (22%). A more detailed analysis of the Commissioner's 2008-09 expenditure is shown in figure 1 below:

Figure 1 - Analysis of the Commissioner's expenditure



The Commissioner incurred capital expenditure of £23,000 against a budget of £6,000, mainly to replace obsolete equipment and also to install a new boiler.

Revaluation of Artwork

FRS 15 - *Accounting for Tangible Fixed Assets* requires asset valuations be "be performed by a qualified valuer at least every five years, with an update in year 3, also performed by a qualified valuer." Our 2007-08 audit identified that the Commissioner did not fully comply with FRS 15 in relation to the valuation of artwork.

The Commissioner introduced a new accounting policy in 2008/09 with regards to the revaluation of the artwork held as tangible fixed assets. The new accounting policy will see the artwork being revalued every three years and the results of that revaluation will be reflected in the financial statements.

We are satisfied that the new accounting policy is now in line with FRS 15.

House of Lords Appeal

As noted in our 2007-08 audit, an appeal that has passed to the House of Lords was remitted back to the Commissioner. This meant the Commissioner was potentially liable for the legal costs of the appellant. The majority of known costs were accrued into the 2007-08 financial statements. There was a further Court decision not to award payment of costs to either party, meaning the Commissioner was only liable for a further £36k of his own legal costs in 2008-09 and this is reflected in the financial statements.

Ongoing Litigation

The Commissioner draws attention in the financial statements to ongoing litigation by those affected by his decisions. The cases are currently in progress and, at this point it is not possible to determine the outcome or the associated costs with any certainty. These cases are, therefore, disclosed as contingent liabilities within the accounts.

Review of systems of financial control

As part of our 2008-09 audit, we reviewed the Commissioner's systems of financial control covering the following key systems:

- budgetary control
- fixed assets
- payroll
- treasury management
- creditor payments

The overall conclusion from our work is that financial systems continue to operate in a sound control environment and can be relied for the purposes of our audit of the financial statements. We submitted a detailed report to the Commissioner in May 2009 which made 5 recommendations for improving internal control arrangements. All recommendations were accepted by management and none related to high risk observations.

Statement on Internal Control

The Statement on Internal Control sets out the arrangements established and operated for risk identification and management, proposed future development of arrangements, and review of effectiveness of the system of internal control.

We are satisfied that the Statement complies with Scottish Government guidance, that the processes put in place by the Accountable Officer (the Commissioner) to obtain assurances on systems of internal control are adequate, and that the contents of the Statement are consistent with the information emerging from our normal audit work.

ISA 260: Communication of Audit Matters to Those Charged with Governance

Our responsibilities in relation to the communication of audit matters to those charged with governance are covered in the International Standard on Auditing 260. Outcomes against the requirements of the Standard are reported in Appendix B to this report.

3 Governance

Introduction

Sound corporate governance is central to demonstrating Best Value, and incorporates the way in which an organisation manages its business, determines strategy and objectives and goes about achieving those objectives. It is concerned with structures and processes for decision-making, accountability, control and behaviour at the upper levels of the organisation. Good governance means:

- focusing on the organisation's purpose and on outcomes for citizens and service users
- performing effectively in clearly defined functions and roles
- promoting values for the whole organisation and demonstrating the values of good governance through behaviour
- taking informed, transparent decisions and managing risk
- developing the capacity and capability of the governing body to be effective
- engaging stakeholders and making accountability real.

Overall Conclusion from our 2008-09 audit

Overall, we found that the Commissioner's governance arrangements continue to operate well. The Advisory Audit Board and Management Team meetings are used to monitor the organisational risk register, financial performance and progress against the operational plan.

Personal Liability

As part of our 2007-08 audit we reviewed the Commissioner's corporate governance arrangements against best practice within the Scottish Public Finance Manual. We concluded that the Commissioner's governance arrangements worked well within a generally sound system of internal control. However, the review highlighted a potential issue relating to the Commissioner's personal liability status, and noted that there was scope for further clarification of the role of the SPCB in the budget approval and authorisation process.

We revisited this areas in our 2008-09 and audit and noted that the Review of SPCB Support Bodies Committee (RSBC) of the Scottish Parliament has recently considered these matters as part of its review of Commissioners and Ombudsman and made the following recommendations:

- that minor amendments are made to the legislation to clarify that the Commissioner acts in an official/distinct legal capacity as the office-holder as opposed to in a personal capacity in relation to his functions, including any exercise of any contractual capacity
- that the Commissioner is indemnified by the SPCB, in respect of liabilities incurred in the exercise of his functions, except where incurred by reason of acting maliciously or in bad faith
- that the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector applies in the context of the handover between office-holders which would ensure the effective application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

- in consideration of the above recommendations, that the SPCB will in general, expect incoming - holders to undertake existing obligations and responsibilities and to take on existing staff.

We regard this develop as a positive step in addressing these long standing issues, but await more detail on the nature of proposed changes to existing legislation.

Internal Audit

The internal audit function is a key component of the internal control framework. Each year, we review the work of internal audit to assess whether the scope of the work was sufficient and whether it was conducted in accordance with approved internal audit standards. Our review concluded that we were able to place reliance on the work of the Commissioner's internal audit function. To avoid duplication of effort and ensure an efficient audit process, we have made use of internal audit work on financial controls and risk management.

Internal audit services to the Commissioner were provided by Scott-Moncrieff. After a review of their reports, we are satisfied that we were able to place reliance on their work for the purposes of our audit.

Budgetary Control

We noted that the Commissioner has continued to strengthen arrangements for budgetary control. Spend against the budget is closely monitored on a monthly basis at Management Team Meetings. The financial reports prepared monitor committed spend as well as the bank balance at each month end.

4 Performance

Introduction

Public audit is more wide-ranging than in the private sector and covers the examination of, and reporting on, performance and value for money issues. As part of our annual audit we are required to review aspects of the Commissioner's arrangements to manage performance, including economy, efficiency, effectiveness and best value in the use of resources.

Strategic Planning

In May 2008, the Commissioner published his Strategic Plan to cover his second period in office, from 2008-12. The Plan covers 6 key strategic themes and associated outcomes across the following aspects of his operations

- Case closure
- Compliance
- Awareness
- Practice
- Development
- Reference

The Strategic Plan sets out a new direction for the Commissioner's office. Additional staff in 2007-08, following through into 2008-09, allowed the Commissioner to clear the backlog of investigation cases. New applications have now begun to level out at around 400 cases per year. This will allow the Commissioner to focus on improving the level of service to applicants, and also provides the opportunity to better address other statutory duties, such as promoting good practice and raising awareness of the right to public information among less-represented groups of the population.

Performance Management

The Commissioner's Operational Plan translates the Strategic Plan into specific actions and expected outcomes for the current year. Management Team meetings are used to ensure that the annual budget is allocated as effectively as possible. Staff planning arrangements are the key mechanism used to match resources to the plans.

Good progress was made in improving performance during 2008-09, in particular the number of cases being closed during investigation increased as the policy of SIC staff working more closely with public authorities and applicants to reach conclusions took full effect.

The number of cases carried forward reduced from 147 cases to 131 cases during the year and all valid applications were closed after 3.7 months on average, significantly exceeding the 6 month closure target.

Best value

The internal auditors have carried out a review of Best Value arrangements that the Commissioner has in place. Their report concluded that the Commissioner has commitment to deliver efficient, economic and effective services and to ensure a formal response plan to best value is put in place that clearly links strategic and operational plans.

The Commissioner acted on internal audit's recommendation and has completed a detailed 'self assessment' exercise against the 9 best value principles set out in Scottish Government guidelines. This exercise confirms that the Commissioner's Office has generally good arrangements in place across all aspects of best value. No major weaknesses were identified from the review, but the resulting report contains an action plan setting out how the Commissioner will take forward identified areas for development.

The Commissioner's approach to best value now fully meets good practice guidelines and this represents a significant achievement.

5 Looking Forward

Financial position

The impact of the economic recession on public sector finances is likely to lead to a reduction in public sector funding for the period from 2010-11. It will become increasingly important for all public bodies to demonstrate economy, efficiency, effectiveness and best value in their operations and the Commissioner should ensure his Office has effective plans in place to address future financial pressures.

Action Plan 1

Public sector reform

The recent review of Commissioners and Ombudsman by the Scottish Parliament has brought forward proposals for consolidation of existing Commissioner and Ombudsman bodies. In addition the recent Public Sector Reform bill has been brought forward to improve overall scrutiny arrangements within the public sector. The Parliament's review does not currently propose a significant change to the operations of the Commissioner, but does recommend closer working arrangements between Commissioners more generally. The Commissioner should formally consider how his Office will take forward the recommendations from these reviews.

Action Plan 2

We note that recommendations have been brought forward by the Scottish Parliament to address issues emerging from the Commissioner's 'personal liability' status and to clarify the role of the SPCB in overseeing 'supported bodies'. If enacted, these would improve governance arrangements overall - however, detailed arrangements have yet to be determined.

International Financial Reporting Standards

All public sector bodies will be required to prepare accounts on the basis of International Financial Reporting Standard (IFRS) for accounting periods from 1 April 2009. In preparing for this, the Commissioner re-stated the 2007-08 balance sheet under IFRS and our audit confirmed that an accrual for employee benefits would represent the only substantive change to the Commissioner's accounts.

The Commissioner will, however, be required to prepare 2008-09 full IFRS 'shadow accounts' by end November 2009 in compliance with the Scottish Government's timetable and should ensure it has effective arrangements in place to prepare full IFRS based 2009-10 accounts. In particular, this will require a review of the format of accounts and accounting policies and disclosures.

Action Plan 3

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June 2009

Appendix A - Action Plan

No	Finding	Risk	Recommendation	Management Response	Implementation date
Financial position					
1	The impact of the economic recession on public sector finances is likely to lead to a reduction in public sector funding for the period from 2010-11.	Medium	The Commissioner should ensure his Office has effective plans in place to address future financial pressures.	The Commissioner is very much aware of the pressures on public sector finances. He has submitted a budget submission to the SPCB, outlining his Operational Plans for the remainder of his term of office, which seeks a '0% uplift' in cash terms and represents a budget reduction in real terms. This considered matters of economy, efficiency and effectiveness, whilst recognising that the Commissioner's budget contains a very modest level of discretionary expenditure.	Actioned
Public sector reform					
2	The recent review of Commissioners and Ombudsman by the Scottish Parliament recommends closer working arrangements between Commissioners more generally.	Medium	The Commissioner should formally consider how his office will take forward the recommendations from the Scottish Parliament's recent review.	The RSSB Committee's ¹ Report will progress to a Committee Bill over the coming months. The Commissioner welcomes the Bill and looks forward to working with the SPCB to implement the new legislation. In the meantime the Commissioner has taken the lead in organising a meeting of Officeholders to discuss the proposals anticipated to be included in the Committee's Bill.	Actioned

¹ Scottish Parliament's Review of SPCB Supported Bodies Committee

Appendix A - Action Plan

No	Finding	Risk	Recommendation	Management Response	Implementation date
IFRS					
3	The Commissioner is required to prepare 2008-09 full IFRS 'shadow accounts' by end November 2009 and should ensure it has effective arrangements in place to prepare full IFRS based 2009-10 accounts.	Medium	The Commissioner should review its arrangements for complying with the Scottish Government's timetable for re-stating the 2008-09 accounts and preparing 2009-10 accounts under IFRS.	The Commissioner's Finance and Administration Manager attended training on 20 August 2009 arranged by the SPCB in this regard	Actioned

Appendix B- Communication of audit matters to those charged with governance

ISA 260 – Communication of audit matters to those charged with governance

Under ISA 260, we are required to consider matters of governance interest that arise from the audit of the financial statements and communicate them with those charged with governance. The areas considered are as follows:

- a) Relationships that may bear on Grant Thornton’s independence and the integrity and objectivity of the audit engagement lead and audit staff;
- b) The overall approach to the audit including any limitations thereon, or any additional requirements;
- c) The selection of, or changes in, significant accounting policies and practices that have, or could have a material effect on the entity’s financial statements;
- d) The potential effect on the financial statements of any material risks and exposures, such as pending litigation, that are required to be disclosed in the financial statements;
- e) Audit adjustments, whether recorded or not by the entity that have, or could have a material impact on the entity’s financial statements; and
- f) Those uncorrected misstatements aggregated by the auditor during the audit that were determined by management to be immaterial both individually and in aggregate to the financial statements as a whole.

Key Findings

We summarise our key audit findings in relation to the above areas.

Ref	Area	Key Messages
A	Independence	<p>We are able to confirm our independence and objectivity as auditors and note the following:</p> <ul style="list-style-type: none"> • we are independently appointed by Audit Scotland; • we comply with the Auditing Practices Board’s Ethical Standards; and • we have not performed any non Code of Audit Practice (the Code) or advisory work during the year.

Appendix B- Communication of audit matters to those charged with governance

Ref	Area	Key Messages
B	Approach to the audit	<p>Our approach to the audit was set out in our 2007-08 audit plan. We have planned our audit in accordance with International Auditing Standards and the Code. Other key factors to highlight include:</p> <ul style="list-style-type: none"> • we consider the materiality of items in the financial statements both in determining the approach to audit them and in determining the impact of any errors; • we have been able to place appropriate reliance on the key accounting systems operating at the Commissioner's office for final accounts audit purposes only; and • we have been able to place reliance on the work of internal audit in respect of the key accounting systems.
C	Accounting policies and practices	<p>We consider that the Commissioner has adopted appropriate accounting policies in the areas covered by our testing. Accounting policies adopted were in accordance with the Government Financial Reporting Manual (FRoM).</p> <p>The Commissioner has considered and confirmed his office remains a going concern. The Commissioner is asked to confirm this through the Letter of Representation.</p>
D	Material risks and exposures	<p>The Commissioner has considered and confirmed that his office has no material risks and exposures which should be reflected in the financial statements. The Commissioner is asked to confirm this in the Letter of Representation.</p>
E	Audit adjustments and unadjusted errors	<p>We identified several minor disclosure amendments and reclassifications to improve the presentation of the accounts. These are outlined below. There were no material errors that were not adjusted in the accounts.</p>

Appendix B- Communication of audit matters to those charged with governance

Accounting Issues

Revaluation of Artwork

The Commissioner introduced a new accounting policy in 2008/09 with regards to the revaluation of the artwork held as tangible fixed assets. The new accounting policy will see the artwork being revalued every three years and the results of that revaluation will be reflected in the financial statements.

Per FRS 15 - *Accounting for Tangible Fixed Assets* "the valuation should be performed by a qualified valuer at least every five years, with an update in year 3, also performed by a qualified valuer." this means that the policy undertaken by the Commissioner's is now in line with FRS 15. We are satisfied that this treatment is correct

Error in Calculation of Notional Cost of Capital

During audit testing, we highlighted that the notional cost of capital was not updated for the 2007 / 08 audit adjustments. Upon recalculation this produced a small difference which was accepted and posted by the client.

Summary of adjusted audit differences

This is a summary of audit differences processed by the Commissioner's office during the course of our audit.

	Income & Expenditure account		Balance Sheet	
	Dr £s	Cr £s	Dr £s	Cr £s
Adjustments affecting reported results				
Notional Cost of Capital			686	
Notional Cost of Capital		686		
Total		686	686	

There are no unadjusted differences to report.