AUDIT COMMITTEE

Tuesday 18 March 2003 (Afternoon)

Session 1

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AUDIT COMMITTEE

6th Meeting 2003, Session 1

CONVENER

*Mr Andrew Welsh (Angus) (SNP)

DEPUTY CONVENER

*Mr David Davidson (North-East Scotland) (Con)

COMMITTEE MEMBERS

*Sarah Boyack (Edinburgh Central) (Lab) Rhona Brankin (Midlothian) (Lab)

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

*Mr Lloyd Quinan (West of Scotland) (SNP)

*Mr Keith Raffan (Mid Scotland and Fife) (LD)

COMMITTEE SUBSTITUTES

Miss Annabel Goldie (West of Scotland) (Con) Mr Duncan Hamilton (Highlands and Islands) (SNP) Janis Hughes (Glasgow Rutherglen) (Lab) Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

THE FOLLOWING ALSO ATTENDED:

Robert Black (Auditor General for Scotland) Arwel Roberts (Audit Scotland)

CLERK TO THE COMMITTEE

Shelagh McKinlay

SENIOR ASSISTANT CLERK

Joanna Hardy

ASSISTANT CLERK

Seán Wixted

LOCATION

Committee Room 3

^{*}attended

Scottish Parliament

Audit Committee

Tuesday 18 March 2003

(Afternoon)

[THE CONVENER opened the meeting at 14:03]

Items in Private

The Convener (Mr Andrew Welsh): Good afternoon. I welcome everyone to the sixth meeting this year of the Audit Committee, which will be our final meeting in this parliamentary session. As usual, I ask everyone to switch off all mobile phones and pagers. I have received apologies from Margaret Jamieson and Rhona Brankin.

For the first item on our agenda, I seek the committee's agreement to take in private items 6, 7 and 8. We usually conduct such items of business in private in line with established practice. Of course, the results of our deliberations will be made fully public in due course. Are members agreed?

Members indicated agreement.

"Individual Learning Accounts in Scotland"

The Convener: The second item on the agenda is a briefing from the Auditor General on his report entitled "Individual Learning Accounts in Scotland", which examines the operation of the individual learning accounts scheme.

Mr Robert Black (Auditor General for Scotland): The individual learning accounts scheme covered the whole of the United Kingdom. Its objective was to increase adult participation in education and training by offering people the opportunity to obtain discounts on the cost of a wide range of training provision. The ILA scheme was supposed to contribute to a better-equipped work force and to give people a personal stake in their training.

The scheme was successful in encouraging people to open ILAs. Indeed, the target of having 100,000 accounts opened in Scotland was achieved by June 2001, about nine months ahead of schedule and within a year of the scheme's introduction. However, during the summer of 2001, the public bodies that were involved in the scheme's administration began to receive complaints about the activities of some learning providers, including allegations of non-compliant and potentially fraudulent expenditure. Those complaints led to the closure of the ILA scheme in December 2001.

The National Audit Office has reported to the UK Parliament and the Public Accounts Committee has taken evidence on the matter. My report investigates the Scottish situation and examines the reasons for non-compliant and potentially fraudulent activity and the amount of expenditure involved. I also comment on what has happened since the scheme closed in Scotland and outline any lessons that there might be for a successor scheme.

I will start with the reasons for the non-compliant and potentially fraudulent activity. First, I should point out that the ILA scheme in Scotland was administratively complex and involved five separate organisations. Although responsibility for policy rested with the accountable officer of the Scottish Executive enterprise and lifelong learning department, accountability for expenditure under the scheme rested with Scottish Enterprise and Highlands and Islands Enterprise. It could be argued that the large number of bodies that was involved in administering the scheme contributed to some of the problems, errors and failings.

I should also outline what I mean by improper activity. At one level, some activity by learning

providers did not comply fully with the rules of the scheme. For example, the completion of a standard enrolment statement by students was a key requirement of the scheme. Any learning provider that could not produce such a statement when asked to do so was technically in breach of the scheme's rules; however, in many such cases, there was no suggestion that the learning provider did not provide the training that the student had signed up to receive. At a far more serious level, some learning providers engaged in potentially fraudulent activity such as submitting claims for reimbursement for training that was not provided or for students who did not exist.

My report indicates a number of measures that could have reduced the risk of improper activity and highlights seven areas of concern. First, since devolution, it has become increasingly important that where Scotland participates in UK-wide programmes, the Scottish Executive should ensure that it is adequately represented on programme boards that are responsible for taking forward the policy on behalf of the UK.

Secondly, the Department for Education and Skills at Westminster was responsible for developing the national framework for the ILA scheme and procuring a customer service provider. If the Scottish Executive enterprise and lifelong learning department had been more involved in the scheme's design and implementation, it could have been made aware earlier of interim measures that allowed English-based learning providers to self-certify that their learning was eligible for funding.

A third concern is that, although the Scottish university for industry performed basic checks on the eligibility of learning providers who sought to register with the scheme, it did not formally accredit them. Formal accreditation of learning providers could have helped to prevent unscrupulous providers from gaining access to the ILA programme.

A fourth point that I make in the report is that the enterprise and lifelong learning department did not fully appreciate the risk of fraudulent activity. Risk assessments were undertaken, but better risk management procedures could have helped the department to be more aware of the risk of fraudulent activity, so that it might have been able to put in place counter-fraud strategies.

Fifthly, there were weaknesses in the overall control environment. A formal evaluation of systems controls could have helped to identify those control weaknesses before the scheme was introduced.

Sixthly, the guidance on the operation and administration of the scheme was inadequate when the scheme was introduced. Quite simply,

the guidance could have assisted the learning providers to identify the do's and don'ts of the scheme and might have helped to prevent accidental non-compliance.

Finally, it appears that responsibilities for monitoring of the scheme were unclear and not fully agreed upon. Partly because of that, there was a delay in the introduction of effective monitoring and audit arrangements. The prompt introduction of such arrangements could have provided a deterrent and a means of detecting improper activities by learning providers.

In all, Scottish Enterprise and Highlands and Islands Enterprise estimate that, in Scotland, up to £4.5 million of claims that were received under the scheme might be irregular. That is out of a total of £18.8 million of claims received. Some 98 per cent of the £4.5 million relates to claims that were received by Scottish Enterprise. That figure is based on the extrapolation of an audit sample of claims that were received from high-risk learning providers. The department and the two enterprise bodies have identified 28 learning providers for which they believe that there is a high risk of fraudulent activity having taken place. Those providers have received payments of £2.9 million under the scheme and have further claims outstanding valued at £2.8 million.

Acting on Crown Office instruction, the police have now executed search warrants against 10 of those learning providers and a large quantity of documentation and computer records has been recovered. Analysing all that data is likely to be a lengthy task, and the Crown Office and Procurator Fiscal Service is still to decide whether to start any prosecutions of learning providers.

The recovery of moneys from potentially fraudulent activity will of course be a matter for the courts to decide. However, the department and the two enterprise bodies are seeking administrative recovery of moneys that were paid in error to learning providers that did not comply strictly with the rules of the scheme.

I will mention briefly the development of a new scheme to succeed ILAs. Evaluation work on behalf of the department has confirmed that many learners, providers and stakeholder organisations recognise the strengths of the ILA concept and the benefits of the original scheme. As the committee will be aware, last month the Scottish Executive published its lifelong learning strategy, in which it announced its commitment to relaunch the ILA scheme in 2003-04. In developing its proposals for the new scheme, I understand that the department is taking into account the lessons from the original scheme.

It is too soon to comment on the proposed arrangements, but I understand that the

department will have completed a full risk analysis before the scheme is introduced. I intend to ask the appointed auditors to monitor and report on the new scheme after the first year of its operation.

As always, I am happy to answer any questions. My colleagues are here to help me do that.

The Convener: I remind members that we will consider the report in greater detail in the future. Members may make general comments today, if they so wish.

I thank the Auditor General for his clear report, which has got to the heart of the problem. The report shows in detail what measures should have been taken. On the proposed relaunch of the scheme, what assurances do we have that there will be safeguards to ensure that the new scheme will not be open to abuse? What is the import of the statement that recommends that the Executive

"takes time to consider fully the implications of its proposals"?

Mr Black: My understanding is that the minister has stated in Parliament his commitment to a new scheme. I also understand that the department was awaiting the publication of my report so that it could take the lessons into account in redesigning the scheme. I have a clear impression that the necessary time is being taken to evaluate the content of my report in preparing the final design of the new scheme. However, as might be imagined, I am not party to the detail of that planning process.

Sarah Boyack (Edinburgh Central) (Lab): The Auditor General's report on the ILA scheme is significant and important. Having followed through some constituency casework on the issue, I know that the experience of people who signed up to the scheme was one of huge disappointment.

It took individuals ages to work out that something was going wrong. Before any new scheme is put in place, it is vital that all the lessons are learned. The thing that leaps out at me is the fact that no one thought there would be widespread fraudulent activity on the back of the scheme. That is striking, and the issue of fraud must be addressed in the new scheme by putting in place checks and balances. The detailed control systems that have been discussed are vital for any new scheme. I would rather take a little longer to implement a new scheme that has all the controls demonstrably in place than have another launch that allowed individuals and companies to abuse public money and to discredit a scheme.

The concept of the scheme is excellent and people want it. However, the scheme must be implemented properly. Will the work that the police are currently doing get in the way of a new scheme and have to be completed before a

scheme is introduced? The Auditor General suggested that that work would take some time. He may not be able to answer that question, but in the course of their inquiries the police may identify other issues that he may want to know about when putting in place a system of checks and balances.

14:15

Mr Black: Unfortunately—as members might imagine—we do not know what is happening with the Crown Office and the police. Hindsight is a wonderful thing, but I am surprised that in the risk assessments that were done at United Kingdom level, in particular, the issue of fraudulent providers entering the market was not addressed. That was an unfortunate omission at a very early stage. Not until comparatively late in the exercise that was carried out in summer 2001 was the risk identified and seen to have materialised.

Mr David Davidson (North-East Scotland) (Con): I appreciate that we will deal with this issue in detail later. I am a former chairman of a public sector company that had problems with fraudulent activity with which the board had to deal. That risk was well known to the public sector. We were not alone in identifying such difficulties. As Sarah Boyack said, it is regrettable that there has been disappointment so early in a scheme because of a lack of foresight.

The legal issue is separate, but it poses an additional question to the one that Sarah Boyack asked about rushing in rather than allowing things to settle down so that there is absolute clarity. Presumably, the Executive will have to conduct yet another screening programme to establish who can be accredited. We must have accreditation not just for audit, but for delivery and outcomes. I caution the Executive, through the committee, that it would be perilous to rush in a replacement system just for that sake of it. We must introduce the new system correctly. I hope that the Executive will wait—not just so that it can examine the Auditor General's report, but so that it can take on board the legal process that may follow on this occasion.

Mr Keith Raffan (Mid Scotland and Fife) (LD): I apologise to the Auditor General for not being here at the beginning of his briefing.

Two points occur to me. First, the policy was not thought through carefully. As happens in Government too often, a good concept was not planned and was introduced without adequate preparation. Does the Auditor General agree? Secondly, we must deal with the issue of fraudulent providers. When will the Government learn that, if it makes money available in education, home improvements or any other area, there must be tight regulation? The home

improvement grants that were available in the early 1980s encouraged the setting up of a large number of cowboy building firms and money was misused. Unfortunately, when money is suddenly made available, undesirable people—in this case, fraudulent providers—are attracted to it.

The Convener: Clearly, a scheme that was designed to help a wide range of people went awry. We must get it right the second time round. I thank the Auditor General for giving a clear report that highlights points that require action and which will allow everyone involved to learn from past mistakes. I remind members that the Official Report of this meeting will be brought to the attention of our successor committee, which I am sure will want to pursue the Auditor General's excellent report.

"Overview of the 2001/02 water authority audits"

The Convener: Agenda item 3 is on a follow-up response from the Scottish Executive to the Auditor General for Scotland's report "Overview of the 2001/02 water authority audits". Members will recall that the committee considered an initial Executive response to the report on 18 February. Following consideration of that response, the committee agreed to write to the Executive to seek further information on several issues. The Executive's reply is now before us. I refer members to that response and seek any comments that they may have.

Mr Raffan: I have one point on the collection rates. The Executive's response states that local authorities will be rewarded for good performance. Is that a financial incentive? What will it cost?

Arwel Roberts (Audit Scotland): The agreements have not been established yet and we do not know the details.

Mr Raffan: I presume that we are talking about a financial incentive.

Arwel Roberts: I would read that from what is stated in the Executive's response.

Mr Raffan: It would be nice to know what the incentive is. If it is going to be effective, it might have to be quite large.

The Convener: I notice that the Executive states that significant improvement is expected in debt collection during the next financial year. However, it also states that local authority agreements are "at an early stage". Therefore, the situation is being monitored and must be checked against delivery. That will be done in the Auditor General's review of Scottish Water's first year in operation. That is an on-going matter and we should keep it in mind. I suggest that we bring the Official Report of the meeting to the attention of our successors, perhaps through our legacy report. Is that acceptable?

Members indicated agreement.

"Measuring up? A follow-up report on performance measurement in the Scottish Environment Protection Agency"

The Convener: Item 4 is on the Executive's response to the committee's report of 15 January on "Measuring up? A follow-up report on performance measurement in the Scottish Environment Protection Agency". I refer members to the Executive's response and seek any comments that they may have.

Sarah Boyack: I have one comment on the lengthy reply. One of the key matters on which we commented was the difficulty of assessing the effectiveness of performance indicators, given the nature of the indicators that SEPA has adopted. I am particularly pleased to see that SEPA is working on establishing emissions data so that there is a baseline that will enable us to examine changes in the future. That is a difficult task. I am glad that SEPA is trying to sort the matter out, as it is a key issue in the Government's overall objectives for SEPA.

The Convener: I notice that the Executive has issued guidance. The process to improve the indicators is in a transitional phase but the aim is to provide

"a full suite of outcome-based performance indicators."

The process is on-going and will be monitored and checked against delivery.

I notice in its response to our specific recommendations that the Scottish Executive environment and rural affairs department supports the committee's intention and agrees with formal verification of information. The department states that it expects to complete

"an initial round of this process before publication of SEPA's 2002-03 annual report."

That should be checked against delivery. I note the development of SMART—specific, measurable, achievable, relevant and time-specific—targets and that better data programmes will be put in place to create baselines. The response states that progress is expected in "successive corporate plans". I suggest that, through the *Official Report* of the meeting, we bring that to the attention of our successor committee.

Mr Davidson: At the end of the department's response to the committee's first specific recommendation, the letter states:

"I do not see a case for regular check auditing of the performance of sponsored bodies by the Department." I would like to see some clarification of intent as to how that should be carried out.

The Convener: Yes. That comment will be in the *Official Report*.

Mr Black: I will help the committee with that issue. A number of non-departmental public bodies and similar bodies were concerned to have a proper relationship with the sponsor department. The view is generally taken that it is for the NDPBs to be responsible and to be held to account for reporting their performance accurately, well and helpfully. I gather that the point that is being made in the letter is that the department does not feel that it should be second-guessing the agency in that work.

I can give an assurance that, through the audit process, we will from time to time review the systems that are used to gather and report performance information. As the convener rightly said, in the future, through the published information and annual reports of bodies such as SEPA, it will be possible for the Parliament, including the Audit Committee, to monitor the performance that is delivered. We will take a continuing interest in providing assurance on the systems that gather and produce that information, but the bodies themselves must be held to account for their performance.

The Convener: I thank the environment and rural affairs department for the response. Given that the issue is on-going, do members agree to pass it to our successor committee for monitoring and to ensure progress?

Members indicated agreement.

"How government works in Scotland"

The Convener: Agenda item 5 is on the Executive's response to the committee's report on "How government works in Scotland", which was published on 30 January. I seek members' comments on the response. The Executive claims that the diversity of NDPBs makes generic protocols and guidance "very difficult" and therefore not possible. I ask Mr Black how far that view can be justified. Will the other measures that are being applied, such as guidance and memoranda, be sufficient?

Mr Black: There is substance in the Executive's point. I hope that the "How government works in Scotland" report highlighted the complexity and variation of arrangements for service delivery that exist throughout the public sector in Scotland. We must acknowledge that the ways in which performance is reported and bodies are held to account vary in the public sector because of the enormous variation in the type of body involved.

Mr Raffan: I will follow on from that point. I do not want to go too much into the position of Scottish Enterprise, which is topical, but that situation makes clear the need for financial and democratic accountability. People must at least know what is going on. I do not make a judgment on the issue, but it is important that there are clear lines of financial accountability for NDPBs that have significant budgets. To my mind, the process must be tightened up.

Mr Davidson: I am delighted to see in paragraph 9 of the response an acceptance of our point that there must be full training for board members. In the work of the committee and the Auditor General, we have come across situations in which board members are simply dragged along to vote and do not know what is going on. We must ensure that executive and non-executive board members in public bodies that spend money from the public purse are mutually responsible. The Executive is to be congratulated on that point, but in a future report I would like more clarity on how it intends to deliver such training. The Executive should not simply say that the training should happen and then leave the matter to the bodies concerned. The committee's work has uncovered an important subject.

Mr Raffan: I should also have said that the response on cross-cutting issues, which uses drug and alcohol action teams as an example, is rather disappointing—I find it superficial, shallow and general. The issue is not only about making progress, but about making progress that members of the Parliament, the media and the

public can see clearly. For the past four years, I have been the convener of the cross-party group in the Scottish Parliament on drug misuse, which is still trying to find out how money is spent on treatment, prevention and rehabilitation because it is difficult to track the money through the system. The system must be transparent; it is no use resorting to Executive jargon, which is what is contained in the four lines in the response. We want to know what is happening and that response is unsatisfactory.

The Convener: Those comments will be noted. Like many other items, this one is on-going and will be passed to our successor committee through the *Official Report* of meetings and our legacy paper.

Mr Davidson: I am a member of the Finance Committee, which has also been considering cross-cutting and budgeting issues. Its successor committee will roll forward that programme again. Perhaps we can suggest that the successor Audit Committee work closely with the next Finance Committee in that area.

14:30

The Convener: I am sure that the successor Audit Committee will do so—I certainly hope that it will. Our continuing business items show that the Audit Committee has been, up to its last minute, an active and effective committee. We hope that that will continue to be the case with the successor Audit Committee in the next session of Parliament.

This is the last meeting of the Audit Committee this session, so before we go into private session I put on the record my gratitude to everyone who has contributed to the committee's work during the past four years. We have covered a massive amount of ground and achieved positive results in many important activities that affect the people of Scotland. The Audit Committee can be proud of the foundation stones that it has laid. For example, the introduction of priority-based dispatch for ambulance services in Scotland followed our recommendation that the case for such a system be evaluated. A new requirement for accountable officers to ensure that risks are explicitly identified and assessed and that systems are put in place to manage them followed an Audit Committee recommendation that arose from its consideration of the AGS report on the new Scottish Parliament building.

The introduction of a new protocol for escalating intervention by Executive staff when a national health service board starts to experience financial difficulties followed our recommendation that Executive monitoring systems be strengthened, which arose from our inquiry into the report on financial problems in the NHS in Tayside. We also

produced a fundamental and wide-ranging review of governance and accountability in the further education sector, which was carried out in response to the committee's inquiry into the Moray College situation. We have produced strong and substantial reports, which were founded on the detailed work that Audit Scotland and the Auditor General did on the public's behalf.

Mr Raffan: Hear, hear.Mr Davidson: Absolutely.

The Convener: I thank Audit Scotland and the Auditor General and I highlight the contribution that the committee's positive working relationship with Audit Scotland has made. It has been to everyone's benefit that we worked together for the common cause of getting best value for the public, bringing to light difficulties and ensuring that best value and best practice were spread as widely as possible.

I thank all the Parliament staff, including information technology, official report and security staff, but I thank especially our clerks, without whom the Audit Committee's work would not have been so successful. The clerks were at the heart of everything that we achieved during the past four years.

I also thank the witnesses, because we can only try to seek out the truth on the public's behalf; we need people to come as witnesses to the committee to allow us to obtain the evidence on which to make strong, solid recommendations.

I thank past and present committee colleagues for their contributions. In fact, only two of the original committee members remain: Margaret Jamieson and I. Finally, I express my best wishes to the successor committee. I hope that its members will feel that we have laid strong and successful foundations on which they can build.

For me, personally, it has been a pleasure to be a member of the Audit Committee and I have thoroughly enjoyed the past four years. I believe that the audit process has got off to a good, strong start. We wish the next Audit Committee all success in its work on behalf of us all.

Mr Davidson: I have been the deputy convener for only a short time—just over a year—but, on behalf of the committee, I congratulate Andrew Welsh on the way in which he has steered the committee for the past four years.

Mr Raffan: Hear, hear.

The Convener: I thank you for that. We now move into private session.

14:33

Meeting continued in private until 15:23.

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