



INFRASTRUCTURE, GOVERNMENT AND HEALTHCARE

Scottish Legal Aid Board

Annual audit report to the Scottish Legal Aid Board and the Auditor
General for Scotland
Year ended 31 March 2010

9 July 2010

AUDIT

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About this report

This report has been prepared in accordance with the responsibilities set out within the Audit Scotland's *Code of Audit Practice* ("the Code").

This report is for the benefit of only the Scottish Legal Aid Board and is made available to Audit Scotland (together "the beneficiaries"), and has been released to the beneficiaries on the basis that wider disclosure is permitted for information purposes, but that we have not taken account of the wider requirements or circumstances of anyone other than the beneficiaries.

Nothing in this report constitutes an opinion on a valuation or legal advice.

We have not verified the reliability or accuracy of any information obtained in the course of our work, other than in the limited circumstances set out in the scope and objectives section of this report.

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Complaints

If at any time you would like to discuss with us how our services can be improved or if you have a complaint about them, you are invited to contact Grant Macrae, who is the engagement leader for our services to the Board, telephone 0131 527 6611 or email grant.macrae@kpmg.co.uk who will try to resolve your complaint. If your problem is not resolved, you should contact Lorraine Bennett, our Head of Audit in Scotland, either by writing to her at Saltire Court, 20 Castle Terrace, Edinburgh, EH1 2EG or by telephoning 0131 222 2000 or email lorraine.bennett@kpmg.co.uk. We will investigate any complaint promptly and do what we can to resolve the difficulties. After this, if you are still dissatisfied with how your complaint has been handled you can refer the matter to Russell Frith, Director of Audit Strategy, Audit Scotland, 110 George Street, Edinburgh, EH2 4LH.

Financial Statements

Following approval by the chief executive we issued an audit report expressing an unqualified opinion on the financial statements of the Board for the year ended 31 March 2010 and on the regularity of transactions reflected in those financial statements.

The financial statements of the Fund report net operating costs of £145.502 million (2008-09; £140.416 million) and net liabilities as at 31 March 2010 of £59.135 million (2008-09; £60.793 million).

Grant-in-Aid reports net operating costs of £13.685 million on an accruals basis (2008-09; £14.931 million) and net liabilities of £44.545 million as at 31 March 2010 (2008-09; £30.514 million).

No numerical audit adjustments were made to the financial statements. Presentational adjustments were made to operating lease commitment disclosures and the notes to the financial statements were amended to incorporate the 2008 transitional comparatives. Both of these presentational amendments were made in order to comply with the requirements of International Financial Reporting Standards ('IFRS'), as adapted in the FReM.

Corporate governance

We considered corporate governance arrangements as they relate to systems of internal control, the prevention and detection of fraud and irregularity, standards of conduct and arrangements for the prevention and detection of corruption, and its financial position.

- The statement on internal control does not disclose any significant weaknesses in the systems of internal control.
- The process to monitor changes to general laws and regulations, including guidance and circulars issued by the Scottish Government and other government bodies, is now fully implemented.
- None of the Board's activities meet the Government's definition of capital expenditure. Against a total Grant-in-Aid budget of £13.628 million for 2009-10, an underspend was recorded.
- The Scottish Government has fixed the Grant-in-Aid element of the Board's administrative budget at £12.659 million per annum for 2008-09 to 2010-11. Management have determined that the Board will need to identify and measure annual savings of £280,000 to meet this target. It is recognised that the Legal Aid Fund is not cash limited.

Performance management

There are strong performance management arrangements in place and performance against performance indicators is monitored on a regular basis.

- The Board achieved all of its key performance indicators.
- For 2009-10 the Board will report cash releasing efficiency savings of around £11 million.

Our audit work is undertaken in accordance with Audit Scotland's *Code of Audit Practice* ("The Code"). This specifies a number of objectives for our audit.

Audit framework

This year was the fourth of our five-year appointment by the Auditor General for Scotland as external auditors of the Scottish Legal Aid Board ('the Board'). We refer to the Board throughout this document, except where we specifically discuss the financial statements of either the Scottish Legal Aid Fund ('the Fund') or the Scottish Legal Aid Board ('Grant-in-Aid'). This report to the Board and Auditor General provides our opinion and conclusions and highlights significant issues arising from our work. We outlined the framework under which we operate, under appointment by Audit Scotland, in the audit plan overview discussed with the audit committee on 8 February 2010.

The purpose of this report is to report our findings as they relate to:

- the **financial statements** and our audit opinions on net operating costs and the regularity of transactions;
- **use of resources**, including financial outturn for the year ended 31 March 2010 and financial plans for 2010-11 and beyond;
- arrangements around **governance and accountability**, including risk management, and our consideration of the work of internal audit; and
- **performance management** and the Board's arrangements to achieve efficiency savings.

Best Value

Audit Scotland and the Scottish Government have been committed to extending the Best Value audit regime across the whole public sector for some time now, with significant amounts of development work having taken place during the last year. Using the Scottish Executive's nine best value principles as the basis for audit activity, Audit Scotland selected five areas as priority development areas (use of resources, governance and risk management, accountability, review and option appraisal, and joint working). There was no mandatory requirement for toolkits to be applied in central government bodies in 2009-10. Management have developed a process of annual review and action planning to maintain and improve Best Value compliance. This includes an annual reporting to the Board on progress against this plan and a plan for the year ahead. In addition, in 2009/10, Management developed a programme of best value reviews which over time are intended to cover the main areas of the Board's business. Management intends to utilise the toolkits available from Audit Scotland to carry out a self-assessment of priority development areas during 2010-11.

International financial reporting standards

The 2007 Budget announced that central government and health bodies would report under International Financial Reporting Standards ("IFRS"), as adapted by HM Treasury through the financial reporting manual ("FRoM"). The accounts for the year ended 31 March 2010, including comparative figures for 2008-09, were prepared on the basis of the FRoM.

Responsibilities of the Board and its auditors

External auditors do not act as a substitute for the Board's own responsibilities for putting in place proper arrangements to account for the stewardship of resources made available to it and its financial performance in the use of those resources, to ensure the proper conduct of its affairs, including compliance with relevant guidance, the legality of activities and transactions, and for monitoring the effectiveness of those arrangements and, through the accountable officer, to make arrangements to secure Best Value.

Action plan

This report includes an action plan containing areas for development or improvement identified during our financial statements audit fieldwork. We have not repeated recommendations raised in reports issued during our earlier work in respect of our 2008-09 audit. Responsibility for taking action and monitoring progress in response to all our recommendations lies with management.

Acknowledgement

We wish to record our appreciation of the continued co-operation and assistance extended to us by your staff.

Overview of activities

The Board is a non-departmental body responsible to the Scottish Government. The purpose of legal aid is to make good quality legal assistance available to individuals with limited financial resources. The Board manages legal aid funding, which includes deciding who is entitled to legal aid and whether they are required to make a contribution towards it. These decisions are based on legislation and tests for granting legal aid set by the Scottish Parliament. Funding for legal assistance is unlimited and will be granted to anyone satisfying the requirements, unlike the costs of administering legal assistance, for which an annual budget is set by the Scottish Government. These two streams of funding are accounted for separately, in the Fund and Grant-in-Aid, as required by the Legal Aid (Scotland) Act 1986. Legal aid is broadly the cost of taking a case to court, including the cost of experts if required. Advice and assistance covers everything other than 'representation' pertaining to Scottish law via a solicitor. Legal aid currently comprises two main categories, legal aid and advice and assistance.

Changes faced in the financial year to 31 March 2010 included significant shifts relating to the impacts of summary criminal legal aid reforms and the pressures of the recession. The recession in particular made the fund problematic to forecast and the original forecast of £147.7 million was increased to £150 million.

As anticipated a much larger proportion of criminal cases being paid came under the reformed structure of payments. Thus there was a large shift of cases from summary criminal legal aid to assistance by way of representation ('ABWOR'). This reflected the shift to earlier guilty pleas.

Civil Legal Aid was most impacted by the effects of the recessionary economy and there was a large increase in applications in the latter part of 2008-09 that continued into 2009-10.

The Board will continue to roll out online systems for the use of applicants and solicitors in 2010-11. Currently, approximately 75% of advice and assistance intimations are made online.

We have issued unqualified opinions on the financial statements and the regularity of transactions reflected in those financial statements.

Key issues arising from our audit of the financial statements are:

- Two presentational adjustments were made to the accounts in order to comply with the requirements of IFRS. These regarded the requirement for transitional comparatives for 2008 to be disclosed in all balance sheet notes and the need to disclose total lease commitments at the balance sheet date.

Application of International Financial Reporting Standards as interpreted by the Financial Reporting Manual (FReM)

The Scottish Government announced on 25 April 2008 that all Scottish Government departments, executive agencies, non-departmental public bodies and health boards would report under IFRS from 2009-10, necessitating the restatement of comparative information under new accounting policies.

As part of the process of transition to IFRS, SLAB prepared 'shadow accounts' which we reviewed and reported on in February 2010. Our review identified a number of issues which required further consideration by management. Each of these has subsequently been actioned.

The transition to reporting under IFRS has resulted in the following key changes in accounting policies and reporting:

- Accounting policies have been updated in line with the FReM;
- Short-term employee benefits – an accrual has been made for untaken holiday pay at the balance sheet dates;
- Financial Instruments measurement – SLAB has amended its measurement of impairment of its trade receivables to ensure the method is consistent with the requirements of International Accounting Standard 39.

There have also been significant changes to the overall presentation of the accounts to reflect the disclosure requirements of the FReM.

We did not identify any further key risk areas during our audit of the accounts.

Recommendations

We did not identify any significant recommendations for development in relation to the financial statements.

Audit opinions and key issues

Reporting arrangements and timetable

In accordance with the Board's timetable, draft financial statements were available for audit on 7 June 2010. This was consistent with the date that we received the financial statements in 2008-09. This allowed for timely completion of the audit and consideration and approval of the financial statements by the chief executive on 19 July 2010.

Audit opinion

Following approval we issued an audit report expressing an unqualified opinion on the financial statements for the year ended 31 March 2010 and on the regularity of transactions reflected in those financial statements.

Key issues arising during our audit of the financial statements

Our audit plan overview identified four key risk areas.

Key risk area	Conclusions
Provision for legal aid costs	As at 31 March 2010 the provision for legal work performed but not paid in the period to 31 March was £64.796 million. We reviewed the underlying basis of the provision and concluded that the provision as at 31 March 2010 was not materially misstated.
Net liabilities	As at 31 March 2010 the Fund balance sheet reported net liabilities of £59.135 million (2008-09: £60.793million) primarily due to the carrying value of provisions for liabilities and charges. Net liabilities in the Grant-in-Aid balance sheet were £44.545 million (2008-09: 30.514 million), which primarily relates to the value of the pension scheme liabilities at year end. Provisions for liabilities and charges and pension scheme liabilities have been accounted for under International Accounting Standard 37 'Provisions, Contingent Liabilities and Contingent Assets' and International Accounting Standard 19 'Employee Benefits' respectively. We have reviewed a 'letter of comfort' provided by management, originating from the Scottish Government confirming that cash will be available in future years to fund the settlement of these obligations as and when they fall due.
Governance and risk management	We have considered the results of a recent review of Corporate Governance as reported to the audit committee on 20 July 2009 and the audit committee self-assessment checklist completed in July 2009. We have no recommendations for areas of improvement.
Fraud	The nature of the Board's transactions place a degree of reliance on the integrity of third parties (i.e. solicitors and assisted persons) thus increasing the inherent risk of fraud. The Board has implemented a number of proactive and reactive controls to prevent and detect fraud. Internal audit, led by the director of audit and compliance, has carried out extensive work in the year to prevent and detect fraud. We have placed reliance upon the internal audit 'fraud review' which concluded that controls in place were satisfactory.

Regularity of transactions

In order to gain assurance over the regularity of expenditure we have updated our understanding over the processes in place to receive Scottish Government circulars, register, allocate and distribute responsibility for action points and monitor and follow up on these action points. Testing of the register and monitoring process identified that these processes are designed, implemented and operating effectively.

The Board has formal procedures in place to ensure that the existence of relevant guidance is noted and that there is a procedure to record action taken and progress.

We reviewed a sample of communications from the Scottish Government to ensure that the correct procedures had been followed. In all cases we found that the correct procedures had been followed.

The Board met its financial targets. The outturn against Grant-in-Aid budget on a cash basis was £13.3 million against a budget of £13.6 million, an underspend of £0.3 million.

The 2010-11 financial plan for Grant-in-Aid forecasts an outturn of £13.144 million against total funding of £13.144 million. Achievement of the plan will be challenging due to the continued need to find cash releasing efficiencies within the Board. The Board forecasts an outturn of £156.7 million for the Fund against published available funding of £154.5 million. Achievement of this plan will depend to an extent on the demand led nature of legal aid and future reforms to the Scottish legal system. The Board has advised the Scottish Government of the forecast to alert them to the need for adequate funding.

Internal audit work conducted over the Board's accounting and budgeting procedures concluded that the controls in place were satisfactory.

- Stage one of the asset management programme to free up space in the leased buildings was completed in September 2009 and the Board anticipates a reduction of 22% on prior year carbon emissions.
- The continued development of Legal Aid online remains key to the Board's aspirations to achieve efficiency savings.

The Board has satisfactory formalised procedures in place to ensure that all reports receive from Audit Scotland are considered and actioned where appropriate in a timely manner.

Recommendations

We did not identify any significant recommendations for development of the Board's arrangements to manage the use of resources.

Financial position

Actual performance in 2009-10 against Scottish Government funding allocations was as follows:

	Scottish Government Budget £000s	Other funding Sources £000s	Total Funding available £000s	Cash Expenditure £000s	Net Operating Costs (accruals basis) £000s
Scottish Legal Aid Fund	150,400	-	150,400	150,400	145,502
Scottish Legal Aid Board Administrative Budget	12,659	969	13,628	13,309	13,685

Scottish Legal Aid Fund

The nature of legal aid and complexity of relevant legislation means that expenditure is demand led and therefore unpredictable in timing and volume. Section 40 of the Legal Aid (Scotland) Act 1986 states that "*The Secretary of State shall pay to the Board out of moneys provided by Parliament ... such sums as are required ... to meet payments out of the Fund under this Act*". This means that expenditure is driven by legislation and is not cash limited to the funding allocation of £150.0 million. As a result of this, the Fund's expenditure is not limited by budget but is rather regularly monitored throughout the year by management submitting a monthly vote monitoring return detailing cash drawn down to date and forecast cash required to 31 March 2010 in line with Scottish Government Justice Department requirements. The Fund drew down £150.001 million in cash during the year, which is consistent with correspondence from the Scottish Government Justice Department, which together with a further £238,000 of pension related amounts comes to the figure of £150.239 million shown as grant-in-aid received in the cash flow statement. The total cash expenditure, reflecting both cash drawn down and the movement in bank balances was £150.400 million. Timing differences between expenditure being incurred on the accrual basis and cash payouts for legal aid can vary and along with depreciation charges and notional interest on capital results in a significant difference between cash and accruals based expenditure.

Grant-in-Aid

The total funding available of £13.628 million for the Board's administrative budget combines the Scottish Government's core grant-in-aid with sums the Board is entitled to retain from the collection of superannuation contributions from staff; with the Scottish Government's funding of pension costs above an agreed baseline sum; and with additional funding provided by the Scottish Government to fund a suite of legal aid reforms. At £13.309 million, net cash expenditure for the year is within that total available cash funding. The higher accruals based expenditure primarily relates to non-cash pension scheme service and finance costs, depreciation and notional interest on capital.

The Board is given a budget allocation by the Scottish Government each year. An extensive annual process of budget preparation, in which each cost centre is examined, is undertaken annually. Internal audit reviewed the accounting and budgeting processes during the year upon and they concluded that the controls in place were satisfactory.

The Board meets eight times a year. Financial performance is discussed in detail at these meetings, and any concerns over or risks to the financial plan are discussed. During the year, the Board keeps the sponsor division informed about over the projected outturn against budget. Any amendments to that budget would be reflected in the Scottish Government's proposals to Parliament for autumn and spring budget revisions.

Efficiency savings

All public bodies are required to meet the Scottish Government's efficiency targets. The Board is working with the Scottish Government to identify a further range of changes to legal aid which will generate savings over the coming three years. Like the last efficient government programme, elements of the package may require ministerial agreement and may rely upon the Scottish Government to promulgate relevant legislation. In recent years, the Board has worked closely with the Scottish Government to identify a range of savings and efficiencies which have mainly been within a context of modernising legal aid, albeit decisions on whether to progress with many of the proposed savings are taken by ministers. The savings are achieved through a range of regulatory changes. The Scottish Government has set Grant-in-Aid efficiency savings targets for the next three financial years. The approach adopted for Grant-in-Aid is for funding to be capped at £12.659 million for 2010-11 requiring Grant-in-Aid to make an annual saving of approximately £280,000, to meet inflationary pressures. Along with significant reductions in staff numbers, a major contribution identified by management in achieving these savings is sub-leasing a substantial part of its premises. The Board has surpassed this target for 2009-10 and will report efficiency savings of £1.008 million (2009-11: £0.433 million) for Grant-in-Aid, through;

- continued involvement in the central Government's procurement initiative which may reduce the cost of service contracts and capital expenditure through collective bargaining;
- using of the Board's well established internal audit department to provide services to other public sector bodies;
- continuing to closely monitor space utilisation and sub letting released accommodation to a combination of other public sector bodies;
- increasing the resources of the compliance and investigations divisions within the audit department due to the significant success they have achieved recently by investigating the accuracy of information submitted by assisted persons and claims made by solicitors; and
- the continued implementation of *Legal Aid Online* and increased use of document management and intelligent scanning which will lead to cash releasing efficiencies through staff cost savings.

Savings to be realised in the Fund involve changes to legislation and thus the pace of such reform is, to an extent, dictated by Scottish ministers and the timetable of the Scottish Government. Cash releasing efficiency savings reported in 2009-10 amount to £9.880 million and comprise savings due from implementation of the summary justice reform and savings realised from increased investment in accounts verification and solicitors investigations.

Financial planning

The 2010-11 financial plan for Grant-in Aid forecasts an outturn of £13.144 million against the total funding available of £13.144 million.

The financial planning process is an annual process of analysing expenditure requirements of each cost centre within Grant-in-Aid and Fund. Budgets are agreed locally before being collated and sent to the executive team and then on to the Scottish Government .

Long-term financial planning

In order to meet the savings targets set by the Scottish Government's efficiencies programme, the Board will continue to invest in the development of *Legal Aid Online* and document management system to generate further staff savings in the future. The Board has identified that the rate of take up of such systems as a risk to maintaining the pace of staff, and thus cost, reduction going forward.

Risks highlighted in the 2010-11 forecast with regards to Fund expenditure include:

- in any given year, a small number of high cost cases can markedly impact upon Fund expenditure; and
- forecasts suggest that the increase in demand for civil legal assistance arising out of the recession may be sustained for some time. Some of this will be met through the Government's arrangements to make £3m available over two years for grant funding schemes. The remainder is likely to precipitate in a continuation of the already heightened level of applications and ultimately expenditure for civil advice and assistance and civil legal aid.

In addition, management recognises that, due to the current economic climate and the pressures that this will place on Scottish Government budgets, efficiencies may be called for beyond those set out in the current efficient government programme. In light of this, the Board are currently undertaking a fundamental review of Fund and Grant-in-Aid expenditure, with a view to developing detailed financial plans that will identify further significant opportunities for savings.

Workforce management

Employee sickness absence for 2009-10 was 7.8 days per whole time equivalent (WTE). This was made up of 2.9 days per WTE for self-certified absence and 4.9 days per WTE for certified absence. This compares favourably with the absence rate for the public sector which stands at 9.7 days.

Staff turnover is significantly lower than last year at 8.4% (2008-09; 13.4%) and compares favourably with the most recently reported overall average within the public sector at 12.6%. This figure can be broken down further to reflect a level of 'voluntary' leavers at 3.3%, compared to 7.6% more generally within the public sector. The gap between the total turnover and the 'voluntary' turnover reflects a strategy to use agency staff in the short term to give the Board the ability manage the planned reduction of staff numbers following the implementations of new systems and processes, without the need for redundancy.

Asset Management

Stage one of the asset management programme, whereby space is being freed up within its leased premises, was completed in September 2009. The space released has been taken by various organisations, including the Penrose Inquiry and the Finger Print Inquiry. This is consistent with recent Scottish Government initiatives whereby relocating organisations should find space within existing public sector buildings. The asset management programme is an ongoing process and stage two, which will examine how other areas of the Board utilise space in the building, is now underway.

The Board has also established targets to reduce its carbon footprint. As part of this programme the Board targets use of fuel, waste and travel. The Board also measures savings in its carbon footprint by monitoring its use of electricity, and recycling of confidential waste, paper, toners cups, cardboard, cans, bottles and tubes. The forecast for 2009-10 anticipates a reduction of 39 (22%) carbon dioxide tonnes on the prior year figure of 180 tonnes.

Procurement

The Board is involved in the Scottish Government's procurement initiative which aims to reduce the cost of service contracts and capital expenditure through collective bargaining. Through participating actively in the central government centre of procurement expertise (CGCoPE) which has developed mechanisms for monitoring the savings being delivered through participation in collaborative contracts. A recently produced CGCoPE report indicates that the Board has achieved savings of £22,000 in 2009-10.

The Board is also in the process of developing a sustainable procurement plan.

Information management

The Board is committed to following Scottish Government guidance on matters such as data security. The Board complies with the Freedom of Information (Scotland) Act 2002, and seeks to act in the spirit of openness to provide information within twenty working days under its publication scheme. The continued development of *Legal Aid Online* continues to be a focus in the drive to achieve efficiencies.

Partnership working

In addition to sharing its premises at Drumsheugh Gardens, the Board has been actively sharing services with other organisations. Internal audit is providing audit and consultancy services to public bodies such as the Scottish Public Services Ombudsman and Architecture and Design Scotland.

The statement of internal control does not disclose any significant weaknesses in the systems of internal control.

There is a formal process to record, distribute and monitor action in response to key guidance and circulars.

There is a formal fraud policy in place at the Board.

The Board has a formal policy around receiving and reviewing Audit Scotland national reports.

Recommendations

We did not identify any significant recommendations for development in governance and accountability arrangements.

Introduction

Corporate governance is concerned with structures and processes for decision-making, accountability, control and behaviour. The three fundamental principles of corporate governance – openness, integrity and accountability – apply to all bodies.

Through its chief executive and accountable officer, the Board is responsible for establishing arrangements for ensuring the proper conduct of its affairs, including compliance with relevant guidance, the legality of activities and transactions, and for monitoring the adequacy and effectiveness of these arrangements. The *Code* requires auditors to review and report on corporate governance arrangements as they relate to:

- the Board's reviews of its systems of internal control, including its reporting arrangements;
- the prevention and detection of fraud and irregularity; and
- standards of conduct and arrangements for the prevention and detection of corruption.

Governance framework

The audit committee and the remuneration and appointments committee are established as sub-committees of the Board. The role of these committees is to support the chief executive, as accountable officer, to ensure that corporate governance arrangements are effective and appropriate. The annual internal assurance programme supports the assessment of the operation of the system of internal control. Responsible officers provide a statement of assurance to the chief executive to assist in his preparation of the statement.

Our testing of the design and operation of entity level controls and significant risk points in key financial processes and information systems confirms that, subject to some very minor recommendations reported, controls are designed appropriately and operating effectively.

Internal audit

Our planned audit approach seeks, wherever possible, to place reliance on the work completed by internal audit to minimise duplication of effort and ensure maximum benefit from the combined audit resource.

Internal audit have completed work in accordance with the annual audit plan and the director of audit and compliance has concluded in the annual assurance 2009-10 that there is a "...generally sound framework of control", and that "...there is nothing which would warrant the Accountable Officer not signing the standard form of the Statement of Internal Control in the Board's report and accounts for the year to 31 March 2010".

Internal audit reached a conclusion of 'good' or 'satisfactory' on all areas covered. Internal audit delivered the annual assurance statement and the director of audit and compliance's opinion to the accountable officer at the audit committee on 19 July 2010. We placed reliance on internal audit's work in the following areas:

- bank and cash;
- recruitment and payroll;
- income;
- operating costs;
- budgetary control and financial reporting; and
- IS core systems.

Internal controls

Our work on organisation-wide controls has included the review of relevant policies and procedures and consideration of the adequacy and appropriateness of the content. In addition, we reviewed evidence of processes such as risk monitoring and financial reporting, to confirm these processes are operating as intended. The majority of policies and procedures are available to all staff on the intranet. This ensures that relevant personnel have access to the current version of key documents at all times.

The statement on internal control provides details of the purpose of the system of internal control, the risk and control framework and the effectiveness of this framework. The statement complies with the Scottish Government's guidance and is consistent with our understanding.

Prevention and detection of fraud and irregularity

There continues to be a strong fraud policy in place at the Board, with no significant changes in the year. Management continues to recognise the importance of controls designed to mitigate the risk of fraud.

A formal whistle blowing policy governs the procedures to be followed in the event of suspecting or detecting fraud. This is incorporated in the fraud prevention policy which is available to all staff on the intranet. The policy also incorporates a fraud detection and response strategy.

Where management are made aware of a suspected fraud, the director of audit and compliance and the senior auditor will co-ordinate an investigation. The director of audit and compliance and the senior auditor are responsible for undertaking preliminary investigations, and will proceed with any follow up investigation which may be recommended by legal services and agreed with personnel.

The two major types of fraud committed are likely to be solicitors submitting fictitious claims and individuals falsifying the extent of their financial means when applying for advice and assistance. The audit and compliance department adopts various means in the prevention and detection of fraud with success. These measures include, analysing amounts claimed by solicitor firms and by case type and performing onsite investigations at solicitor's premises.

We have not been advised of any frauds in the year.

Audit Scotland periodically undertakes national studies on topics relevant to the performance of central government bodies. While the recommendations from some of the studies may have a national application, elements of the recommendations are also capable of implementation at local level, as appropriate.

During 2009, the Audit Committee agreed a standing requirement to review the Audit Scotland reports to establish the relevance of the findings to the activities of the Board, and where appropriate to use the report's findings both to develop assurance over the Board's own approach to the issue. Where appropriate a local action plan is developed to enable the Board to act on the findings.

The Audit Committee and Executive committee are due to consider the Board's annual response to Audit Scotland reports in July 2010. For 2009-10 the committee's will consider the relevance of the following seven reports and any appropriate action plans as follows;

- Improving public sector purchasing (July 2009);
- Improving civil contingencies planning (August 2009);
- Review of cairngorm funicular railway (October 2009);
- Progress report on planning for the delivery of the XX Commonwealth Games 2014 (November 2009);
- Scotland's public finances: preparing for the future (November 2009);
- Protecting and improving Scotland's environment (January 2010); and
- Improving public sector efficiency (February 2010).

The Board achieved all of its key performance indicators.

Strong performance management arrangements include regular monitoring of key performance indicators to provide a framework of accountability for performance.

For 2009-10 the Board will report cash releasing efficiency savings of £9.880 million for the Fund and savings of £1.008 million for Grant-in-Aid.

Performance is regularly reported to the Board and the appropriate governance committee.

Recommendations

We did not identify any significant recommendations for development in performance management arrangements.

Performance management arrangements

The corporate plan details the annual objectives and performance indicators. The annual report summarises performance during the year and we understand that management will report that the eight headline performance indicators were met during 2009-10.

Performance against targets in 2009-10

The Board achieved all of its key performance indicators for 2009-10. These indicators measure the timeliness, consistency and accuracy of processing of legal aid applications and accounts. Performance indicators are reviewed on an annual basis to ensure they continue to reflect the Board's services and the needs of legal aid applicants.

The Board's 2009-10 corporate target was that 98% of invoices would be paid within 30 days. In 2009-10 the Board paid 98% of invoices within 30 days. From April 2010 the Board's corporate target is to pay 90% of invoices within 10 days.

Public performance reporting

The corporate plan which details annual objectives and indicators is made available upon the Scottish Legal Aid website. The Board publishes its annual report for the year online for access by the general public after the financial statements have been finalised.

Stakeholder engagement and consultation

Strategically, the Board continues to work in partnership with other stakeholders in the justice system. An examination of the strategic risk register confirmed continuous liaison with the Law Society and the Faculty of Advocates, the Crown Office, Bar Associations, the Advice Sector as well as Sheriffs and Sheriff Principals.

Appendix one – action plan

Priority rating for recommendations

Grade one (significant) observations are those relating to business issues, high level or other important internal controls. These are significant matters relating to factors critical to the success of the Board or systems under consideration. The weakness may therefore give rise to loss or error.

Grade two (material) observations are those on less important control systems, one-off items subsequently corrected, improvements to the efficiency and effectiveness of controls and items which may be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified.

Grade three (minor) observations are those recommendations to improve the efficiency and effectiveness of controls and recommendations which would assist us as auditors. The weakness does not appear to affect the availability of the controls to meet their objectives in any significant way. These are less significant observations than grades one and two, but we still consider they merit attention.

No.	Issue and recommendation	Management response	Officer and due date
1	<p>No formal review of user access to the key IS system is conducted. There is a risk that members of staff have inappropriate access levels within the system.</p> <p>It is recommended that a formal review of user access levels within key systems is conducted on an annual basis</p> <p><i>(Grade three)</i></p>	<p>Agreed. The formal review will be conducted on an annual basis.</p>	<p>John McLeod, Head of Information Services, September 2010</p>
2	<p>It is noted that a check to confirm the success of automated system interfaces is not included on the daily procedures list. There is a risk that a failure in a system interface is not followed up in a timely manner.</p> <p>It is recommended that a check of interface reports is included in the daily procedures of IS staff.</p> <p><i>(Grade three)</i></p>	<p>Agreed. The procedures will be updated to require IS operations staff to routinely review overnight jobs for failures and raise incident reports for any issues identified.</p>	<p>John McLeod, Head of Information Services, September 2010</p>