

# Orkney and Shetland Valuation Joint Board

Report to the Board and the Controller of Audit on the 2020/21 audit

Issued on 15 December 2021 for the meeting on 20 January 2022

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# Introduction

## The key messages in this report

Audit quality is our number one priority. We plan our audit to focus on audit quality and have set the following audit quality objectives for this audit:

- A robust challenge of the key judgements taken in the preparation of the Annual Accounts.
- A strong understanding of your internal control environment.
- A well planned and delivered audit that raises findings early with those charged with governance.

I have pleasure in presenting our final report to the Board of the Orkney and Shetland Valuation Joint Board ("the VJB") for the year ending 31 March 2021 audit. The scope of our audit was set out within our planning report presented to the Board in March 2021.

This report summarises our findings and conclusions in relation to:

- The audit of the **Annual Accounts**; and
- Consideration of the wider scope requirements of public sector audit. In 2019/20, we applied the 'full' wider scope and considered all four audit dimensions; financial management, financial sustainability, governance and transparency and value for money. We presented our 2020/21 Audit Plan to the Board in March 2021 and based on our updated understanding of actions taken to address issues identified in our 2019/20 audit, we were satisfied that the 'full' wider scope was not required and we could apply the 'small body' clause in 2020/21.
- Towards the conclusion of the 2020/21 audit, we became aware of information which indicated specific risks existed in relation to leadership and procurement. We expanded the scope of our audit, in consultation with the VJB and Audit Scotland, to address these two specific areas.
- In summary, our work on the audit dimensions was restricted to concluding on:
  - The appropriateness of the disclosures in **the governance statement**;
  - The **financial sustainability** of the Board and the services that it delivers over the medium to longer term;
  - Following up on prior year conclusions within **financial management, governance and transparency** and **value for money**; and
  - Considering the specific risks identified in relation to **leadership** and **procurement**.

# Introduction (continued)

## The key messages in this report (continued)

I would like to draw your attention to the key messages of this paper:

### **Conclusions from our testing**

We expect to issue an unmodified audit opinion.

The Management Commentary and Annual Governance Statement comply with the statutory guidance and proper practice and are consistent with the Annual Accounts and our knowledge of the VJB.

The auditable parts of the Remuneration Report have been prepared in accordance with the relevant regulations.

A summary of our work on the significant risks is provided in the dashboard on page 10.

There are no uncorrected misstatements in excess of our reporting threshold of £1.6k.

### **Status of the Annual Accounts audit**

Our audit work is complete.

### **Conclusions on audit dimensions**

In performing our work on the audit dimensions and particularly on 'leadership', 'procurement' and 'Best Value' (page 29 – 35), we expanded our procedures significantly. The work in this area has been performed and reviewed by the most senior members of our specialist Public Sector audit team in Scotland. To ensure our work is supported by sufficient appropriate audit evidence, we have:

- Reviewed over 550 pages of documentary evidence and correspondence;
- Held over 10 hours of meetings with relevant senior individuals across the VJB and constituent Councils to obtain an extensive understanding;
- Submitted questionnaires to 11 relevant senior individuals across the VJB and constituent Councils; and
- Engaged external legal advice.

**Governance statement** – The disclosures are appropriate and have been prepared in accordance with the Delivering Good Governance in Local Government: Framework (2016). Significant amendments were made arising from our work on the audit dimensions.

**Financial sustainability** – The VJB achieved financial balance in 2020/21 and as with previous years, the VJB are projecting to achieve short term financial balance in 2021/22. This position will be achieved through contributions from the constituent authorities.

There is currently no Medium Term Financial Plan ('MTFP') in place. Without a MTFP, there is a risk that robust financial planning arrangements are not in place to ensure that the VJB can manage its finances sustainably and deliver services effectively.

The VJB approved a standalone workforce plan at its meeting on 30 September 2021, which we will consider in our 2021/22 audit.

The absence of medium-term financial planning and the acknowledged risk to the delivery of the VJB's functions posed by vacancies at a senior level raise concerns as to the financial sustainability of the Board and its ability to continue to effectively provide its services over the medium term. The VJB needs to move from reacting to short-term issues to proactively anticipating and addressing the medium-term challenges it faces.

# Introduction (continued)

## The key messages in this report (continued)

**Progress Update** – The VJB has taken steps to address the immediate issues which faced it as reported on in our 2019/20 audit. This includes the appointment of a Treasurer and a Clerk to the Board, working with both Orkney Islands Council ('OIC') and Shetland Islands Council ('SIC') to manage the transition of support services from the latter to the former, performing an externally led self-assessment of governance and concluding an independent review of its pay and grading structure. These actions have ensured that while there were significant vacancies and difficulties to manage during 2020/21, they were addressed before they significantly impacted on the VJB's ability to deliver its functions effectively.

**Leadership** – Numerous actions which were ultra vires and unlawful, including incurring unlawful expenditure, were undertaken by members of the VJB's leadership team.

As a result of the actions taken, the VJB has been exposed to financial, workforce and reputational risks with regards to the Assessor's employment, further highlighting weaknesses in the leadership of the VJB.

There were significant difficulties in obtaining sufficient audit evidence to conclude our work on leadership.

**Procurement** – There has been a lack of oversight of the process for changing payments to the consultant Depute Assessor, breakdown of controls and a lack of scrutiny or challenge by other members of the leadership team or the Board.

Between January 2017 and April 2021, a number of changes were made to the hourly rate paid to the consultant Depute Assessor. These changes breached the Contract Standard Orders and Procurement (Scotland) Regulations 2016. In all instances, proper process was not followed. This means that the VJB is not able to demonstrate value for money in the decisions taken or use of public money.

**Best Value** – Significant deficiencies have been identified in the VJB's understanding of and adherence to the requirements of legislation, regulations and good governance principles across a number of areas (page 29 – 33), which has manifested as repeated breaches of these requirements. The VJB has been unable to properly address these issues and there has been insufficient scrutiny to prevent, or detect and correct these issues at an early stage.

At present, the VJB does not have appropriate arrangements to ensure it follows fundamental requirements of public sector bodies and to embed continuous improvement. Action is required to remedy that position. The VJB has fallen short of the minimum standards expected of a public sector body.

Our detailed findings and conclusions are included on pages 18 to 35 of this report.

# Introduction (continued)

## The key messages in this report (continued)

### **Next steps**

An agreed Action Plan is included on pages 41 – 44 of this report, including a follow-up of progress against prior year actions. We will consider progress with the agreed actions as part of our 2021/22 audit.

### **Emerging issues**

Deloitte's wider public sector team prepare a number of publications to share research, informed perspective and best practice across different sectors. We have provided a summary of those most relevant to the VJB on page 38 of this report.

### **Added value**

Our aim is to add value to the VJB by providing insight into, and offering foresight on, financial sustainability, risk and performance by identifying areas for improvement and recommending and encouraging good practice. In doing so, we aim to help the VJB promote improved standards of governance, better management and decision making, and more effective use of resources.

This is provided throughout the report and we have included our "sector developments" on page 38 where we have shared our research, informed perspective and best practice from our work across the wider public sector that are specifically relevant to the VJB.

In addition, as information emerges as a result of COVID-19, the withdrawal from the European Union, and evolving legislation we have shared guidance with management in relation to annual reporting. We have also shared invites to relevant Deloitte-led webinars with the VJB.

**Pat Kenny**  
**Audit Director**

# Annual Accounts audit



# Quality indicators

## Impact on the execution of our audit

Management and those charged with governance are in a position to influence the effectiveness of our audit, through timely formulation of judgements, provision of accurate information, and responsiveness to issues identified in the course of the audit. This slide summarises some key metrics related to your control environment which can significantly impact the execution of the audit. We consider these metrics important in assessing the reliability of your financial reporting and provide context for other messages in this report.

Area	Grading	Reason
Timing of key accounting judgements	●	There were no significant accounting adjustments included within the VJB Annual Accounts, which is in line with our expectations and understanding of the VJB.
Adherence to deliverables timetable	●	Management provided evidence for the Annual Accounts audit in a timely manner, with 100% of deliverables provided in line with agreed deadlines. Any follow-up requests during the audit were actioned quickly.
Access to finance team and other key personnel	●	Deloitte and the VJB have worked together to facilitate remote communication during the audit which has been successful. There have been no issues with access to the finance team or other key personnel for the Annual Accounts audit.
Quality and accuracy of management accounting papers	●	Documentation provided has been of a high standard, which enabled an efficient audit. Working papers were clear and reconcilable to the Annual Accounts. This is borne out by the resubmission rate on requests for the audit being low, with the only resubmission request being in relation to the figures disclosed within the related party note within the Annual Accounts.
Quality of draft Annual Accounts	●	A full draft of the Annual Accounts was received for audit on 18 June 2021. We identified 2 changes which were required, a significant improvement on 2019/20.
Response to control deficiencies identified	●	We did not identify any control deficiencies relating to the financial statements during our audit.
Volume and magnitude of identified errors	●	We have identified one financial misstatement in relation to pensions, which has been corrected for by management. See further detail on page 34.



Lagging



Developing

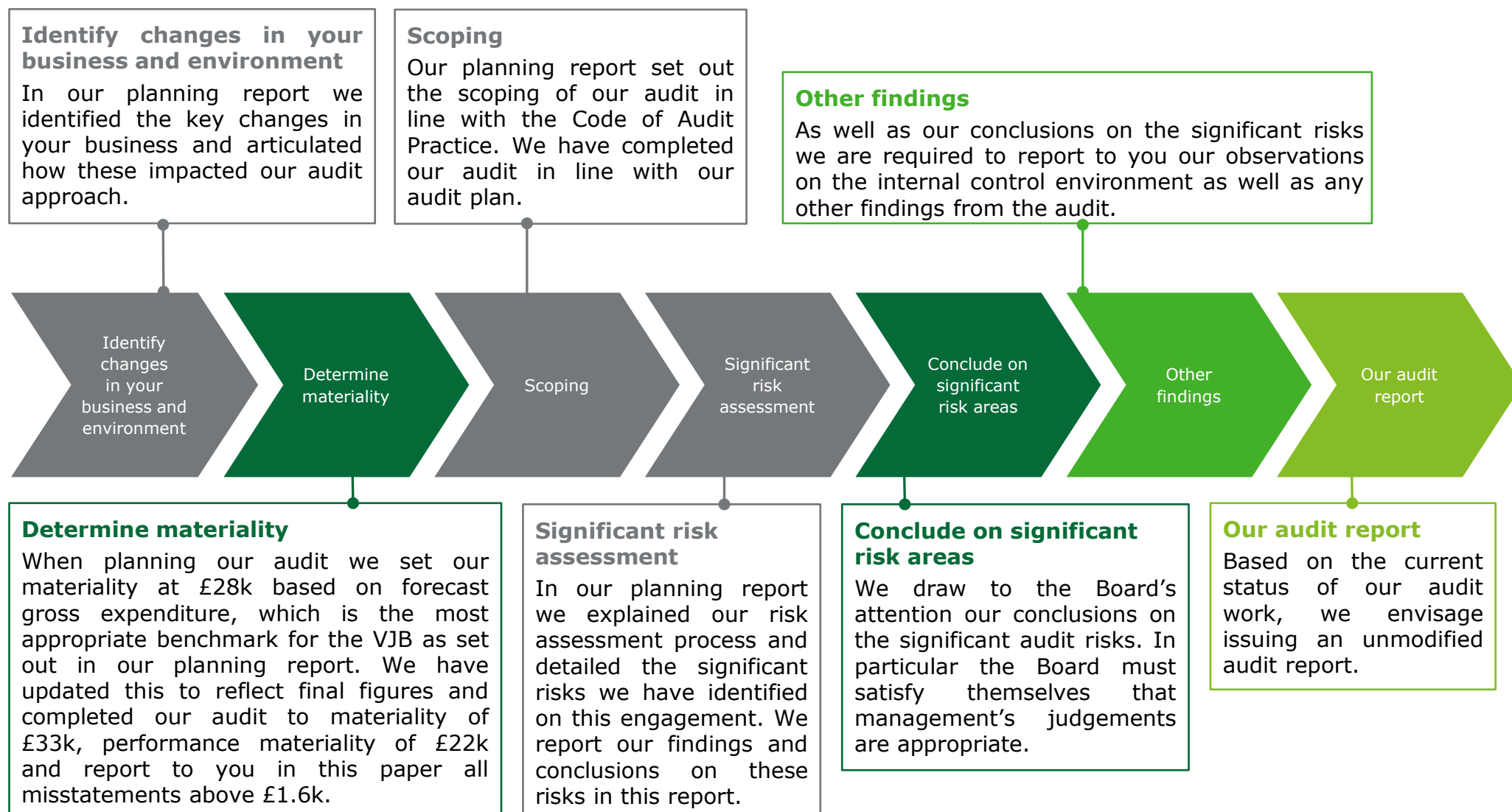


Mature









# Our audit explained

We tailor our audit to your business and your strategy



# Significant risks

## Dashboard

Risk	Material	Fraud risk	Planned approach to controls testing	Controls testing conclusion	Consistency of judgements with Deloitte's expectations	Comments	Page no.
Occurrence of Income			D+I	Satisfactory		Satisfactory	11
Management override of controls			D+I	Controls not appropriately implemented		Non-compliance with control arrangements identified	12

Overly prudent, likely to lead to future credit



Overly optimistic, likely to lead to future debit.

**D+I:** Testing of the design and implementation of key controls

# Significant risks (continued)

## Completeness and accuracy of income



### Risk identified and key judgements

ISA 240 states that when identifying and assessing the risks of material misstatement due to fraud, the auditor shall, based on a presumption that there are risks of fraud in income recognition, evaluate which types of income, income transactions or assertions give rise to such risks.

The main components of income for the VJB are requisitions from OIC and SIC. The significant risk was pinpointed to the recognition of this income received from the Councils given the reliance of the VJB on this income and the potential that funding partners may not provide additional income to cover overspends.



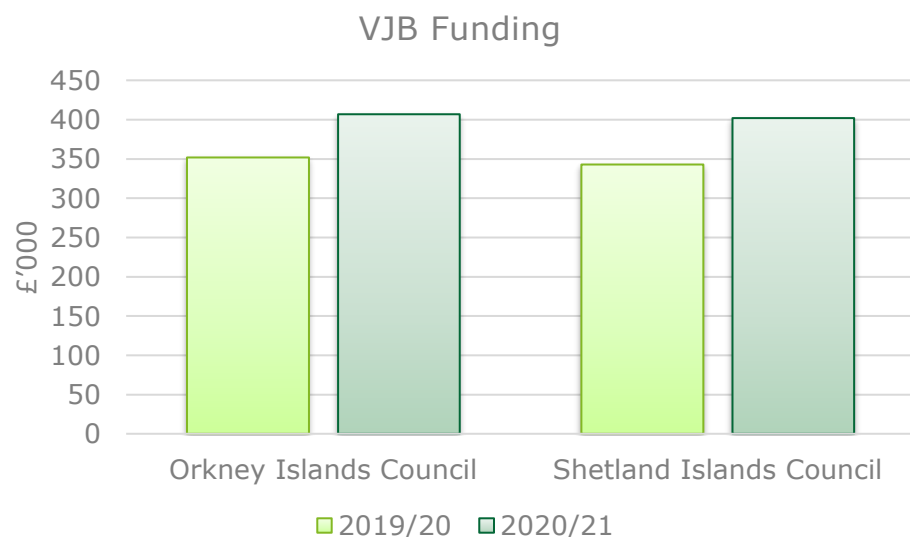
### Deloitte response and challenge

We have performed the following:

- Assessed the design and implementation of the controls around recognition of income;
- Tested the income to ensure that the correct contributions have been input and received in accordance with that agreed as part of budget process;
- Tested the reconciliations performed by the VJB at 31 March 2021 to confirm all income is correctly recorded in the ledger; and
- Confirmed that the reconciliations performed during 2020/21 have been reviewed on a regular basis.

### Deloitte view

We have concluded that income has been correctly recognised in accordance with the requirements of the Code of Practice on Local Authority Accounting.



# Significant risks (continued)

## Management override of controls



### Risk identified

Management is in a unique position to perpetrate fraud because of their ability to manipulate accounting records and prepare fraudulent Annual Accounts by overriding controls that otherwise appear to be operating effectively.

Although management is responsible for safeguarding the assets of the entity, we planned our audit so that we had a reasonable expectation of detecting material misstatements to the Annual Accounts and accounting records.



### Deloitte response and challenge

In considering the risk of management override, we have performed the following audit procedures that directly address this risk:

#### Journals

We have tested the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the Annual Accounts. In designing and performing audit procedures for such tests, we have:

- Tested the design and implementation of controls over journal entry processing;
- Made inquiries of individuals involved in the financial reporting process about inappropriate or unusual activity relating to the processing of journal entries and other adjustments;
- Selected journal entries and other adjustments made at the end of a reporting period; and
- Considered the need to test journal entries and other adjustments throughout the period.

### Accounting estimates and judgements

We have reviewed accounting estimates for biases and evaluate whether the circumstances producing the bias, if any, represent a risk of material misstatement due to fraud. In performing this review, we have:

- Evaluated whether the judgments and decisions made by management in making the accounting estimates included in the Annual Accounts, even if they are individually reasonable, indicate a possible bias on the part of the entity's management that may represent a risk of material misstatement due to fraud. From our testing we did not identify any indications of bias. We have not identified any significant accounting estimates and judgements from our testing; and
- Performed a retrospective review of management judgements and assumptions related to significant accounting estimates reflected in the Annual Accounts of the prior year.

### Significant and unusual transactions

We did not identify any significant transactions outside the normal course of business or any transactions where the business rationale was not clear.

#### Deloitte view

We have not identified any significant bias in the key judgements and estimates made by management.

We have identified evidence of non-compliance with control arrangements in relation to the rate paid to the consultant Depute Assessor, which resulted in a 100% increase in his hourly rate in an eight-month period. There was no segregation of duties, the changes were non-compliant with the Contract Standing Orders and non-compliant with the Procurement (Scotland) Regulations 2016. This is further discussed on page 33 – 34.

# Other areas of audit focus

## Defined benefits pension scheme



### Background

The Board participates in the Shetland Islands Council Pension Fund, administered by Shetland Islands Council.

The net pension liability has increased from £1.925m in 2019/20 to £2.435m in 2020/21. The increase is combination of an increase of £0.704m in the fair value of the assets and an increase of £1.214m the liabilities as a result of demographic changes and financial assumptions.

The Council's pension liability continues to be affected by the following legal cases:

- **McCloud** – this case is in respect of possible discrimination in the implementation of transitional protections following the introduction of the reformed public services pension schemes from 1 April 2014 and 2015. The actuary has advised that an estimated allowance for McCloud has been included within the current service cost, consistent with the prior year. There is still uncertainty about the form of compensation that will be provided to members and therefore the final actual cost of complying with the ruling may be different to the estimate.
- **Goodwin** – this is a legal challenge made against the Government in respect of unequitable benefits for male dependants of female members (based on service after 1988) following the earlier Walker ruling. The 31 March 2020 triennial funding valuation did not allow for the impact of Goodwin, therefore the Council's actuary has used the same percentage allowance that was used last year (0.1% of the liability).

### Deloitte response

- We assessed the independence and expertise of the actuary supporting the basis of reliance upon their work;
- We reviewed and challenged the assumptions made by Hymans Robertson, including benchmarking as shown the table below;
- We have requested assurance from the auditor of the pension fund over the controls for providing accurate data to the actuary;
- We assessed the reasonableness of the Council's share of the total assets of the scheme with the Pension Fund financial statements;
- We have reviewed and challenged the calculation of the impact of the McCloud and Goodwin cases on pension liabilities and concluded the approach as appropriate and reasonable; and
- We reviewed the disclosures within the accounts against the Code.

	Council	Comments
Discount rate (% p.a.)	2.0	Reasonable
Consumer Price Index (CPI) Inflation rate (% p.a.)	2.9	Reasonable
Salary increase (% p.a.)	2.9	Real salary increases 0% above CPI inflation
Pension increase in payment (% p.a.)	2.9	Reasonable
Pension increase in deferment (% p.a.)	2.9	Reasonable
Mortality - Life expectancy of a male/female pensioner from age 65 (currently aged 65)	20.8 / 23.1.6	Prudent end of reasonable range
Mortality - Life expectancy of a male/female pensioner from age 65 (currently aged 45)	22.3 / 25.30	Prudent end of reasonable range

### Deloitte view

Following receipt of the updated Annual Accounts to reflect the changes to the 'loss of pensions assets and liabilities', we are satisfied that the net pension liability disclosed in the Annual Accounts is materially correct.

# Other significant findings

## Financial reporting findings

Below, we set out the findings from our audit surrounding your financial reporting process.

### **Qualitative aspects of your accounting practices:**

The VJB has prepared its Annual Accounts in line with the Code of Practice on Local Authority Accounting. We are satisfied that the VJB's accounting practices are appropriate. The VJB's Annual Accounts include a number of areas of good practice, including the use of graphics, tables and signposting; additional narrative explaining key estimates and judgements; useful narrative on significant governance issues, COVID 19 and the EU withdrawal.

### **Significant matters discussed with management:**

Significant matters discussed with management related primarily to the impact of COVID-19 on the organisation.

During the course of our work on the 'audit dimensions' (page 18 – 35), we identified evidence of repeated instances of non-compliance with laws and regulations, which were discussed with management. Through these discussions, we also identified that there were no arrangements in place for the provision of legal advice to the VJB. Although the VJB believed that OIC was responsible for providing these services, this was not the case in practice. The situation with regards to legal services was subsequently rectified at the Board meeting on 18 November 2021 as the Board authorised the Clerk to obtain legal advice when required.

### **Significant difficulties encountered during the audit:**

During the course of our work on the 'audit dimensions' (page 18 – 35), there were significant difficulties in obtaining sufficient audit evidence to conclude our work. This increased the risk associated with and work required to complete the audit, and exposed the VJB to additional risks.

These resulted in an extensive unexpected effort required to obtain sufficient appropriate audit evidence.

### **Other significant matters relevant to the financial reporting process:**

No other matters relevant to the financial reporting process have been identified during the course of our audit.

We will obtain written representations from the VJB on matters material to the Annual Accounts when other sufficient appropriate audit evidence cannot reasonably be expected to exist. A copy of the draft representations letter has been circulated separately.

# Our audit report

## Other matters relating to the form and content of our report

Here we discuss how the results of the audit impact on other significant sections of our audit report.



### **Our opinion on the Annual Accounts**

We expect to issue an unmodified audit opinion.



### **Material uncertainty related to going concern**

We have not identified a material uncertainty related to going concern and will report by exception regarding the appropriateness of the use of the going concern basis of accounting.

Practice Note 10 provides guidance on applying ISA (UK) 570 Going Concern to the audit of public sector bodies. The anticipated continued provision of the service is relevant to the assessment of the continued existence of a particular body.



### **Emphasis of matter and other matter paragraphs**

There are no matters we judge to be of fundamental importance in the Annual Accounts that we consider it necessary to draw attention to in an emphasis of matter paragraph.

There are no matters relevant to users' understanding of the audit that we consider necessary to communicate in an other matter paragraph.



### **Other reporting responsibilities**

The narrative parts of the Annual Accounts is reviewed in its entirety for material consistency with the Annual Accounts and the audit work performance and to ensure that they are fair, balanced and reasonable.

Our opinion on matters prescribed by the Controller of Audit as discussed further on page 15.

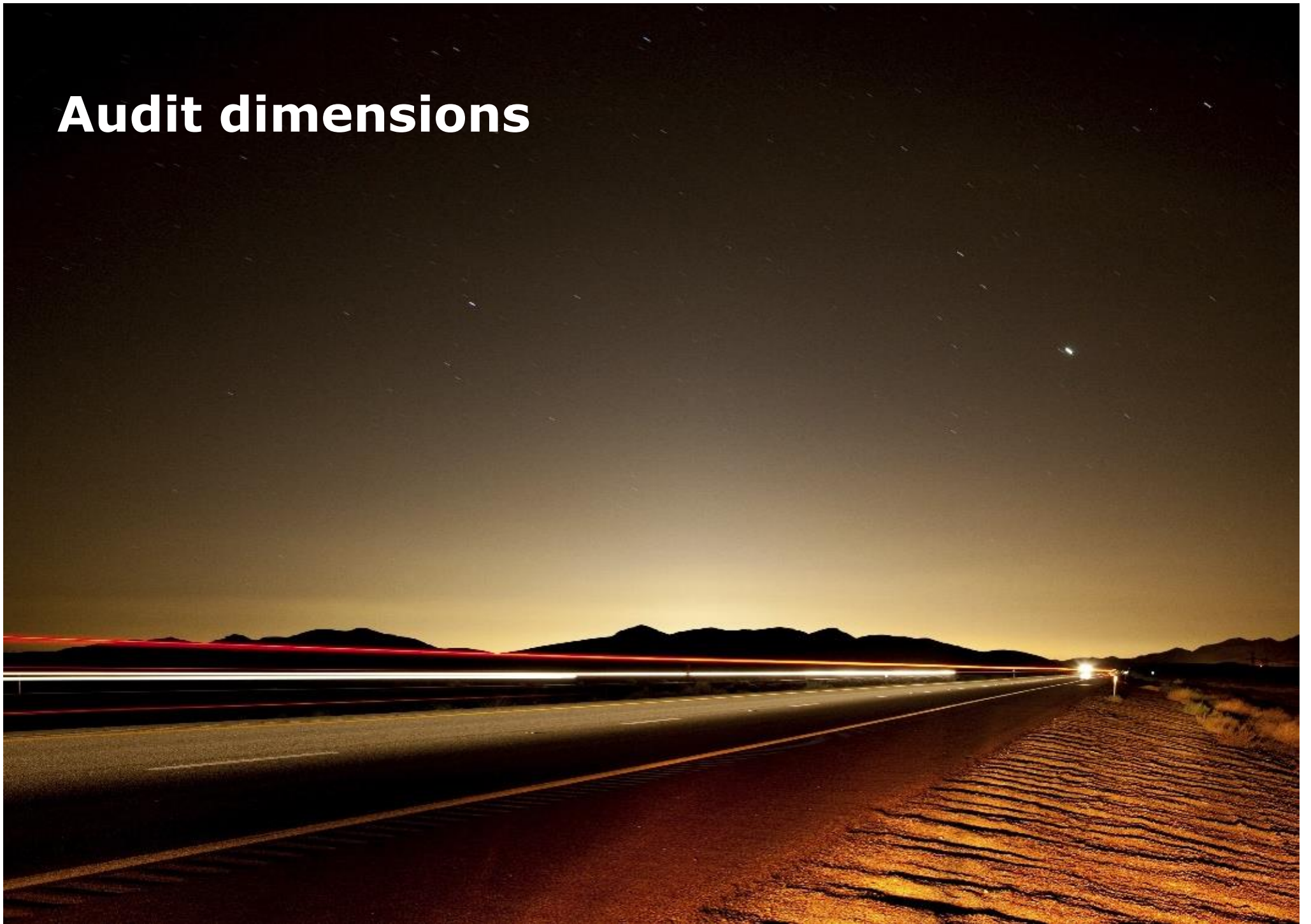
# Your Annual Report

We are required to provide an opinion on the auditable parts of the Remuneration Report, the Annual Governance Statement and whether the Management Commentary is consistent with the disclosures in the Annual Accounts.

	Requirement	Deloitte response
Management Commentary	The Management Commentary comments on financial performance, strategy and performance review and targets. The commentary included both financial and non financial KPIs and made good use of graphs and diagrams. The VJB also focuses on the strategic planning context.	<p>We have assessed whether the Management Commentary has been prepared in accordance with the statutory guidance.</p> <p>We have also read the Management Commentary and confirmed that the information contained within is materially correct and consistent with our knowledge acquired during the course of performing the audit, and is not otherwise misleading.</p>
Remuneration Report	The Remuneration Report must be prepared in accordance with the 2014 Regulations, disclosing the remuneration and pension benefits of Senior Councillors and Senior Employees.	We have audited the disclosures of remuneration and pension benefits, pay bands, and exit packages, and we can confirm that they have been properly prepared in accordance with the regulations.
Annual Governance Statement	The Annual Governance Statement reports that the Board's governance arrangements provide assurance, are adequate and are operating effectively.	<p>We have assessed whether the information given in the Annual Governance Statement is consistent with the Annual Accounts and has been prepared in accordance with the Delivering Good Governance in Local Government Framework.</p> <p>We required significant amendments to the Annual Governance Statement as a result of the issues we identified regarding management override of controls (page 12) and in the audit dimensions (page 18 – 35). This included highlighting significant governance issues and reconsidering the VJB's assessment of its compliance with the Delivering Good Governance in Local Government Framework.</p>



# Audit dimensions



# Audit dimensions

## Overview

We presented our 2020/21 Audit Plan to the Board in March 2021 and based on our updated understanding of actions taken to address issues identified in our 2019/20 audit, we were satisfied that the 'full' wider scope was not required and we could apply the 'small body' clause in 2020/21. However, while our 2020/21 work was limited to financial sustainability and appropriateness of the governance statement, we also followed up on progress in addressing the issues identified in 2019/20. In summary, our work in this area was restricted to concluding on:

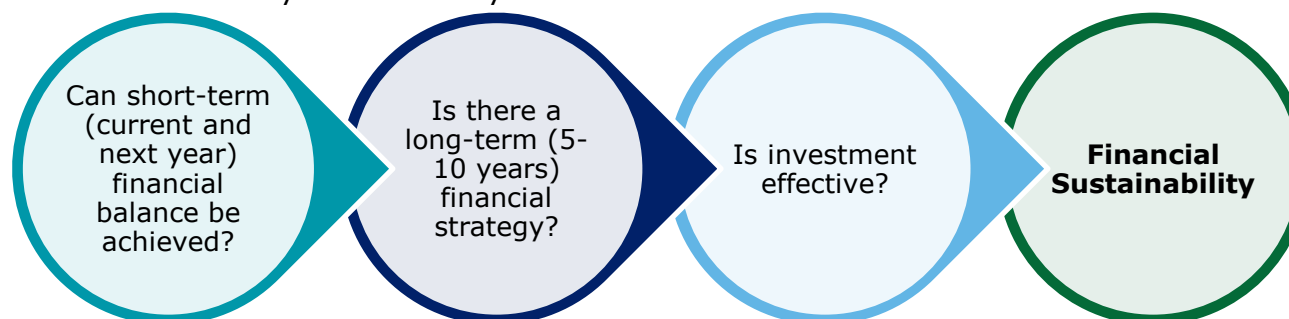
- The appropriateness of the disclosures in **the governance statement**; and
- The **financial sustainability** of the Board and the services that it delivers over the medium to longer term; and
- Follow up of prior year conclusions within **financial management, governance and transparency** and **value for money**.

In addition to the above, we have reviewed the VJB's arrangements for the **prevention and detection of fraud and irregularities**. As set out on page 12, weaknesses in the control environment have been identified, although there is insufficient evidence for us to conclude whether these constituted fraudulent activity.

The internal audit function has independent responsibility for examining, evaluating and reporting on the adequacy of internal controls. The VJB continued to rely on the work carried out by SIC's internal audit function, as the VJB continued to use SIC systems throughout 2020/21. During the year, we have completed an assessment of the independence and competence of the internal audit team and reviewed their work and findings. The conclusions have helped inform our audit work, although no specific reliance has been placed on the work of internal audit. As with last year, it remains the case that there have been no VJB-specific internal audits carried out, and no internal audits have been carried out in over a decade. As we noted last year, given the issues identified during the audits and the changes in the VJB's operations, is our view that it is no longer appropriate for the VJB to rely solely on the Council's internal audit programme to provide assurance to the VJB.

### Financial sustainability

**Financial sustainability** looks forward to the medium and longer term to consider whether the body is planning effectively to continue to deliver its services or the way in which they should be delivered.



# Financial sustainability

## Areas considered

Our approach to the audit dimensions is risk focused. Within our audit plan we identified the following risk:

Given the financial pressures across the public sector, in addition to the uncertainty created by EU withdrawal and the COVID-19 pandemic, there is a significant risk that robust medium to long-term planning arrangements are not in place. This creates a risk that the body is unable to manage its finances sustainably and deliver services effectively, identify issues and challenges early and act on them promptly.

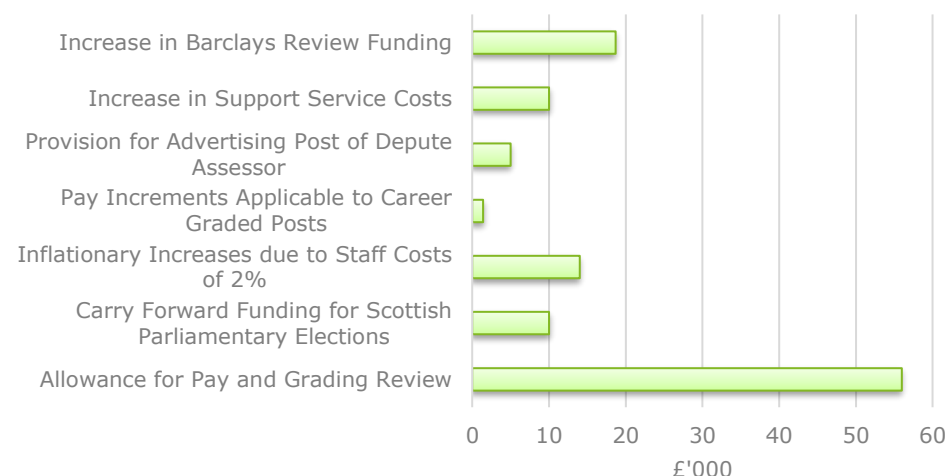
The VJB has long-standing vacancies in key positions, and there are ongoing reviews into the VJB's workforce and the provision of services by SIC and OIC. These issues create a risk that the VJB does not have the necessary resources to discharge its responsibilities and achieve its stated objectives.

## Budget setting

**2019/20 conclusion:** The VJB achieved financial balance in 2019/20. A balanced budget was set for 2020/21, with a significant uplift in funding from OIC and SIC. However, the impact of COVID-19 was a significant risk identified which could have impacted on the VJB achieving short term financial balance in 2020/21.

**2020/21 update:** The Board approved a balanced budget for 2021/22 of £922k (2020/21: £809k) on 18 February 2021. The budget will be funded by the VJB's two constituent authorities; OIC and SIC, with the total requisition being 14% higher than budgeted amounts for the 2020/21 financial year. The increase in the budgeted amounts is driven largely by an allowance for the pay and grading review, with various other growth items also impacting, as outlined within the graph across. The VJB has included no savings or efficiency targets within the budget.

2021/22 Budget - Growth Items



The VJB have identified and documented key risks and uncertainties, including staffing (both in relation to the Depute Assessor and sufficient staff to deliver the electoral registrations functions of the VJB); maintaining an up to date electoral register; and the UK's withdrawal from the European Union.

The risks above are not specifically detailed within the 2021/22 budget, however detail has been provided as to the additional expenditure budgeted to be incurred in order to mitigate and prevent materialisation of the identified risks.

The Board regularly review progress against budget throughout the year, through quarterly reporting of the management accounts. From our review of reporting throughout the 2020/21 financial year, variances are clearly reported and explained in detail, including clear narrative and quantitative information on the impact of COVID-19. In 2020/21, the VJB was £99k underspent against budget, primarily as a result of the Depute Assessor role remaining vacant for the full financial year (with the position filled on a consultancy basis).

# Financial sustainability

## Budget setting (continued)

**2020/21 update (continued):** As a result of the pandemic, staff have been dealing with an increase in correspondence in relation to Valuation Roll entries, in respect of the new COVID-19 grant legislation put in place by the Scottish Government. In addition, over 180 appeals had been received against Valuation roll entries as a result of the pandemic as at April 2020, with a further 170 appeals received by April 2021.

The pressure placed on the VJB by the pandemic has reinforced the previously identified risk in relation to staffing pressures and vacancies in key roles within the entity. As mentioned, the VJB has included additional expenditure to mitigate these risks in 2021/22.

**2020/21 conclusion:** The VJB achieved an underspend in the 2020/21 financial year, primarily as a result of the longstanding vacancy for the Depute Assessor role. The underspend is therefore as a result of non-recurring cost savings, and there remains a need for the VJB to identify recurring savings in its budget and MTFP (when developed).

A balanced budget has been set for 2021/22, and based on the VJB's history of achieving year-end financial balance, the Depute Assessor role remaining vacant until November 2021, and the significant budget increase in comparison to 2020/21, we are satisfied short-term financial balance can be achieved in 2021/22.

The VJB has placed reliance on increasing contributions from both funding partners in recent years in order to achieve short term financial balance and cover the costs of operational activity.

As the VJB is a separate legal entity, it is important that the VJB develops a standalone budget that incorporates savings targets with associated plans, to demonstrate best value when working with both SIC and OIC funding.

## Medium-to long-term financial planning

**2019/20 conclusion:** The VJB received funding from OIC and SIC to enable it to set a balanced budget. Expenditure was expected to grow by 40% between 2016/17 and 2020/21. At a time when both constituent authorities were facing wider economic issues as a result of COVID-19 and with both authorities requiring significant savings within the Council, the VJB needed to ensure that it could demonstrate that financial planning is robust and that effective efforts were being made to address expenditure growth.

To enable the VJB to effectively monitor the medium term position and plan appropriately, it was recommended in 2018/19 that a MTFP should be developed.

We reiterated our view that the VJB should align its resources to its priorities and set out the outcomes being achieved in order to demonstrate what was being delivered with the resources available to the VJB.

**2020/21 update:** In our planning paper to the Board in March 2021, we stated that we would review and monitor progress in relation to the publication of a MTFP.

As at the time of issuing this report, there was no MTFP in place. There therefore remains a risk that robust medium-to-long-term planning arrangements are not in place and that the VJB has not quantified any funding gaps which need to be addressed over the medium-term. We are aware that the VJB intends to develop an MTFP later in 2021/22, following the completion of the review of the pay and grading model. We will review this in our 2021/22 audit.

This risk is heightened by the uncertainty created by COVID-19 on the longer-term impact of public sector funding, which may adversely impact on future funding levels of the VJB.

# Financial sustainability

## Medium-to long-term financial planning (continued)

**2020/21 conclusion:** The VJB has not developed a standalone MTFP, with this being an outstanding audit recommendation since 2018/19. It is important that the VJB develop a MTFP in the year to take into account the updated context within which it operates.

The MTFP should align with good practice, including:

- Covering a period of five years;
- Quantifying the funding gap (if any) in the period covered in the 'most likely' scenario;
- Quantifying the funding gap (if any) in the period covered using reasonable best case and reasonable worst case scenarios;
- There should be clear links to the corporate plan or how the resources and workforce of the organisation will be used over the medium-term to drive progress against the Board's priorities and National Outcomes;
- Assumptions should be clearly documented in the plan, with it being clear what all the assumptions underpinning the plan are, how they interlink and their impact on the medium-term position; and
- Links with budget and workforce plan should be clear.

The MTFP should be used as a key document to embed a focus on medium-to-longer-term decision making, with a clear focus on the key principles of public service reform – prevention, performance, partnership and people, with clear links to the Scottish Government's medium-term financial strategy.

## Workforce Planning

**2019/20 conclusion:** Given resignations and difficulties in recruitment, the VJB was faced with vacancies in three of its four most senior positions, with the fourth position continuing on a rolling monthly basis. The VJB was faced with a significant risk that it will not have sufficiently qualified and competent personnel to deliver its responsibilities.

The risk to the VJB regarding support services was mitigated by SIC's commitment to continue to provide these services on an interim basis.

**2019/20 conclusion (continued):** However, there was a risk that these services could be reduced or withdrawn if the VJB did not sufficiently prioritise identifying these alternative arrangements. It appeared logical that either SIC or OIC – as the constituent authorities – would be approached by the VJB to provide these services to the Board. The Board needed to determine its preferred approach as a matter of priority and progress the agreement of new arrangements to address the risk posed by the interim arrangements that were in place.

**2020/21 update:** At the time that the audit work was carried out, the VJB did not have a workforce plan in place and the workforce plans of the constituent authorities were not sufficiently specific to address the VJB's needs, particularly given the difficulties faced by the VJB in filling leadership positions, namely, the longstanding vacancy for the Depute Assessor Position, and the anticipated retirement of the current Assessor in March 2022. We are aware that the VJB approved a workforce plan for 2021-2024 at its meeting on 30 September 2021. We will review this workforce plan in our 2021/22 audit, when it has had time to be embedded and actioned.

# Financial sustainability

## Workforce Planning (continued)

**2020/21 updated (continued):** As set out in our prior year report, the Clerk and Treasurer to the Board resigned in April 2020. These positions remained vacant for half of 2020/21, although the Board did appoint officers from OIC to fill these vacancies in November 2020. Although these were vacant for a significant part of 2020/21, the VJB worked with both OIC and SIC to ensure that day-to-day operations of the VJB were not impacted.

The Depute Assessor position remained vacant for the entirety of the 2020/21 financial year. As a result of COVID-19, recruitment was further delayed, with this post now having been vacant since May 2015. We are aware that the VJB has made a substantive appointment to this role in 2021/22, with transitional services continuing to be provided on a consultancy basis.

In addition, the VJB faces further risk and uncertainty as the Assessor and Electoral Registration Officer position will become vacant following the anticipated retirement of the current Assessor in March 2022. We are aware that the VJB approved specific actions to mitigate this risk at its meeting on 30 September 2021, but given the national shortage of qualified personnel, a history of difficulties with recruiting to senior positions, and no agreement for shared-service cover to be provided by other VJBs in 2020/21, these actions will need to be closely monitored throughout the year to ensure they are having the intended impact. The actions agreed on 30 September 2021 have not been implemented at the time of issuing this report, which highlights issues about the level of priority given to them.

In response to the identified vacancies and prior year resignations within key positions of the VJB, an independent review of the pay and grading model was commissioned with the review process concluding in May 2021 when a revised pay and grading model was approved by the Board with all job descriptions and person specifications having been reviewed and updated. The review process was approved by the Board and involved Board member involvement and staff consultation.

The pay and grading model has been developed in line with the Scottish Joint Council spinal column pay points, with the model providing a progression plan from apprentice through to Senior Valuer, which is in line with the objective of the VJB to improve retention in professional staff in particular developing career pathways.

**2020/21 conclusion:** While we are pleased to note the appointment of a Treasurer and Clerk to the VJB, along with the completion of the pay and grading review, the approval of a workforce plan and the appointment of a Depute Assessor in 2021/22, the VJB is still presented with the significant risk that it will not have sufficiently qualified and competent personnel to deliver services and meet its statutory obligations.

This is highlighted by the issues identified regarding the competence and robustness of leadership (page 29 – 32). In addition, the Assessor role will be vacated on the anticipated retirement of the current position holder in March 2022, which for the reasons set out across, means that there will be a shortage of suitably qualified valuation staff at the Board available to deliver statutory valuation functions.

Appreciating that there are shortages of suitably qualified staff at a national level, the VJB has recently begun to implement planning to mitigate the risk posed by the vacancies it currently faces, including considering alternative delivery models, although there is evidence that the priority and urgency attached to this planning needs to be improved.

# Financial sustainability (continued)

## Deloitte view – Financial Sustainability

The VJB achieved short-term financial balance in 2020/21 and as with previous years, the VJB are projecting to achieve short-term financial balance in 2021/22. This position will be achieved through increased contributions from the constituent authorities as well as various growth factors detailed within page 19 of this report.

There is currently no MTFP. There therefore remains a risk that robust medium-to-long-term planning arrangements are not in place and that the VJB have not quantified any funding gaps which need to be addressed over the medium-term. The VJB plans to develop a MTFP later in 2021/22.

The VJB recently approved a workforce plan as the workforce plans of the constituent authorities were not sufficiently specific to address the VJB's needs, particularly given the difficulties currently faced in filling leadership positions, namely, the anticipated retirement of the current Assessor in March 2022. This workforce plan was approved in September 2021, and we will review it in detail during our 2021/22 audit.

The absence of medium-term financial planning and the acknowledged risk to the delivery of the VJB's functions posed by vacancies at a senior level raise concerns as to the financial sustainability of the Board and its ability to continue to effectively provide its services over the medium term. The VJB needs to move from reacting to short-term issues to proactively anticipating and addressing the medium-term challenges it faces.

# Update on prior year conclusions

## Areas considered

In 2019/20, we applied the 'full' wider scope due to specific matters which impacted on our risk assessment. We consequently considered financial management, financial sustainability, governance and transparency, and value for money. We have considered financial sustainability in 2020/21 as required, and this is set out on page 19 – 23. Here, we have provided an update on the matters considered in 2019/20.

## Financial management:

**2019/20 conclusion:** We did not identify any issues with financial management in 2019/20. However, in early 2020/21, we identified a significant risk that the VJB would not have sufficient financial capacity in place to perform effective financial monitoring or develop a robust budget, MTFP and workforce plan following the resignation of Shetland Islands Council's Executive Manager – Finance from the position as Proper Officer for Finance for the VJB and the decision of the Council to review the services provided to the VJB.

**2020/21 update:** In line with the Local Authority Accounts (Scotland) Regulations 2014, on 5 November 2020, the Board appointed the Senior Finance Manager (Corporate Finance) of OIC as Treasurer to the VJB. This individual holds relevant Professional Qualifications and has significant experience in local authority accounting, providing assurance as to their competence and ability to perform this role, and mitigating the risk of lack of financial capacity.

SIC have continued to provide financial support services to the VJB to 31 March 2021, preparing budgets, financial monitoring reports, payroll and the Annual Accounts. Given the size and scale of operations of the VJB, as well as the appointment of Treasurer there have been no significant concerns identified relating to the capacity of the finance team. The finance function is appropriately experienced and qualified, providing assurance to the overall competence of the function.

There have been no VJB specific internal audits carried out for over a decade, and given the fact that the Board has its own governance arrangements, these should be subject to independent review rather than simply relying on the work performed by the constituent authorities' internal auditors. This will be particularly important given the transfer of administrative functions from SIC to OIC.

**2020/21 conclusion:** The VJB's finance function continues to operate effectively, despite changes to working practices and increased workload pressures faced during the pandemic.

The continued provision of financial support services by SIC to the VJB throughout 2020/21 ensured that the impact of a vacancy in the Treasurer position was mitigated. As part of the transfer of these support services from SIC to OIC in early 2021/22, we have assessed and concluded that the finance function at OIC can provide sufficient resource and capacity to embed effective financial management within the VJB. OIC, SIC and the VJB worked together effectively to conclude the Annual Accounts and audit process in 2020/21.

However, given the significant changes affecting the VJB in 2019/20, 2020/21 and further changes in 2021/22, the Board should consider the internal audit arrangements for the VJB as a standalone entity, to ensure specific coverage and reviews are performed providing assurance as to the internal control environment of the VJB.



# Update on prior year conclusions (continued)

## Governance and Transparency

**2019/20 conclusion:** Leadership within the VJB was not robust. The VJB was faced with a significant risk that it could effectively have no leadership in place later in 2020/21 if effective action was not taken. The issues identified throughout our report and the substantial increase in involvement in VJB affairs by the Chief Executives of Orkney Islands Council and Shetland Islands Council indicated that leadership within the VJB is not effective.

There had been six resignations (three from the Board, three from management) at the end of 2019/20 and into 2020/21 as a result of concerns with governance. This indicated that there were significant weaknesses within the governance framework of the VJB. We also noted the highly unusual nature of the Board adopting positions which contradicted advice received from officers without a detailed assessment, particularly given that relevant officers highlighted concerns that the Board would be failing to deliver its obligations under Best Value and good governance principles.

While there was a lack of clarity surrounding roles and responsibilities of Board members and management, we were satisfied that the matters identified did not indicate an underlying issue with regards to the Board's attitude to openness and transparency or relationships within the VJB.

### Leadership

This is considered separately on page 29 – 32 given the specific risk identified in 2020/21.

### Openness and Transparency

**2020/21 update:** VJB meetings are open to the public and all agendas, minutes and accompanying papers are available through the OIC website (having moved from the SIC website during 2020/21).

The VJB has a standalone website, which provides information to service users on the functions provided by the VJB and how service users can engage with the VJB.

During 2020/21, the VJB suspended in-person meetings in line with other public bodies in response to the COVID-19 pandemic, with meetings held remotely from April 2020.

In early September 2021, the VJB held what was called an 'informal' Board meeting to discuss recruitment options to replace the Assessor, as he had indicated he intended to retire in October. This meeting was not publicly announced, and no agenda was published setting out the business to be considered or that the matters were exempt. There were no minutes of the meeting collated. The subsequent 'official' Board meeting on 30 September which attempted to ratify the actions taken following the early September meeting made no reference to this earlier meeting and that the recommendations had in fact already been implemented.



Source: Openness and transparency, Audit Scotland

# Update on prior year conclusions (continued)

## Openness and transparency (continued)

**2020/21 conclusion:** The VJB generally demonstrates a good attitude towards openness and transparency which includes that Board meetings are open to the public, and all agendas, minutes and accompanying papers are available through the OIC website.

There have been cases where reports containing sensitive information such as the pay and grading review, have had restricted viewing rights from the public, however, we are satisfied that such restrictions have only been used where appropriate in line with the relevant regulations.

However, the holding of an 'informal' meeting which is not publicly announced, has no agenda published, has no minutes and results in actions taken prior to being formally approved by the Board, undermines openness and transparency. The VJB should avoid the use of such informal meetings where decisions may be taken in future. The consequences of such 'informal' meetings are set out clearly on page 29 – 32.

As highlighted by SOLACE, public bodies are increasingly either recording and publishing meetings online, live-streaming meetings, or permitting remote live-access to meetings. The VJB should consider how it can utilise technology to further engage stakeholders and demonstrate continuous improvement in its journey of openness and transparency.

## Effectiveness of Governance

**2020/21 update:** In response to recommendations made within our prior year audit report, the Board approved a review of governance arrangements to be undertaken during the 2020/21 financial year with a view to improving the effectiveness of governance, focussing on five key areas; Governance, Leadership & Relationships; Board Meetings; Resources and Performance.

The approach taken was to undertake interviews with both elected Members and officers of the VJB. Seventeen interviews were conducted; 10 with elected Members and seven with officers, with the findings of the interviews presented in a session to the VJB in early February 2021.

The overarching results of the governance review undertaken was that the majority of Members felt that there were no longer any significant governance issues outstanding within the VJB and that the issues identified in the prior year audit report were a reflection of the staffing and recruitment issues faced by the VJB at the time.

**2020/21 conclusion:** The Board have acted on recommendations made in our prior year audit report and have proactively opted to perform a review of governance in the 2020/21 financial year.

While this review was a useful starting point, significant changes are needed to the operation of the governance framework within the VJB and to establishing a culture of good governance practices. The point was raised within the governance review that Members believed "*issues raised in terms of governance were a reflection of the staffing and recruitment issues facing the VJB at the time*". The significant issues identified in 2020/21 (page 29 – 35) indicate that these issues are more wide-ranging than Members believed.

There is a clear need for a more comprehensive review of the VJB's governance framework, the documentation underpinning it, training on it, and Members and officers understanding of and adherence to it. As evidenced by the significant issues identified in our work on the audit dimensions (page 18 – 35), there is also a clear need for the VJB to have separate, tailored governance documents (such as Contract Standing Orders and Financial Regulations) rather than attempting to rely on the equivalent documents in the constituent Councils, as has been the case historically.

# Update on prior year conclusions (continued)

## Value for Money

**2019/20 conclusion:** Performance had declined significantly between 2018/19 and 2019/20, with the VJB failing to achieve over half of its KPIs in the year. These performance issues primarily predate the issues identified throughout this report and the impact COVID-19. There was therefore a significant risk that performance in 2020/21 would be worse than 2019/20, which already was failing to achieve the VJB's targets.

The VJB had effectively utilised business cases to underpin its approach to recruitment for the Depute Assessor position over a number of years. We were satisfied that the approach adopted has been reasonable and had been underpinned by appropriate evidence.

Similarly, the position taken by the Board in 2020/21 to engage an external review of the pay and grading model in place was appropriate given the difficulties the VJB has faced with recruitment

However, a decision taken by the Board in April 2020 contradicted the evidence contained in the report presented to the Board, with no clear rationale for this set out by the Board other than personal judgement. The consequences of this approach to decision making had been set out throughout our 2019/20 report, including the loss of key personnel and exposing the VJB to unnecessary risks.

**2020/21 update:** Members of the Board have received reports on performance relating to the 2020/21 financial year, with reports made publicly available on the OIC website.

In 2020/21, the VJB achieved its targets in six of seven of its non-financial KPIs, which is an improvement on the prior year where only three of seven targets were achieved.

The VJB have assessed their KPIs against the national average of other assessors in Scotland, which indicates that the VJB's KPI targets are generally in line with other similar bodies across Scotland. Further information could be provided showing how the VJB's actual performance – as opposed to targeted performance – compares against other bodies, to enable the Board to benchmark its performance at a national level.

**2020/21 conclusion:** The VJB has improved the robustness of its performance reporting by detailing both current year and prior year performance targets and outcomes, while also assessing targets against other assessors in Scotland to ensure set performance targets are not below the average expectations of the Scottish Assessor's Association performance targets. Further improvements could be made as set out across by benchmarking actual performance in addition to targets set.

It is important that the VJB continues to report on actual performance against targeted outcomes, making improvements where possible to set out the level of spend for outcomes achieved, and take any lessons learned as it moves into forward into 2021/22 and the recovery phase from the pandemic.

## Update on prior year conclusions (continued)

### **Deloitte view – Progress Update**

As set out on page 3, in 2019/20, we applied the 'full' wider scope and considered all four audit dimensions; financial management, financial sustainability, governance and transparency and value for money. We presented our 2020/21 Audit Plan to the Board in March 2021 and based on our updated understanding of actions taken to address issues identified in our 2019/20 audit, we were satisfied that the 'full' wider scope was not required and we could apply the 'small body' clause in 2020/21.

The VJB has taken steps to address the immediate issues which faced it as reported on in our 2019/20 audit. This includes the appointment of a Treasurer and a Clerk to the Board, working with both OIC and SIC to manage the transition of support services from the latter to the former, performing an externally led self-assessment of governance and concluding an independent review of its pay and grading structure. These actions have ensured that while there were significant vacancies and difficulties to manage during 2020/21, they have been addressed before they significantly impacted on the VJB's ability to deliver its functions effectively.

However, the VJB continues to face significant risks as set out within 'Financial Sustainability' and due to insufficient medium-to-long-term planning, it is not clear that the VJB has fully considered these risks, their potential impact, actions it can take to avoid the risks materialising and plans to mitigate them should they do so. As the VJB has addressed the immediate short-term issues facing it as outlined in our prior year audit report, it is important that it now moves from a reactive position to proactively considering how the organisation can continue to deliver its functions effectively over the medium-to-longer term.

# Leadership

## Timeline

- In April 2021, the Assessor provided his notice to the Board that he would be retiring in October 2021.
- In May 2021, the Clerk made the Board aware that the consultant Depute Assessor would also resign, effective on the same date as the Assessor's retirement.
- On 23 June, an advert for recruitment to the Assessor position went live.
- In July 2021, the Assessor's terms and conditions were updated following the review of the pay and grading model, but this did not supersede his notice of retirement. We have identified no issues with the review carried out or its implementation (although it is not clear to us, as on page 30, why these contracts were issued by the OIC and SIC CEOs, rather than Officers of the VJB).
- On 6 August 2021, the recruitment exercise for a replacement Assessor ended unsuccessfully.
- On 20 August 2021, the Clerk made arrangements for an 'informal' meeting of the Board to be held on 6 September 2021.
- On 3 September 2021, the consultant Depute Assessor formally handed in his one month's notice.
- The Board progressed with the 'informal' Board meeting on 6 September. There was no public notice given for this meeting. There was no agenda, there were no reports and no minutes of the meeting were taken.
- Following the 'informal' Board meeting, on the same date, the Clerk contacted the Assessor to issue him with an offer on behalf of the Board to extend his employment to 31 March 2022.
- On 9 September, the Assessor contacted the Clerk to inform them that he accepted the offer. The Clerk advised that he could inform the VJB's staff, and that they would inform the Board. They informed the Board on the same date that the Assessor "accepts" the "agreed offer" and will remain in post until 31 March 2022.
- On 15 September, the Clerk responded to a contact from Payroll regarding the Assessor's retirement, and in response, approved changes to the Assessor's pay. These changes were processed on 21 September. The changes, including backdated pay to 1 April 2021 at the top of the pay band, were included in the pay run on 30 September.
- On 30 September, the Board met formally and approved the making of an offer to the Assessor to extend his employment until 31 March 2022.
- On 6 October, the Assessor was due to retire based on his original notice, which was superseded by the 'offer' made in September.
- On 8 October, the Clerk finalised the contract to be issued to the Assessor to implement the Board's decision on 30 September, but did not issue the contract on this date.
- On 28 October, the audit team asked for a copy of the revised contract which was issued to the Assessor following the 30 September Board meeting, prior to the Assessor's retirement date.
- On 1 November, the Clerk provided a copy of that contract to the auditor.
- On 8 November, the Clerk explained that the Assessor had not signed and returned the contract.
- The Clerk did not advise that the contract, although dated 5 October 2021, was in fact only issued to the Assessor on 1 November following a request for the contract by the auditor.
- The contract was issued by the Clerk under the names of the CEOs of Shetland Islands Council and Orkney Islands Council. The meeting of the Board on 30 September 2021 did not provide authority to the CEOs of the Councils to issue the contract. The CEOs are not officers of the Board.
- During our audit, we confirmed that the SIC CEO did not authorise the use of their name on the contract, which was issued in the name of the OIC and SIC CEOs by the Clerk.

# Leadership (continued)

## Analysis

### **The 'informal' meeting**

The 'informal' Board meeting was not a properly called meeting under the Local Government (Scotland) Act 1973. No decisions could be made at this meeting, and no actions could be properly taken as a result of it. Such decisions or actions would render the meeting unlawful.

Management contend that the meeting was to provide a 'steer' only, and that there are consequently no issues as to the lawfulness of the meeting.

Accepting the intention of the meeting, the timeline evidences that actions were taken as a result of the meeting. These actions had no proper authority as the meeting was an invalid meeting.

Management are of the view that the 'informal' meeting was necessary due to the 'urgency' of the situation facing the Board, being that it faced having no Assessor and no Depute Assessor in place within a month.

As management were aware of this risk since at least May 2021, and as a formal meeting could be called with minimal notice, we do not believe that management's position is reasonable.

### **The formal meeting**

The meeting of the Board on 30 September did not properly set out the extent of the actions already taken by the Clerk and the changes which had already been made to the Assessor's terms and conditions of employment.

The extent to which the Board was already likely to be perceived to be bound by actions of its officers would constitute a relevant factor which should have been considered by the Board when making its final decision.

In our view, it is inappropriate that the situation as it stood was not made clear to the Board in the report to it or in the meeting itself.

While the Board attempted to 'homologate' or retrospectively approve the actions of the Clerk between the 'informal' meeting and the formal meeting, we have concluded, based on expert external legal advice, that it cannot in fact retrospectively make lawful that which is unlawful. Any approval at the 30 September meeting would have prospective application only.

### **Role of the CEOs of OIC and SIC**

The VJB as a separate legal entity has the ability to enter into contract in its own right. However, the revised contract was issued to the Assessor in the names of the CEOs (although without the SIC CEO's approval, see page 31).

The CEOs of OIC and SIC are not officers of the VJB. The Clerk, per the VJB's Constitution, is responsible "*for the overall executive management and co-ordination of the business and administration*" of the VJB. It is unclear why any contract of employment would be issued on behalf of the Board by individuals who are not officers of the Board, rather than by the Clerk who appears to have that responsibility within the Constitution.

Management are of the view that the contract must be issued in the name of the CEOs of the Councils as there is no alternative option, as only the Assessor would have the authority to bind the Board contractually.

We do not agree with the conclusion that management have reached in this case. The Board could delegate authority to contract on its behalf to another officer of the Board, e.g. the Clerk (and it is important to note that this is what occurred when the current Assessor was first offered the appointment in 2014).

# Leadership (continued)

## Analysis (continued)

### The revised contract

A revised contract was issued to the Assessor on 1 November, dated 5 October, following a request from the auditor for a copy of the contract on 28 October. Management have confirmed the contract, while issued on 1 November, was finalised on 8 October and not issued due to an oversight.

This contract was issued by the Clerk, under the names of the CEOs of the Councils. The Board did not delegate authority to the CEOs to perform this function, and as set out on page 32, it is not clear to us that it would be possible for the Board to do so.

Notwithstanding any decisions the Board took, the Clerk issued the contract without obtaining approval from the SIC CEO – who was not in attendance at the 30 September Board meeting – to issue it in their name. The OIC CEO has confirmed he authorised the use of his name on the contract.

The Clerk advised that she may have misinterpreted HR advice provided to her as permitting her to issue the contract under the names of the SIC CEO.

The contract issued by the Clerk was also a permanent contract, rather than fixed-term to 31 March 2022 which is what the Board agreed on 30 September.

Consequently, the contract issued on 1 November – dated 5 October – was flawed in three separate areas. The issuing of the contract was ultra vires and unlawful.

### Status of the Assessor's employment

The Clerk had no proper authority to make an offer to the Assessor following the 6 September 'informal' Board meeting. The Clerk had no authority to authorise changes to his payroll.

The Assessor was not aware of the above issues and would be reasonably entitled to believe that the Clerk had proper authority to contract with him. He would therefore be reasonably entitled to rely on the contract.

The Board's approval of the changes to the Assessor's contract on 30 September were permissible, but not implemented in writing following that meeting as the actions had already been taken prior to it.

There is a tension between public law and employment law on the consequences of the above issues. On balance, considering all the evidence available, the legal advice received and the practicalities, we have concluded that the Assessor's employment would continue under the terms of the contract approved by the Board on 30 September.

The revised contract issued by the Clerk on 1 November – dated 5 October – would not override this, as it was ultra vires and unlawful.

To ensure there is clarity as to the Assessor's employment and all parties' understanding of it, there should be a new Board meeting which sets out (a) all the identified issues between 6 September and the new Board meeting, (b) specifically authorises a named person within the VJB – e.g. the Clerk or Treasurer – to issue a contract to the Assessor, (c) specifically sets out the terms to be contracted, and (d) explains that this is implementing the 30 September decision. This contract should be issued in the name of the VJB, not by the constituent Councils or their CEOs.

# Leadership (continued)

## Conclusion

Errors of judgement and a lack of understanding of and adherence to clearly established governance responsibilities have been evidenced through our work:

- The 'informal' Board meeting on 6 September was invalid but actions were taken by officers as a result of this meeting;
- The Clerk took specific actions arising from the 'informal' Board meeting, including making an offer to the Assessor and authorising amendments to his payroll;
- These actions by the Clerk following the meeting on 6 September lacked proper authority and were therefore ultra vires and unlawful;
- The payment of additional salary to the Assessor in the September pay run was unlawful expenditure;
- The Board could not on 30 September retrospectively approve the unlawful actions;
- Reporting to the Board was incomplete as to the status of the situation;
- There has been a blurring of roles and responsibilities between the VJB and OIC; and
- The Clerk lacked proper authority to issue the revised contract as (a) she did not have permission from the SIC CEO to issue the contract in their name, (b) the Board did not and arguably could not delegate authority to the CEOs, (c) the contract issued by the Clerk was permanent rather than fixed-term as approved by the Board. The Clerk's actions were therefore ultra vires and unlawful.

The requirements for proper decision making are clear and set out in law. All of the above issues derive from the initial decision to hold an 'informal' Board meeting, with actions taken following that meeting where there was no authority to do so. All the subsequent issues arise as a result of actions taken to rectify that initial error. These attempts resulted in further actions which were ultra vires.

All of the above issues could have been avoided had the Board properly called a meeting for 6 September or shortly thereafter. It is unfortunate that this did not occur. This has exposed the Board to material financial, workforce and reputational risks and rendered the Board non-compliant with key laws and regulations.

The Board should hold a meeting as a matter of urgency to consider a report by management on the timeline of events and the issues caused. This report should explicitly consider the Assessor's employment contract and specifically authorise a named officer within the VJB to contract on behalf of the VJB with the Assessor, the main terms on which to agree the contract and clarify that this would be effectively implementing the decision of the Board on 30 September.



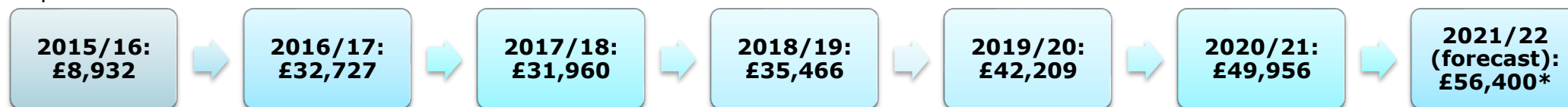
# Procurement

## Timeline

A consultant was appointed by the Assessor in December 2015 to provide Depute Assessor services to the VJB. This appointment was made by agreement between the Assessor and the consultant, with a written contract in place.

The contract was due to expire in September 2016 but was repeatedly extended – verbally, in contravention of the requirements of the contract and good practice – to now expire in March 2022.

Between December 2015 and April 2021 the hourly rate increased five times (January 2017; January 2019; November 2019; September 2020; April 2021), by 400% in total. The total amount paid to the consultant Depute Assessor also increased significantly – though not by 400%, indicating the amount of time spent by the consultant Depute Assessor providing services to the VJB decreased over the length of the contract. In 2021/22, the increase in the hourly rate is forecast to result in an additional cost of £19,740 to the VJB for the consultant Depute Assessor’s services.



\* £37,600 incurred to 30 November 2021

## Analysis

The VJB notes that, for all relevant periods, it was bound by the Contract Standing Orders issued by SIC. It was also bound by relevant legislation, including the Procurement (Scotland) Regulations 2016. On five separate occasions, the hourly rate paid to the consultant Depute Assessor increased, and on every occasion the VJB did not comply with the Contract Standing Orders or the Procurement (Scotland) Regulations 2016.

At no point was any tender issued, no quotations were received, no competition was assessed, and no benchmarking was performed. Management note, however, that the increased costs associated with the consultant Depute Assessor were offset by savings arising from the vacant Depute Assessor position (which would have salary and pension costs associated).

The only written record of any request or approval to increase the hourly rate paid to the consultant Depute Assessor was that change made in April 2021. The most recent increase (representing a 100% increase on the then-hourly rate) was suggested by the Assessor to the Board in March 2020, but was only requested by the consultant Depute Assessor a year later in April 2021.

The Assessor notified the Treasurer and the Clerk of the increase to the consultant Depute Assessor’s hourly rate in April 2021. Neither the Treasurer nor the Clerk challenged whether it complied with regulations or demonstrated value for money.

### Requirements not complied with:

- Obtain quotations/competitive tendering
- Advertisement of the contract
- Retain a record of reason for non-competitive approach
- Preparation of a tender report on completion
- Record of evaluation procedures and award of contract
- Publication of contract notice, prior information notice and award notice

# Procurement (continued)

## Conclusion

There was a lack of oversight of the process for increasing the consultant Depute Assessor's hourly rate of pay. There was a breakdown of controls and a lack of scrutiny or challenge by other members of the leadership team or the Board. The 100% increase in the hourly rate in an eight month period should have triggered a review by the Treasurer, Clerk or the Board.

In making changes to the hourly rate paid to the consultant Depute Assessor, the requirements of the Contract Standing Orders and the Procurement (Scotland) Regulations 2016 were repeatedly breached, as set out on page 33 and below. These actions mean that the VJB is not able to demonstrate value for money in the decisions taken or use of public money.

It goes against the requirements of the Contract Standing Orders and the Procurement (Scotland) Regulations 2016 for changes to be repeatedly made to a contract (which resulted in increased payments), agreed verbally between the Assessor and his Depute without any trail of evidence demonstrating the need for those increases, assessing the need for any competitive tendering, or evidencing that such changes were properly requested and authorised. In all instances, proper process was not followed. The VJB should consider whether the significant issues identified with regards to the consultant Depute Assessor are isolated or indicative of wider issues in the VJB's procurement processes. This review should assess the robustness of the VJB's processes and controls, compliance with them, and whether relevant individuals have sufficient training to implement them.

As a result of the above, the use of the hourly rate for the consultant Depute Assessor in a report to the Board on 30 September to demonstrate that the Assessor's increased salary provided 'value for money' is untenable. There is no evidence that the hourly rate is the 'going rate' because there was no proper procurement exercise carried out. Using this unsupportable position to justify moving the Assessor's salary away from the position recommended and agreed in the pay and grading model less than three months previously was not reasonable.

# Best Value

It is the duty of the VJB to secure **Best Value** as prescribed in Part 1 of the Local Government in Scotland Act 2003. We have a statutory duty to be satisfied that the VJB have made proper arrangements for securing Best Value.

## Duty to secure Best Value

1. It is the duty of the VJB to make arrangements which secure Best Value
2. Best Value is continuous improvement in the performance of the VJB's functions
3. In securing Best Value, the VJB shall maintain an appropriate balance among:
  - a) The quality of its performance of its functions
  - b) The cost to the VJB of that performance
  - c) The cost to persons of any service provided by the VJB for them on a wholly or partly rechargeable basis
4. In maintaining that balance, the VJB shall have regard to:
  - a) Efficiency
  - b) Effectiveness
  - c) Economy
  - d) The need to make the equal opportunity requirements
5. The VJB shall discharge its duties in a way that contributes to the achievement of sustainable development
6. In measuring the improvement of the performance of the VJB's functions, regard shall be had to the extent to which the outcomes of that performance have improved

## Best Value arrangements

The VJB has taken steps in the year to improve medium-term planning with regards to its workforce, although further work is needed to demonstrate that the VJB recognises that it needs to deliver services within the financial resources available. Further work is needed to deliver long term financial sustainability.

The VJB's performance against KPIs remains strong, both against internal targets and by comparison to comparable bodies across Scotland.

Although improvements have been made with regards to openness and transparency, further steps are needed to fully embed this across the VJB's processes.

Work has been undertaken in the year to improve governance. However, significant deficiencies have been identified in the VJB's understanding of and adherence to the requirements of legislation, regulations and good governance principles across a number of areas, which has manifested as repeated breaches of these requirements.

## Deloitte view – Best Value

Significant deficiencies have been identified in the VJB's understanding of and adherence to the requirements of legislation, regulations and good governance principles across a number of areas (page 29 – 34), which has manifested as repeated breaches of these requirements. The VJB has been unable to properly address these issues and there has been insufficient scrutiny to prevent, or detect and correct these issues at an early stage.

At present, the VJB does not have appropriate arrangements to ensure it follows fundamental requirements of public sector bodies and to embed continuous improvement. The VJB has fallen short of the minimum standards expected of a public sector body.

# Purpose of our report and responsibility statement

## Our report is designed to help you meet your governance duties

### What we report

Our report is designed to help the Board discharge their governance duties. It also represents one way in which we fulfil our obligations under ISA (UK) 260 to communicate with you regarding your oversight of the financial reporting process and your governance requirements. Our report includes:

- Results of our work on key audit judgements and our observations on the quality of your Annual Report;
- Our internal control observations; and
- Other insights we have identified from our audit.

### The scope of our work

Our observations are developed in the context of our audit of the annual accounts.

We described the scope of our work in our audit plan.

### Use of this report

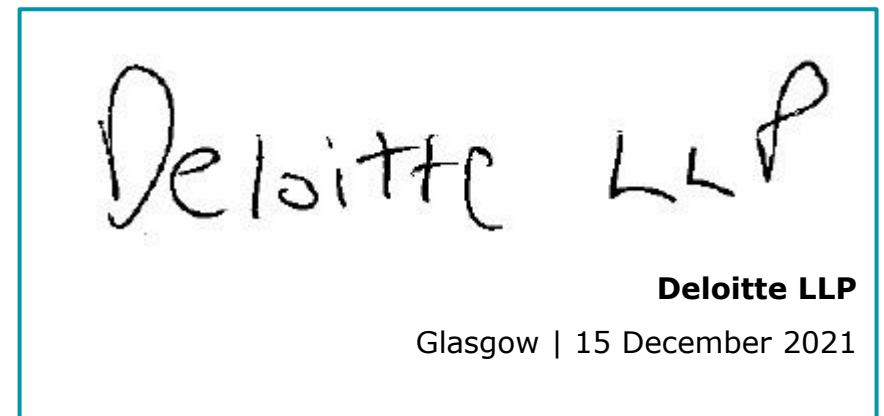
This report has been prepared for the Board, as a body, and we therefore accept responsibility to you alone for its contents. We accept no duty, responsibility or liability to any other parties, since this report has not been prepared, and is not intended, for any other purpose.

### What we don't report

As you will be aware, our audit was not designed to identify all matters that may be relevant to the Board. Also, there will be further information you need to discharge your governance responsibilities, such as matters reported on by management or by other specialist advisers.

Finally, our views on internal controls and business risk assessment should not be taken as comprehensive or as an opinion on effectiveness since they have been based solely on the audit procedures performed in the procedures performed in fulfilling our audit plan.

We welcome the opportunity to discuss our report with you and receive your feedback.



# Sector developments



# Scottish Futures Trust - New Frontiers for Smarter Working, Work and Workplace post COVID-19

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## Background and overview

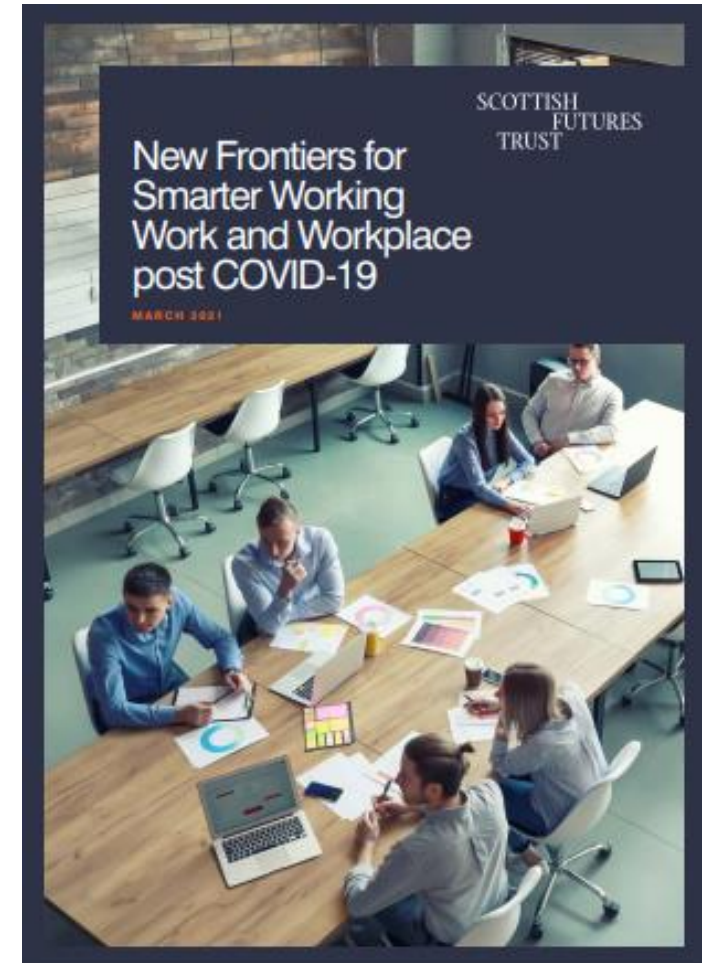
**COVID-19 has fast-tracked a social revolution where a wider range of working choices could be on the horizon for hundreds of thousands of workers.**

A new report by infrastructure experts, the Scottish Futures Trust reveals that the workforce of the future - predominantly those who have been office based - will want to make informed choices of where and how to work most productively and more beneficially for their wellbeing.

Post the pandemic, organisations should consider the three 'Hs' of working - from Home, a nearby hub or local location, where employees can meet clients or have time to concentrate on projects, or the HQ and head office, where people can gather to socialise, brainstorm ideas or collaborate face-to-face.

The "New Frontiers for Smarter Working, Work and Workplace Report" also finds that this new blended future will depend on how employers gauge the benefits from the improved working set up while ensuring the wellbeing of employees.

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## Next steps

The report reveals a new future for best work, productivity and wellbeing. The full report is available at [https://www.scottishfuturestrust.org.uk/storage/uploads/new\\_frontiers\\_report\\_march2021.pdf](https://www.scottishfuturestrust.org.uk/storage/uploads/new_frontiers_report_march2021.pdf)

# Appendices



# Audit adjustments

## Corrected misstatements

The following misstatement has been identified up to the date of this report which has been corrected by management. We nonetheless communicate them to you to assist you in fulfilling your governance responsibilities, including reviewing the effectiveness of the system of internal control. No uncorrected misstatements have been identified.

	Debit/(Credit) Comprehensive Income and Expenditure Statement (CIES) £m	Debit/(Credit) in Net Assets £m	Debit/(Credit) prior year Reserves £m	Debit/(Credit) in MIRS £m	If applicable, control deficiency identified
<b>Misstatements identified in current year</b>					
Pensions Adjustment [1]	0.188	-	-	(0.188)	N/A
<b>Total</b>	<b>0.188</b>	-	-	<b>(0.188)</b>	

[1] During the year we identified that the loss on pensions assets and liabilities had been understated by £0.188m, meaning that the figure of £0.241m within the draft Annual Accounts was adjusted and amended to £0.429m. This adjustment impacted on both the MIRS and the CIES as detailed above. The pension liability and pension reserve figures had been correctly included within the draft Annual Accounts, however the figures used in calculating these had been incorrectly disclosed within the disclosure notes to the draft Annual Accounts and have subsequently been corrected for within the updated Annual Accounts.



# Action plan

## Recommendations for improvement

No.	Area	Recommendation	Management Response	Responsible person	Target Date	Priority
1	<i>Leadership</i>	The Board should hold a meeting as a matter of priority to properly consider the timeline of changes to the Assessor's contract and consider delegating signing authority to a named officer to issue an appropriately revised contract to the Assessor, implementing the earlier 30 September Board decision.	The report recommendations are accepted and agreed. The Board will properly consider this matter at the special meeting of the Board in January 2022.	Clerk	31/01/2022	High
2	<i>Governance and transparency</i>	The VJB should review its internal governance documents, ensuring that its Constitution is appropriately tailored and up to date, and supported by VJB-specific Financial Regulations, Contract Standing Orders and other governance documents as appropriate.	The report recommendations are accepted and agreed. The VJB will review its internal governance documents.	Clerk	31/12/2022	High
3	<i>Governance and transparency</i>	A comprehensive analysis of the skills and competencies required of the Board and leadership team should be completed and the current post-holders assessed against these. A clear training plan or alternative arrangements should be put in place to address any gaps identified.	The report recommendations are accepted and agreed. The VJB will undertake the skills analysis and appropriate training for the Board and Leadership Team.	Clerk	31/12/2022	High

# Action plan (continued)

## Recommendations for improvement (continued)

No.	Area	Recommendation	Management Response	Responsible person	Target Date	Priority
4	<i>Leadership</i>	The VJB should undertake a comprehensive root-cause analysis and 'lessons learned' review given the number and significance of the issues identified during our audit. A clear improvement plan needs to be developed to implement the findings of this review.	The report recommendations are accepted and agreed. The VJB will undertake an appropriate review.	Clerk	31/12/2022	High
5	<i>Financial Management</i>	The Board should consider the provision of internal audit services to the VJB, ensuring that internal audit coverage is sufficient and appropriate for the VJB.	Internal audit services are to be provided by OIC. These arrangements will be reviewed during the year.	Treasurer	31/12/2021	High
6	<i>Procurement</i>	The VJB should consider whether the significant issues identified with regards to the consultant Depute Assessor are isolated or indicative of wider issues in the VJB's procurement processes. This review should assess the robustness of the VJB's processes and controls, compliance with them, and whether relevant individuals have sufficient training to implement them.	The report recommendations are accepted and agreed. The VJB will undertake an appropriate review and make sure senior staff are aware of Procurement law and regulations in all future instances.	Assessor	31/12/2022	High
7	<i>Governance and Transparency</i>	The Board should consider how technology can be utilised to further engage stakeholders and demonstrate continuous improvement in its journey of increasing openness and transparency, including live-streaming meetings or permitting remote live-access to meetings.	OIC currently live-stream their main service committee meetings and are due to extend this arrangement to sub-committee meetings. These arrangements will be reviewed by the Board thereafter.	Clerk	31/03/2022	High

# Action plan (continued)

## Follow-up of prior year action plans

We have followed up the recommendations made in our 2018/19 and 2019/20 audit reports and can confirm that 3 of the 5 recommendations made have been fully implemented. We will continue to monitor those partially implemented as part of our audit work.

Area	Recommendation	Responsible person	Target Date	Priority	2020/21 Update	Revised Target Date
<i>Governance and transparency</i>	The VJB should engage an independent review of its governance framework and the effectiveness of governance within the organisation.	Chief Executive – Shetland Islands Council Chief Executive – Orkney Island Council	31/03/2021	High	An independent review was complete and reported to the Board on 25 March 2021. In addition, the Board have appointed a Treasurer and Clerk to fill vacancies as a result of resignations.	Complete
<i>Governance and transparency</i>	The VJB should undertake training to ensure that the Board and management are clear in their understanding of roles and responsibilities in line with the VJB's own governing documents and good practice.	Chief Executive – Shetland Islands Council Chief Executive – Orkney Island Council	30/06/2021	High	The VJB have not yet undertaken training for Board and Management. This was an area identified within the recommended actions of the independent governance review performed. This action has since been delayed due to competing priorities, including the need to prioritise the recruitment process for the Assessor and Depute posts.	31/03/2022
Value money	The robustness of performance reporting and reporting against Best Value should be improved by clearly setting out historical performance and targets in addition to current performance, to enable monitoring of improvement. Reporting on Best Value should be clearly linked to the themes of Best Value set out in statutory guidance.	Assessor	30/06/2021	Medium	This action has been addressed through the performance monitoring report submitted to the Board on 24 June 2021, whereby the Board report performance against target and prior year comparatives, as well as assessing targets set against the Scottish National Average.	Complete

# Action plan (continued)

## Follow-up of prior year action plans

Area	Recommendation	Responsible person	Target Date	Priority	2020/21 Update	Revised Target Date
<i>Financial Sustainability</i>	When developing its MTFP, the VJB should make reference to the key principles of public service reform – prevention, performance, partnership and people – and how these reflect in the VJB’s financial planning. There should be clear links to the Scottish Government medium term financial strategy.	Treasurer	31/03/2020	High	The Board has agreed a revised pay and grading model and will develop a MTFP. Development of the MTFP has been delayed due to the revised pay and grading model only being implemented in June 2021. This has been further exacerbated by staffing issues within the OIC Finance Team.	31/03/2022
<i>Financial Sustainability</i>	The VJB should consider developing a workforce plan, setting out (i) its current workforce, (ii) the workforce it currently needs, (iii) the workforce it needs in the future, (iv) the gaps between the current workforce and the needed workforce and (v) actions to fill those gaps (recruitment, training, automation, changing service provision).	Assessor	31/03/2020	High	A Workforce Plan was approved to the Board on 30 September 2021.	Complete

# Our other responsibilities explained

## Fraud responsibilities and representations



### **Responsibilities:**

The primary responsibility for the prevention and detection of fraud rests with management and those charged with governance, including establishing and maintaining internal controls over the reliability of financial reporting, effectiveness and efficiency of operations and compliance with applicable laws and regulations.

As auditor, we obtain reasonable, but not absolute, assurance that the Annual Accounts as a whole are free from material misstatement, whether caused by fraud or error.



### **Required representations:**

We have asked the Board to confirm in writing that you have disclosed to us the results of your own assessment of the risk that the Annual Accounts may be materially misstated as a result of fraud and that you have disclosed to us all information in relation to fraud or suspected fraud that you are aware of and that affects the entity or group.

We have also asked the Board to confirm in writing their responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud and error.



### **Audit work performed:**

In our planning we identified the risk of fraud in relation to occurrence of income and management override of controls as a key audit risk for your organisation.

During course of our audit, we have had discussions with management and those charged with governance.

In addition, we have reviewed management's own documented procedures regarding fraud and error in the Annual Accounts.

# Independence and fees

As part of our obligations under International Standards on Auditing (UK), we are required to report to you on the matters listed below:

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## Independence confirmation

We confirm the audit engagement team, and others in the firm as appropriate, Deloitte LLP and, where applicable, all Deloitte network firms are independent of the VJB and our objectivity is not compromised.

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## Fees

We have still to assess the impact of the additional procedures performed following the expansion of the scope of the audit to address the specific risks identified. At the time of issuing the report, it is anticipated that the audit fee will be approximately £44,500 (2019/20: £20,198). This is still to be finalised and will be discussed with management. A verbal update will be provided to the Board if requested.

There are no non-audit services fees proposed for the period.

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## Non-audit services

In our opinion there are no inconsistencies between the FRC's Ethical Standard and the company's policy for the supply of non-audit services or any apparent breach of that policy. We continue to review our independence and ensure that appropriate safeguards are in place including, but not limited to, the rotation of senior partners and professional staff and the involvement of additional partners and professional staff to carry out reviews of the work performed and to otherwise advise as necessary.

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## Relationships

We are required to provide written details of all relationships (including the provision of non-audit services) between us and the organisation, its board and senior management and its affiliates, including all services provided by us and the DTTL network to the audited entity, its board and senior management and its affiliates, and other services provided to other known connected parties that we consider may reasonably be thought to bear on our objectivity and independence.

We are not aware of any relationships which are required to be disclosed.

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