

Key Issues Memorandum

Scottish Information Commissioner

For the year ended 31 March 2011

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Grant Thornton

To the Auditor General for Scotland and the Scottish Information Commissioner (SIC).

The purpose of this memorandum is to highlight the key issues affecting the results of SIC and the preparation of the financial statements for the year ended 31 March 2011. It is also used to report to management to meet the mandatory requirements of International Standard on Auditing (UK & Ireland) 260.

We take responsibility for this memorandum, which has been prepared on the basis of the limitations set out in 'The small print' (Section 7).

This is the final year of our appointment as auditors to the SIC. We would like to take this opportunity to record our appreciation for the kind assistance provided by the finance team and other staff during the period of our appointment.

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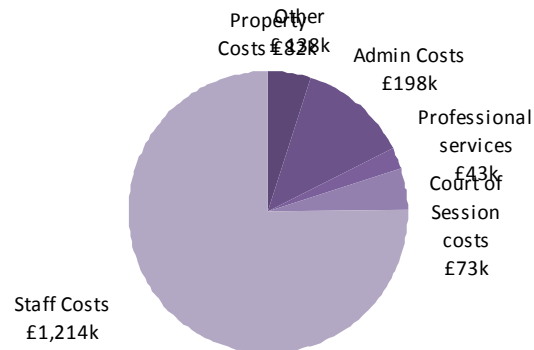
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1 Executive summary

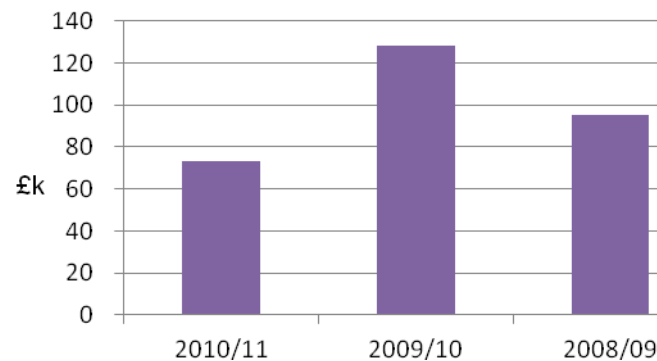
Financial Statements	
Audit Opinion	<ul style="list-style-type: none">• We intend to give an unqualified opinion on both the financial statements of SIC for 2010-11 and on the regularity of transactions undertaken during the financial year.
Financial Statements	<ul style="list-style-type: none">• The draft Financial Statements and supporting work papers were presented for audit on the 16th May 2011 and were of a high standard. Only minor adjustments were therefore made to the accounts.
Governance	
Improving Effectiveness	<ul style="list-style-type: none">• The Commissioner's strategic focus has been on improving the efficiency and effectiveness of the FOI process at public authorities in Scotland. Developments include public authority practice assessments and the revised approach to publication schemes. The Commissioner has also launched a website to provide guidance and support to members of the public who wish to make an FOI request. This work, and the implementation of a new case management system, will be key to ensuring that the Commissioner can continue to improve performance at a time of budget reductions.
Appointment of Commissioner	<ul style="list-style-type: none">• The current Commissioner's tenure will come to an end in February 2012. Steps must be taken to ensure that the new Commissioner is in post as quickly as possible to avoid disruption to the work of the office.
Performance	
Performance	<ul style="list-style-type: none">• The number of applications that the Commissioner's Office received has continued to rise, to 423 in 2010-11. The Office has maintained its performance in relation to case management timescales, and achieved the revised target of 22 weeks. In 2011-12, the Commissioner has set an ambitious target to reduce this timescale to 20 weeks.

2 Financial Performance

2.1 Total expenditure



2.2 Court of Session costs



Financial Performance

The Commissioner receives cash funding from the Scottish Parliamentary Corporate Body (SPCB) for his annual budget. The Commissioner's expenditure was in line with the agreed budget of £1648,000. Staff costs are the main area of SIC's expenditure and accounted for around 75% of total costs during the year.

The Commissioner can be subject to litigation by those affected by his decision. As Figure 2.2 highlights, the cost to the Commissioner of legal action varies significantly over time. It can also be difficult to predict when court action will be taken against the Commissioner's decisions, or accurately assess the potential associated costs of such litigation with any certainty. Under a Memorandum of Understanding between the Commissioner and the SPCB legal costs are, in the first instance met from the Commissioner's agreed budget. Thereafter, the Commissioner can access the Officeholders' contingency fund.

During 2010-11 there were two legal challenges to formal notices issued by the Commissioner for which costs of £91,136 were incurred. The Commissioner has received notice of one new appeal lodged in 2011-12. It is not known when this will be heard, nor the likely outcome or cost to the Commissioner.

We also noted that the Commissioner's new case management system will be paid for using the Officeholders' Contingency Fund in 2011-12. The Commissioner must therefore ensure that arrangements are in place to fund legal expenses once this fund is exhausted.

3 Key audit issues

3.1 Matters identified at the planning stage

In the conduct of our audit, we have not had to alter or change our audit plan, which we communicated to you in our Audit Approach Memorandum.

Our response to the matters identified at the planning stage are detailed below.

3.2 Accounting System and internal control

We have applied our risk methodology to your audit. This approach allows us to document, evaluate and assess your internal controls over the financial reporting process in line with the requirements of auditing standards.

During our 2010-11 audit we found no issues with regards to internal controls.

3.3 Matters identified at the planning stage

	Issue	Auditor response
1	Financial Position The economic recession has resulted in significant cuts in public sector funding. The Commissioner is required to make spending cuts in line with the Scottish Parliamentary Corporate Body's budget submission. In 2011-12 the Commissioner was required to deliver a saving of 1.2%, compared to overall SPCB savings of 7.2% in cash terms. This reflects the small scale of the Commissioner's operations, as the majority of costs relate to staff.	<p>During the year, the Commissioner achieved a further saving as a result of the departure of a member of staff. The saving achieved in year was therefore 4% in cash terms. The Commissioner's Office is committed to achieving an overall reduction of 15% in real terms (9.1% in cash terms) by 2013-14.</p> <p>We conducted a high level review of the Commissioner's financial management and budgetary control systems as part of our audit, including a review of the report by Internal Audit.</p> <p>As per review of the internal audit report, the budgeting framework in place is appropriate and supports the structure and operations of the organisation particularly in light of the current economic climate. Budget holders and senior management have appropriate means to monitor progress against financial targets, and variances, deviations and failures to achieve targets are promptly identified for corrective action to be taken. We are therefore</p>

	Issue	Auditor response
		satisfied that the financial position of the organisation is appropriately monitored.
2	<p>Public Services Reform (Scotland) Act 2010 Sections 31 and 31 of the Act impose new duties on the Scottish Government and listed public bodies to publish information on expenditure and on certain other matters as soon as is reasonably practicable after the end of each financial year. These sections came into force on 1 October 2010.</p> <p>Disclosure is required to cover the period from 1 October 2010 to 31 March 2011, but where information is readily available, then as a matter of good practice, the information for the whole financial year should be published. The one exception to this is that disclosure on number of individuals earning in excess of £150,000 per year is required for the whole year.</p> <p>Disclosures are required in respect of:</p> <ul style="list-style-type: none"> • total expenditure incurred on public relations, overseas travel, hospitality and entertainment, and external consultancy • payments made during the period with a value in excess of £25,000 • statement specifying the number of individuals who received remuneration in excess of £150,000 in the financial year • a statement of the steps taken during the financial year to promote and increase sustainable growth through the exercise of its functions • a statement of the steps taken during the financial year to 	The Commissioner has now published information in relation to the Public Services Reform (Scotland) Act 2010. Arrangements for responding to the requirements of the Act were quickly developed to ensure that the Commissioner's Office remains open and transparent.

	Issue	Auditor response
	<p>improve efficiency, effectiveness and economy in the exercise of its functions.</p> <p>It is not necessary to include these disclosures in the annual accounts. Publication on the body's website would be sufficient but it is up to the individual body to decide on the most appropriate method.</p>	
3	<p>Cost of capital</p> <p>The guidance contained in the 2010-11 FReM at paragraph 11.5.2 states that from 2010-11 onwards, bodies are no longer required to account for the cost of capital within their accounts. In accordance with IAS 8 Accounting policies, changes in accounting estimates and errors, this should be treated as a change an accounting policy. A prior year adjustment will therefore be required along with all necessary disclosures for transparency. The disclosures, in accordance with IAS 8, for a change in accounting policy are as follows:</p> <ul style="list-style-type: none"> • the nature of the change the reasons why applying the new accounting policy provides reliable and more relevant information • for the current period and each prior period presented, to the extent practicable, the amount of the adjustment for each financial statement line item affected • the amount of the adjustment relating to periods before those presented, to the extent practicable • if retrospective application is impracticable for a particular period, the reason why that is the case, and a description of how, and from when, the change has been applied. 	<p>We have asked the Commissioner's Office to process a prior year adjustment to reflect this change in accounting policy.</p>

3.4 Matters identified during the course of the Scottish Information Commissioner audit

	Issue	Auditor response [and conclusion]
4	Remuneration Report FReM Exposure Draft (10/01) was issued last year regarding information to be included in the Remuneration Report. The proposals include the inclusion of the remuneration details of all senior staff from level SCS3 and above in the Remuneration Report from 2010-11. At present, SIC only disclose the remuneration details of the Commissioner, as historically we have agreed that only the Commissioner has overall influence and control over the whole of his operations.	<p>The scheme of delegation allows the Heads of Departments to make decisions in their own right. We would therefore suggest that the Commissioner should consider implementing the proposals of the exposure draft in the current year as best practice</p> <p>Management response: The Commissioner, and his Heads of Department, accept this recommendation. However, as agreed with his auditors, as the ingathering of the information required for the expanded Remuneration Report would delay finalisation of the 2010-11 accounts, the recommendation will be adopted in the accounts for the 2012-13 financial year.</p>
5	Appointment of Commissioner The current Commissioners term of office will end in February 2012 The SPCB has recently approved the recruitment process for a new Commissioner, to be appointed for a single term of 6 years.	<p>There is a risk that the organisation will be forced to adopt interim arrangements before a new Commissioner is appointed. This may have an impact on the work of the office at a time of reduced financial resources.</p> <p>Management response: The Commissioner will work with the SPCB to ensure that the disruption arising from the appointment of an interim Commissioner, should this be necessary, is minimised. In particular, the Commissioner will impress upon the SPCB the need to ensure that, when the appointment of an Interim Commissioner is necessitated, the appointment can be made without delay.</p>

4 Financial reporting matters

4.1 Review of key accounting policies

We have reviewed the financial statements and present our view of the key accounting policies below, bringing to your attention in particular any significant judgements and estimates.

Accounting area	Summary of policy	Comment
Accounting convention	<ul style="list-style-type: none"> The accounts have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment, financial instruments and inventories where material, at their fair value to the organisation by reference to their current costs. 	<ul style="list-style-type: none"> The accounting policy is deemed appropriate
Depreciation	<ul style="list-style-type: none"> Depreciation is provided at rates calculated to write off the valuation of buildings and other PPE assets by equal instalments over their estimated useful lives which are normally in the following ranges: Leasehold improvements – over the remaining period of the lease Furniture and equipment – 5 years Fixtures and fittings – 5 years IT Equipment – 3 years. 	<ul style="list-style-type: none"> The accounting policy is deemed appropriate
Valuation	<ul style="list-style-type: none"> Assets other than artwork are held at historical cost value. Artwork is held at open market value. 	<ul style="list-style-type: none"> The accounting policy is deemed appropriate
Intangible Assets	<ul style="list-style-type: none"> Software licences are capitalised as intangible assets and amortised on a straight line basis over the expected life of the license (3 years). 	<ul style="list-style-type: none"> The accounting policy is deemed appropriate

4.2 Disclosure omissions

Our review found no omissions in the financial statements.

5 Audit adjustments

5.1 Misstatements

Misstatements were identified by Grant Thornton and the following have also been adjusted for:

- We found a number of items that were included both within creditors and accruals. The adjustment to remove these amounts from accruals has been processed by SIC.

All adjusted misstatements are set out below.

The auditor is required to communicate all uncorrected misstatements, other than those considered to be clearly trivial, to the entity's management and to request that management corrects them. There were no un-adjustment misstatements in the year.

5.2 Adjusted misstatements

Journal reference	Description	Balance sheet		Profit and loss	
		Dr	Cr	Dr	Cr
	Draft profit / (loss)			(1,608,000)	
1	Adjustment to correct amount included in both accrual and trade creditors				
	DR Accruals	506			
	CR Operating cost statement			506	
	Profit / (loss)	506	0	(1,607,494)	0

6 Best Value and Performance

6.1 Introduction

All public bodies in Scotland have a duty to secure Best Value and continuous improvement. In 2011-12, the Commissioner will be required to deliver a saving of 1.2%, compared to overall SPCB savings of 7.2% in cash terms. The Commissioner's performance dashboard confirms that the number of applications to the office continued to rise in 2010-11, to 423 cases. The Commissioner therefore remains under pressure to deliver Best Value in his operations to meet this rising demand with reduced resources.

6.2 Strategic Focus

During 2010-11, the Commissioner has continued to develop arrangements to ensure that public authorities are fulfilling their FOI duties as efficiently and effectively as possible. One of the key aspects of this has been the launch of risk-based public authority assessment visits to promote compliance with FOISA and the EIRs. Twelve assessments were undertaken in 2010-11, with the long term aim of driving down caseload times for the Commissioner's office by ensuring that public authorities respond to requests effectively.

The Commissioner has also revised the approach to publication schemes, and is now implementing a single model scheme. Publication schemes will be subject to audit to ensure that all public authorities comply with good practice.

The *You Only Have to Ask* website was also launched in April 2011. This provides support and guidance to members of the public who would like to make a request for information to a public authority in Scotland.

Following the guidance should result in a reduction in time-consuming invalid applications that the Commissioner's Office receive.

6.3 Key Performance Indicators

In 2010-11, the Commissioner's Office achieved its target to reduce the average timescale of cases under investigation to 22 weeks. In 2011-12, the Commissioner's Office hopes to reduce this timescale further, to a target of 20 weeks. Maintaining the strategic focus on public bodies meeting their duties, and the successful implementation of the new case management system will be key factors to achieving this goal.

6.4 Improving Public Sector Purchasing

One of the key approaches public sector bodies are taking to respond to the current financial climate is to review procurement processes to ensure that they are achieving the best value. In March 2006, the Scottish Executive published the Review of Public Procurement in Scotland by John McClelland. The report estimated that £740 million savings over the three years to 2008/09 could have been made if public bodies significantly improved how they purchased goods and service.

In July 2009, Audit Scotland produced a report on the implementation of the Public Procurement Reform Programme, which the Scottish Executive launched in response to the McClelland Report. *Improving public sector purchasing* notes that there was no systematic basis for reporting procurement savings. There were also wide variations across public bodies in the quality of purchasing data and practice.

The Commissioner's Office has recently updated their Purchasing Policy, and have referred to the Scottish Government's Procurement Journey to

ensure that they remain up to date with current best practice. We noted only a minor area for improvement, in relation to documenting the rationale for the use of consultants where this is necessary.

7 The small print

Purpose of memorandum

This Key Issues Memorandum has been prepared for the benefit of discussions between Grant Thornton and the Accountable Officer (the Commissioner).

The purpose of this memorandum is to highlight the key issues affecting the Commissioner's results and the preparation of the financial statements for the **year ended 31 March 2011**.

This document is also used to report to management to meet the mandatory requirements of International Standard on Auditing (UK & Ireland) 260.

We would point out that the matters dealt with in this report came to our attention during the conduct of our normal audit procedures which are designed primarily for the purpose of expressing our opinion on the Commissioner's financial statements.

Responsibilities of the Commissioner and auditors

The Commissioner is responsible for the preparation of the financial statements and for making available to us all of the information and explanations we consider necessary. Therefore, it is essential that the Commissioner confirm that our understanding of all the matters in this memorandum is appropriate, having regard to his knowledge of the particular circumstances.

Clarification of roles and responsibilities with respect to internal controls

The Commissioner is responsible for the identification, assessment, management and monitoring of risk, for developing, operating and monitoring the system of internal control and for providing assurance he has done so.

The Commissioner is required to review his Office's internal financial controls. In addition, the Commissioner is required to review all other internal controls and approve the statements included in the annual report in relation to internal control and the management of risk.

The Commissioner should receive reports from management as to the effectiveness of the systems they have established as well as the conclusions of any testing conducted by internal audit or ourselves.

We have applied our audit approach to document, evaluate and assess your internal controls over the financial reporting process in line with the requirements of auditing standards.

Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we will report these to you.

In consequence, our work cannot be relied upon to disclose defalcations or other irregularities, or to include all possible improvements in internal control that a more extensive special examination might identify.

Independence and robustness

Ethical standards require us to give you full and fair disclosure of matters relating to our independence. We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with

the Auditing Practices Board's Ethical Standards and therefore we confirm that we are independent and are able to express an objective opinion on the financial statements.

In accordance with best practice, we analyse our fees below:

	£
Grant Thornton UK LLP	14,500
Audit Scotland Fixed Charge	1,200
Total	15,700

ISAUK 260 requires communication of:

- relationships that have a bearing on the independence of the audit firm and the integrity and objectivity of the engagement team
- nature and scope of the audit work
- significant findings from the audit