



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Public Audit Committee

**Thursday 30 March 2023**

**Session 6**



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Pàrlamaid na h-Alba

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**PUBLIC AUDIT COMMITTEE**

**11<sup>th</sup> Meeting 2023, Session 6**

**CONVENER**

\*Richard Leonard (Central Scotland) (Lab)

**DEPUTY CONVENER**

\*Sharon Dowey (South Scotland) (Con)

**COMMITTEE MEMBERS**

\*Colin Beattie (Midlothian North and Musselburgh) (SNP)

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

Craig Hoy (South Scotland) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Stephen Boyle (Auditor General for Scotland)

Ian Bruce (Commissioner for Ethical Standards in Public Life in Scotland)

Gemma Diamond (Audit Scotland)

Mark Taylor (Audit Scotland)

**CLERK TO THE COMMITTEE**

Lynn Russell

**LOCATION**

The James Clerk Maxwell Room (CR4)



**Scottish Parliament**  
**Public Audit Committee**

*Thursday 30 March 2023*

*[The Convener opened the meeting at 09:00]*

**Decision on Taking Business in Private**

**The Convener (Richard Leonard):** Good morning. I welcome everyone to the 11th meeting of the Public Audit Committee in 2023.

The first item on our agenda is to agree to take items 4, 5, 6 and 7 in private. Are we agreed?

**Members** *indicated agreement.*

**Section 22 Report: “The 2021/22 audit of the Commissioner for Ethical Standards in Public Life in Scotland”**

09:00

**The Convener:** Agenda item 2 is an evidence session with the Commissioner for Ethical Standards in Public Life in Scotland, Ian Bruce, on Audit Scotland’s section 22 report on the latest audit of the commissioner’s performance, which was published several weeks ago.

Towards the end of the committee’s previous evidence session on the report, we had some discussion about whether Ian Bruce is the accountable officer as well as the commissioner. For the record, I confirm that you are—that is correct, is it not?

**Ian Bruce (Commissioner for Ethical Standards in Public Life in Scotland):** Yes.

**The Convener:** Thank you. We obviously want to put quite a number of questions to you, but before we get to those I ask you to make a short opening statement to the committee.

**Ian Bruce:** Certainly. Thank you, convener and members of the committee, for the invitation and the opportunity to talk to you about the work of our office. I will keep this statement brief, as I am sure that you will have a number of questions for me.

I trust that the committee will have reviewed our last two annual reports and the two section 22 reports that were laid by the Auditor General for Scotland on the work of our office. Those will have given you a flavour of the challenges that our organisation has faced since I took up my role as acting commissioner almost two years ago. I do not plan to rehearse all those challenges, although I will be happy to respond to any questions that members have in relation to them. I felt that it might instead be more helpful, at this point, to bring the committee up to speed on the office’s current circumstances and our plans for the future.

Audit Scotland’s section 22 report in January followed up on our office’s progress in the usual way. It reflected positively on the work that we have done to rebuild our office and the services that we provide, and on our work to restore confidence in the ethical standards framework. However, it also made it clear that more work has to be done to embed the good practices that we have adopted since the previous section 22 report was laid by the Auditor General.

We have included all of the details of the progress that we have made on our website and a summary is included in our annual report. We will

continue to keep the public and our stakeholders updated on our progress. In brief, we have now fully implemented 16 of our auditor's 26 recommendations. That number might not be familiar, but some of the recommendations were multipart, and we split them up to track our progress appropriately. We have partially implemented the remainder that we are able to, and I will happily provide more detail on that during the session.

We have concentrated on re-establishing our governance, systems of assurance, relationships with stakeholders and staffing levels. On that front, we are in the midst of recruitment to fill roles that were approved by the Scottish Parliamentary Corporate Body in October, with three new staff members now in post and currently going through their induction, and four more being brought on board between now and May. We have some assurance that we are making progress. Last year, our internal auditors reviewed our systems of governance and our investigations procedures. They assessed the controls in place as being substantial and our risk management controls as being strong.

As part of my plans for the immediate future, I intend to complete our office recruitment exercise, followed by induction, in order to clear our investigations backlog and to process complaints much more quickly in the future. I have also developed a range of new and updated key performance indicators, which we will implement soon, against which we will subsequently publicly measure our progress, which will be posted on our website. In the longer term, I am due to produce a new strategic plan for 2024 to 2028, which will set out my ambitions for the future.

I trust that that is of interest to the committee, and I am happy to answer any questions that you have.

**The Convener:** Thank you very much, commissioner. I think that our working list had 22 recommendations, with a breakdown of 10 that had been implemented at the time of the Audit Scotland report's publication, and 10 being a work in progress. I am sure that during the course of the next hour we will get into some of the detail of the recommendations and the progress that you have made. If you have reconfigured them, maybe we will get to the bottom of that, too.

I go first to Willie Coffey, who has an extremely important question that exercised us very much at our last session with the Auditor General.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** Good morning, Ian. My question is about restoring public confidence, which you mentioned in your remarks. We know that advice has been given to you that you cannot revisit complaints that

were made in the past. Other members have raised that matter with you previously.

Do you not think that there is an obligation, for reasons of natural justice and to restore public confidence, to re-investigate complaints that were clearly not handled appropriately? There could be a potential feeling of injustice because, as stated in paragraph 19 of the Auditor General's report, complaints had not been investigated in compliance with the legislation. On balance, do you not feel that greater weight should be attached to that aspect of restoring public confidence than to advice that you might have received not to revisit those complaints?

**Ian Bruce:** To be honest with you, I have struggled with that myself, because I have met personally some of the individuals who have been affected by that. It is important for the committee to have a full understanding of the situation.

The auditor's recommendation was not that I reopen and re-investigate complaints; it was that we have someone external to the office come in and independently review my predecessor's decisions. In order to establish whether it was possible for me to take forward that recommendation—because it would have required a significant amount of contingency funding from the SPCB—I asked the auditor what advice the recommendation was based on. Had it sought legal advice in relation to it? It confirmed that it had not, and I felt obliged to seek that legal advice in order to have a proper understanding of what the position was.

I am not a lawyer, so the advice came as a bit of a surprise to me, but I have a deep understanding of it now. The legal term for it is *functus officio*. I do not have much of a grounding in Latin either, but members might be familiar with a similar concept in relation to criminal justice—double jeopardy. Basically, *functus officio* is the equivalent of double jeopardy in relation to the work of public authorities. It means that once a public authority has made a decision, that decision cannot be revisited.

I surely understand what you are saying about how it feels in terms of natural justice for those whose complaints were investigated and for which there was no breach found, or in cases in which the commissioner concluded that, on the face of it, there was no breach of the code, and therefore the case was not worthy of investigation. I understand and empathise with the position of complainers who feel that they did not receive justice.

On the other side, there is a range of councillors and board members who feel that they were exonerated, either at the end of an investigation or because the commissioner's view was that, on the face of it, something was not a breach of the code.

Their having been, in their eyes, exonerated, how would they feel if, two years down the line, when another commissioner comes in, the same complaint is made to that commissioner, and that commissioner goes back and overturns the decision of a previous one?

The legal advice to me was unequivocal. There are only very narrow circumstances in which a public authority's decision on a complaint can be revisited. The advice went even further than that: I would be acting unlawfully if I sought to overturn the decisions of my immediate predecessor.

I trust that you will understand that, in the position of a parliamentary office holder, I could not in good faith choose to disregard legal advice that I had taken. It would potentially end up with me in a position of having to try to defend a legal case—which would involve public money, resources and time—that I would have no reasonable prospect of winning, based on that legal principle.

Believe me when I say that I struggle with the question myself. It has been challenging for me, but, fundamentally, I did not feel that I could, in good faith, act unlawfully. I will go further. It was legally privileged advice, but it was shared with the Scottish Parliamentary Corporate Body and with the Standards Commission for Scotland, because their input was sought prior to making the decision. I would be more than happy to share that advice with the committee, in full. I am very transparent about the law, but that is the position.

**Willie Coffey:** My next question was going to be whether that advice could be shared, either in private or public, with the committee, so it is very much appreciated that that is possible. Just to emphasise the point, are we being told that that direction overrides the requirement—the duty—to deliver justice to people who have raised complaints? I would like to separate the complaints that were dealt with in which the complainant was unhappy with the outcome from the complaints that were not properly investigated. How on earth could that direction supersede those? That is what I find difficult to understand.

**Ian Bruce:** It comes down to the founding legislation in relation to acquittal of that particular statutory function—the Ethical Standards in Public Life etc (Scotland) Act 2000—which makes it clear. There is a section in that act saying that “whether, when and how” to conduct an investigation are, statutorily, matters for the commissioner.

The decisions that we are talking about are decisions that my predecessor commissioner made at the time and, statutorily, they were her decisions to make. I am not in a position to overturn them, because of the legal principle.

Again, I truly empathise with individuals who feel that their complaint should have been investigated, but her decision was, “No. On the basis of what is before me, it is not appropriate to investigate.” Statutorily, those were her decisions to make.

**Willie Coffey:** I asked this question previously. Is it possible for people to submit a fresh complaint about old matters?

**Ian Bruce:** I am happy to talk to the narrow circumstances in which I can revisit a public authority's decisions. They are very narrow and, again, you will find them in the legal advice. There has to have been a fundamental mistake of fact, or fraud, or the public authority has not to have completed its inquiries.

If complainers are able to come to me with, let us say, fresh evidence and say, “Here is something new that your predecessor was not aware of at the time that the decision was made,” there is scope for me to look at that again, potentially. If anyone comes to me and I feel that I have leeway to pursue their case in a defensible way, I will do that. However, if it is exactly the same complaint and the decision has already been made on it, my hands are tied.

**Willie Coffey:** Thank you for that. One of the recommendations that came out of the experience was about the full “Investigations Manual”. Could you update the committee on progress on that?

**Ian Bruce:** By all means. It will not surprise the committee that I am aware of its prior sessions. I think that it was mentioned that it was a bit of a coincidence that the manual came out for consultation not long before your session last year with the SPCB. It is also a coincidence that the full “Investigations Manual” is being published tomorrow, following public consultation last November.

This is not a criticism of the auditors, but I will be clear that we put the manual together in November 2021, so that is how long we have had an investigations manual in place and been working to it. It has been a work in progress only to the extent that we have been updating it based on feedback that we have had from people while we have been operating it, but we have been operating it for a very long time; it is now on version 9.

09:15

We chose to go beyond the auditors' recommendations. They said, “Produce an investigations manual,” so we did, but we also chose to consult publicly on it. We have spoken about my strong desire to restore public confidence in the work of the office; that has been

about being transparent. We are not just being transparent about how we plan to investigate things, but are actually seeking people's views and saying how we plan to go about our business and asking what are their thoughts. There was an extensive consultation period with the Standards Commission and all the local authorities' monitoring officers even in advance of publicising the manual for public consultation.

The final version will be published tomorrow, but it will be—and it will continue to be—a living document. It is very well embedded. As I mentioned during my opening statement, last year, our internal auditors had a look at our investigations procedures and said, "You have substantial controls in place in relation to these."

**Willie Coffey:** I have a final question for you, just to get your views on the table. What lessons have been learned from the process of the concluded investigations and so on that will deliver and restore the public confidence that you have mentioned a few times?

**Ian Bruce:** Checks and balances are really important in the ethical standards framework. The reality is that my predecessor's relationship with the Standards Commission for Scotland broke down, so a set of directions was brought in and those directions, in and of themselves, can give the public a great deal of confidence.

I am working very much in partnership with the Standards Commission but, other than in really narrow circumstances, I am statutorily obliged to investigate anything that comes to my office, and I can provide assurance to this committee, the Standards Commission and anyone else with an interest that I properly investigate anything that might have merit that comes before me. I report on the results of that investigation to the Standards Commission, but the Standards Commission is not bound by my decisions. Justice is now absolutely baked into that system.

**The Convener:** One of the alarm bell figures that we have seen over the past couple of years is the statistic about the numbers of complaints that were or were not progressed. There is a contrast between two years. We were told that, in 2016-17, 43 per cent of complaints against councillors and members of public boards were not pursued—i.e. 57 per cent were pursued—but, by the time that we get to 2020-21, 84 per cent of such complaints were not pursued. That big contrast was one of the things that sent out a clear signal that people had lost confidence in the system and that something was going wrong. You might want to reflect on that, but could you tell us the current figures for complaints against councillors and public board members? We will take that as the test area, to find out what the figures are now.

**Ian Bruce:** We track that regularly, and I assure the committee that we are back at previous levels. We have gone back to the levels of 2017-2018, which was prior to my immediate predecessor's time in office, and we are back at—in fact, just above—previous levels of acceptance for investigation.

I could have started by saying this to the committee but, if there is any detail that you want from me—at any point in time, not necessarily in public session—just say the word and I will be more than happy to provide you with all the statistical information that you require, because we are across all of that.

**The Convener:** If you could write to us, not now, but subsequent to today's session, with the comparable figure for the current date, that would be a useful measure for us to understand whether things are back to a level that most people would recognise.

**Ian Bruce:** By all means. I have a table in the office that will show you the past five or six years and will happily send a copy when I get back there today.

**The Convener:** That will be good. We are a Public Audit Committee. On the one hand, we do not believe in coincidence and, on the other, we like to see statistical evidence to support arguments that are put before us.

I have another small question. When you replied to Willie Coffey, you mentioned the Scottish Parliamentary Corporate Body. You are, of course, an independent commissioner.

**Ian Bruce:** Yes.

**The Convener:** Did you pay for the legal advice that you sought on whether the cases that were dismissed without investigation could be resurrected? Was it your legal advice or was it the Parliament's?

**Ian Bruce:** It was my legal advice.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** I will talk about governance. I refer you to page 4 and exhibit 1 of the Audit Scotland report, which gives a wee graph on your relationship with stakeholders. The report says that the auditor has commented that

"issues remain where the SPCB and the Commissioner's Office need 'to work together to address some of the specific governance issues identified'".

Will you give an update on what is happening in that regard, what discussions you are having and what governance issues have been of most concern and perhaps been resolved?

**Ian Bruce:** That is still a work in progress. As the convener pointed out, I am a parliamentary



office holder, so I do not have a board of governance, and that is potentially an issue. We are therefore looking to bake in to our system the following approach.

I operate with a senior management team and have been in regular discussions with them. We have drafted new terms of reference that we want to run through our advisory audit board, which I will say more about shortly. Included in the terms of reference is a requirement on those senior managers not only to support me in my role as office-holder but, although they are not executives—we are talking about grade 5 staff—to constructively challenge me in my role. I will sign off those terms of reference. That is one thing that we plan to do internally.

I have re-engaged with the advisory audit board, but its role is strictly advisory. It can advise me on risk management and other issues, but it has no challenge function. Therefore, we need to do more on external validation of the governance that we have in the office. The statutory route for that is the Auditor General for Scotland. We have external audit of the work that we do, which has resulted in two section 22 reports coming to the committee, so that is also an aspect of oversight of our governance.

In terms of discussions with the SPCB—I am sorry if this appears to be muddling, but I have so many reporting lines, which is perhaps another issue for consideration—the SPCB has provided me with terms of reference, terms and conditions of appointment and a framework document. I also have a range of KPIs that I am required to meet. The SPCB can remove me from office if it feels that I am not adhering to the terms and conditions of my employment. I am also subject to an annual review.

The SPCB is considering introducing a new code of conduct for all office-holders. With other office-holders, I will meet the SPCB to discuss that in due course—nothing is finalised yet.

We have also been in discussions with the AAB and will provide a route for whistleblowing for staff members via its chair. Potentially, there could also be a route from the AAB to the SPCB.

**The Convener:** I am sorry to interrupt, Mr Bruce, but what is the AAB?

**Ian Bruce:** Excuse me. It is the advisory audit board. We have an advisory audit board, and its members are drawn from the SPCB's advisory audit board. However, currently, there is no reporting line in place from our advisory audit board to the SPCB's one. Perhaps that could be considered as well.

**Colin Beattie:** We have always been a wee bit vague as to how much authority the SPCB has

over you. Yours is an independent function. Can you define the areas in which the SPCB exerts governance over your office and the ways in which it supports your office, which it funds? Where could that be improved? Is the SPCB the major governing body that you refer to?

**Ian Bruce:** There are several reporting lines. The Standards Commission brought in directions for the office, because of concerns about the way in which investigations were handled. That side of the office's work is covered there. Governance is my responsibility, as the accountable officer. The SPCB's oversight is to do with the budget and staffing levels, and whether I am adhering to my terms and conditions.

To be honest, I am not sure what other checks might be put in place. From my perspective, it is about Audit Scotland and then this committee. The Scottish Parliamentary Commissions and Commissioners etc Act 2010, which established my office, talks about scope for removal of a commissioner when things are not going well, so the SPCB has scope to remove me if I am not adhering to my terms and conditions. The other mechanism for removal is vaguer and far less clear and deals with what happens if Parliament loses confidence in a commissioner. I am not sure what that mechanism for removal is or how it might be taken forward. There is potentially scope for the committee to look at that.

It is difficult for me to say, because recommendations were made for my office that I cannot implement. I have been in discussions with the SPCB but, fundamentally, those are matters for Parliament. How do we deal with a situation in which a commissioner starts to disengage? I can highlight a number of red flags that the committee and the SPCB should be aware of in the future. As I said, I am now fully engaged with our advisory audit board, but disengagement from an advisory audit board should be a red flag, as should disengagement from stakeholder bodies such as the Standards Commission or the SPCB. I now have an internal audit function, which our office did not have historically. If the internal audit function were to fall away, that would potentially be another red flag.

We are introducing new reporting routes for staff or stakeholders who are concerned about the way in which I am operating. Reports could be made, for example, to the chief executive of the Parliament, who is the overall accountable officer, because my budget falls within that of the Parliament. That could be another mechanism. Those are all things that the committee, the SPCB and, potentially, Audit Scotland might want to consider.

The focus has traditionally been on finance. I know from your work on the section 22 reports that

come before the committee that section 22 reports are very rarely about finance—they tend to be about failures in governance.

**Colin Beattie:** There still seems to be a lot of vagueness about where the support, oversight and governance really are. Are you having discussions with the SPCB to seek clarification on that? Everything that I hear suggests that the SPCB is the closest thing that you have to a governing body. Would you agree?

**Ian Bruce:** I am not sure that I would. I would not say that it is a governing body; I would say that it is there to provide oversight of my governance as an independent office-holder.

**Colin Beattie:** If there were red flags, would you expect the SPCB to be the organisation that would pick those up and do something about them?

**Ian Bruce:** I think that that is a matter for the Parliament, frankly.

**Colin Beattie:** It sounds as if there is an awful lot that has not yet been clarified. It seems to me that, without that clarification, there could be circumstances in which we end up having problems again.

09:30

**Ian Bruce:** Potentially. I have explained the measures that I have put in place to provide assurance and I am content with what the organisation is doing to provide assurance. However, that is all that I can do, for my part.

**Colin Beattie:** What is unclear to me is where the support is for you in terms of governance and the oversight that you are talking about. Clearly, it failed previously. The committee is trying to ascertain the possibilities of it failing again down the line—not necessarily now, but in five or 10 years. Are there adequate red flags, as you call them, that somebody could pick up and respond to?

**Ian Bruce:** Audit Scotland is the one organisation that has that statutory and direct oversight role at the granular level of the work that my office does, and it has reporting—

**Colin Beattie:** Audit Scotland comes in and does an audit.

**Ian Bruce:** Yes.

**Colin Beattie:** It then produces a report on that.

**Ian Bruce:** Yes.

**Colin Beattie:** However, it does not have direct responsibility for the day-to-day running and oversight of your office.

**Ian Bruce:** No, but nor, I posit, does the Parliament. I am an independent office-holder.

I absolutely understand why you are asking these questions. Clearly, I do, because I lived through a period in which the governance of the organisation was heading in the wrong direction and I would not want that to be repeated in my office or in any other. It is one of the challenges of having an office-holder who is truly independent of the Scottish Parliament.

I understand what you are saying. Is there sufficient direct oversight of the work of the organisation at the moment? What else could be put in place? I now have regular meetings with the SPCB and I share any information that it wishes to see—that is about providing assurance to the SPCB. The committee also has a role in providing oversight, particularly when audit concerns are raised. I also regularly provide two other subject committees with information.

For my part, I think that I am providing all that I can. What I do not feel that I can do in good faith is tell the committee what the SPCB should be doing to provide the oversight or assurance that the committee feels need to be in place. Ultimately, those are matters for the Parliament, notwithstanding that those recommendations were included in a section 22 report. I feel that I am doing all that I can, and I have been in discussion with the SPCB. I know that it has given evidence to the committee and I understand that work is ongoing more widely than just in relation to my office.

I am not sure what else I can offer.

**Colin Beattie:** As far as this committee is concerned, we come in at the end of a problem, if you like. I am asking about who is alert to the red flags that you talked about. Who can intervene and do something about it? At the moment, from what I hear, that is not clear. More work needs to be done on that, and I am sure that the committee will follow that through.

We are talking about governance and so on. You have working relationships with the Standards Commission for Scotland and the SPCB, and you mentioned being primarily involved with two other committees of the Scottish Parliament. Which are those two committees?

**Ian Bruce:** In respect of public appointments, MSP complaints and complaints about lobbying, that is the Standards, Procedures and Public Appointments Committee. In respect of councillor complaints, it is the Local Government, Housing and Planning Committee.

**Colin Beattie:** What do you consider to be your current relationship with the two subject committees and the standards commissioner? Are your relationships with those working?

**Ian Bruce:** Yes, they are very positive. I have a long-standing relationship with the Standards,

Procedures and Public Appointments Committee because, prior to taking up the role as acting commissioner, I had been working in the field of public appointments, which continues to be a passion for me, given its importance. You will understand that, given that this committee frequently looks at the work of boards. Since 2005, I have had a very good long-standing relationship with the SPPA Committee, and it has a proper understanding of me as an individual, the way in which I work and my commitment to transparency.

I have organised training with that committee for the entire investigatory team; they are all coming into the Parliament in April. That gives you an indication of how strong that relationship is. Whenever there is turnover in clerks, or potentially members, on that committee, I am happy to go in to provide training, for example.

My relationship with the Local Government, Housing and Planning Committee is newer, but I had a very productive—I think—evidence session with it relatively recently. I have a good relationship with the clerks, on which I plan to build.

With regard to the Standards Commission, one of the first things that I had to do when I became acting commissioner was meet with the convener and the executive director, and say, “I truly understand some of the challenges that you have faced working with my immediate predecessor, and I’m here to reset that relationship—let me know, from your perspective, what went wrong, and I will work very hard to address it.”

We continue to work, I would say, in partnership. We do not always agree—but you would expect that, because we are both independent, and I think that the public would expect it, too. That does not mean, however, that we do not work closely together. We have fortnightly meetings with all the staff in our office and in the commission’s office to provide updates and discuss areas of mutual interest. We also have biannual meetings with all the members.

Most recently, last week, along with colleagues, I attended a workshop for the standards officers of public bodies in Scotland. It was run by the Standards Commission and based at the Convention of Scottish Local Authorities headquarters. I was there, presenting on the same stage as members of the commission, so the relationship is completely different.

**Colin Beattie:** I have one last quick question. You mentioned the Standards Commission and the statutory directions, which are still in place. What is the latest position on compliance with those statutory directions?

**Ian Bruce:** We have been complying fully since I was appointed, and the Standards Commission has written to the Parliament in those terms.

**Colin Beattie:** Have you had any discussions with the commission as to how long those directions might be in place?

**Ian Bruce:** Yes, we have—the commission has consulted us on that. The directions cause some additional work for the office but, notwithstanding that, it is—as I said when I was in front of the Local Government, Housing and Planning Committee—providing a level of public assurance. Given the uncertainty that there has been, my clear view is that the arrangement is worth maintaining so that the public can see that, although I make the decisions, they go somewhere else as well.

**Colin Beattie:** So it is currently an open-ended arrangement.

**Ian Bruce:** I do not know how much detail the committee would like, but I am happy to go into quite a lot of detail if you would prefer.

The first two sets of directions were recently renewed for two years. The first set, which was renewed last year for two years, relates to keeping all parties up to date with how an investigation is going. At three-monthly intervals, we let every party to a complaint know how the investigation is going.

The second is a reporting direction, which was also renewed for two years. It requires us to report to the Standards Commission on the outcome of every investigation, so there is no scope for me not to report once an investigation is concluded.

The third set of directions came in just prior to my predecessor going on a period of leave. For short, that is known as the eligibility direction. It requires me to investigate pretty much everything, other than in very narrow circumstances. We discussed that one with the Standards Commission. That was a constructive dialogue, and the commission concluded that it would be appropriate to renew that direction for six months, on the basis that the eligibility criteria are written into our investigations manual so that the public can see that those are our procedures.

Because that is in our investigations procedures, which are subject to internal audit, and the commission knows that it can ask for detail on any of it at any time—as I say, we provide that fortnightly anyway—it will probably be content that that one will not need to be renewed, because it is work as usual for our office.

**The Convener:** Thank you. I am going to move things on now. An issue that we have come back to several times this morning, but also in previous evidence sessions that we have had with the

Auditor General, is staffing capacity and performance. I invite Roz McCall to ask some questions on that.

**Roz McCall (Mid Scotland and Fife) (Con):** Thank you, convener. Hello, Mr Bruce. Thank you for attending. It is the first time that I have met you, so it is nice to see you.

The report is excellent. I note that some issues come across with regard to staffing capacity and performance. Specifically, there is a pertinent line in paragraph 25 on page 8, which states:

“while additional recruitment will help, it will take time for this to be completed and for new staff to be trained to the standard required”.

As much as I can accept that, I need to know a bit more about what training will be required, how long you anticipate it will take to get staff up to speed and how that will help your forward planning.

**Ian Bruce:** Workforce planning was completed last May. I brought it forward because, by that point, I had established that we were not getting through the backlog sufficiently quickly. It was an extensive workforce planning exercise that resulted in a business bid to the SPCB on 31 May. I met the SPCB in October—I think that that was the earliest opportunity—and the bid was accepted shortly thereafter.

I spent November planning with my senior management team and started recruitment in November. That was for all the new investigatory roles and three of the corporate services roles that we were looking to fill. We are onboarding people at the moment. As I mentioned, there are three new staff in place. They are going through their induction, which takes roughly a month. As they are being inducted, they are being introduced to not only their roles, but their individual action plans for the year ahead.

The performance framework, which was also mentioned in the section 22 report, is now well established. We have a strategic plan, a biennial business plan that sits below that, action plans for every section in the office and, below that, action plans for individual staff members. All of that is mapped out, including for the new people. I hope that that addresses your question with regard to planning.

Induction takes roughly a month, but training will take a bit longer, simply because of the nature of the work. I am really delighted with the quality of the people who have come forward and who I have been able to appoint. They all have really good investigatory backgrounds. As in my case, however, they will now have to get up to speed on two separate pieces of legislation, three separate codes of conduct and all the precedent that sits behind that in the Standards Commission for

Scotland’s prior decisions. It is not a judicial process, but it is quasi-judicial, and some of those things are quite specialist.

A simple example is decisions on planning applications, licensing and so forth, where complaints have arisen about those things. I will not call it arcane, but that area is quite specialist. Even if someone has a really good grounding in investigations, it will take them a while to get up to speed on what can be quite a technical area. We have set out a training timetable for all the staff who we onboarded previously and for all the staff who are coming in, and they will go through training in all those areas.

That is just one area. Another one is investigating cases of bullying and harassment, including sexual harassment. In investigating complaints of that nature, we not only employ our legal advisers but engage with Rape Crisis Scotland so that people have an understanding of how their interactions with people who are involved in complaints of that nature should be handled.

I would say that everything will certainly be in place by this time next year. I hope that I will not be in front of the committee talking about this at that time, although that is clearly not my decision to make. I certainly anticipate and expect that we will be a really well-functioning office by this point next year. Our backlog will be cleared and we will be getting through complaints much more quickly than the office ever has.

09:45

**Roz McCall:** You said that you have three new members of staff, which is excellent. I am glad to hear that. However, we heard anecdotally that there would be a staff increase of up to 7.4 full-time equivalents, so you have been running on half. Is there a move to increase your staff by 7.4 full-time equivalents? Are you still recruiting? Also, is it the three new staff who will take until approximately this time next year to be fully up and running? Will you give a little more information on that?

**Ian Bruce:** By all means. The recruitment so far has been for the corporate services team and the investigations team. The majority of those are new posts, so they are part of the 7.4. In corporate services, we had no information technology support in the office, so we have a new IT officer coming on board next month. Of the three members of staff who have come in already, one is a corporate services officer, one is a human resources and facilities officer and the other is an investigations support officer. Of the four who are due to join us, one is a hearings and investigations officer, because we have more hearings than we

have had previously, and the others are investigating officers.

The public appointments roles will come later, simply because I was the public appointments manager and we did not know who the new commissioner was going to be. Clearly, there was no guarantee that it was going to be me, and I would have returned to that substantive post. As I have not returned to it, I am now in discussions with the public appointments manager and her public appointments officer about recruitment into public appointments roles.

**Roz McCall:** Thank you—that helps a lot. As far as I can see, staffing is part of the medium-term planning. The report mentions some gaps in that planning, so I ask you to say a wee bit about that. The report suggests that the medium-term plan has almost reverted back on itself. There were going to be some cuts and some savings in the finances, but that has been superseded. What progress has been made towards completing the medium-term plans? Will you give us some information on your financial stability and sustainability?

**Ian Bruce:** Sure. I would like to separate two issues out. One is strategic and business planning, and all of that is in place. In fairness to us, our strategic plan, which was one of the first things that I put together and consulted on, includes financial information and projections. It is not as though those things were not in place; to an extent, they were, because the strategic plan was costed.

The recommendation is that we have a medium-term financial plan. We do not have that in place yet. I understand that it is considered quite important for us. We have been in dialogue with Audit Scotland looking for examples that we could follow. We have looked at a range of organisations' plans, but we have found nothing that is equivalent to a parliamentary office-holder. That is because our only funding stream is the SPCB—that is it. Our only expenditure is really on staff. We do not have assets; we rent an office. Medium-term financial planning would have to be predicated on the SPCB taking a decision, potentially, that it was not going to fund us to fulfil our statutory functions. However, we are certainly looking at the matter and we are happy to look at it.

On our stability, I have been given no indication that the SPCB anticipates reducing our funding. I went to it just last year to look for an uplift in order to resource implementation of the recommendations on staffing up, clearing our backlog and so on, and that was granted. I have had no indication whatsoever that a reduction is possible in the next few years, although I understand that it may be. Workforce planning

was very helpful in that regard as well. If that is something that comes down the line towards us, I am in a position, as an office-holder, to look at all the functions that I fulfil and to determine what I could potentially be in a position to drop while still fulfilling my statutory functions. I have a certain amount of leeway in some areas, but not a great deal.

**Roz McCall:** Am I correct to say that you are in a difficult position and you therefore cannot produce a medium-term financial plan, or are you trying to work one up?

**Ian Bruce:** I am clearly trying to work one up. Whenever an auditor makes a recommendation to me, I take that recommendation very seriously. Equally, Audit Scotland says that it is in a position to help us with advice and guidance if we are not entirely clear what is anticipated. That is the stage that we are at.

**Roz McCall:** So you could not give us an indication of how long you think it would take to get such a plan in place.

**Ian Bruce:** If we have a clearer indication of what, potentially, it might look like, it will take no time at all—a matter of weeks. We are genuinely not entirely clear what is anticipated, although I think that we have the material already in order for us to put something together that would meet the expectation.

**Roz McCall:** I feel comfortable knowing that you have that information so that we could see it. That is great. Thank you for your answers.

**The Convener:** We mentioned at the beginning the number of recommendations. You have subdivided some of them, so you are working on 26 recommendations. Based on the Audit Scotland breakdown, there were 22 recommendations, and it was reported to us that 10 had been implemented, 10 were work in progress and two had been set aside or had been overtaken by events and so on.

Can you tell us what progress you are making? Do you accept that breakdown—that analysis that says that around half of the recommendations have been implemented but around half are still work in progress? Is that still a representation that you recognise of where you are as an organisation?

**Ian Bruce:** Please believe me when I say that I am not trying to fudge this answer. Again, this is something that I track regularly, and I am happy to provide the committee with a very full and detailed breakdown of how we are doing against each of those recommendations. I am also happy to provide a summary to you right now if that would be helpful.

It is a bit more nuanced than that. In some cases, the targets have moved a little. Again, I am not having a go at the auditors about that; they are providing—

**The Convener:** Yes. I do not recommend that, Mr Bruce.

**Ian Bruce:** Absolutely not. I am now subject to direct audit by Audit Scotland, which I welcome. However, some of them have been moving targets. I will give you an example. There was a recommendation that we conduct workforce planning. I conducted workforce planning last year, but that is still live as far as audit is concerned, because I am now going through recruitment and induction.

**The Convener:** Roz McCall touched on that in her questions. The report that we have before us from Audit Scotland, which is a recent report, albeit that it is on the previous financial year, recounts that there was a proposal to restructure the staffing in the office that would generate savings of almost half a million pounds—£450,000—but that has been reversed. That sends a signal to us that there was a proposal to scale down quite significantly the operations of the commissioner's office, maybe in line with the 84 per cent rejection rate. If you could come back on that point, that would be helpful.

**Ian Bruce:** Absolutely. You have hit the nail on the head. We had two recommendations in that initial report. One was that we should review the anticipated savings from a restructuring. Actually, two restructurings were carried out under my predecessor, which scaled down what was available to the commissioner in order to fulfil the statutory functions. That was prior to my time in post, and it related to the financial year when my predecessor was still in post.

Over and above that, it was recommended that we should do workforce planning to establish how many staff we actually need. There was another recommendation that I recruit immediately into vacant posts, because I was carrying a good number of vacancies. There was a bit of a tension between those things in respect of making savings based on restructuring. The audit had identified that we did not have sufficient staff to fulfil our statutory functions, but it also asked us to say how much we had saved because of the reductions in staff. Clearly, the recommendation on savings from reductions in staff immediately became redundant, because the reductions in staff were inappropriate. I have no other way of putting it.

Workforce planning had to be done, and it was done. We are now looking at the recruitment exercise. I feel that we did fulfil our obligations in respect of that recommendation. The same goes for the manual. We have had a manual since

2021. I chose to publicly consult on it before publishing a final version, but I see it as something that was completed some time ago.

This is constant work in progress. I am not saying that there is anything inaccurate in the report that is before the committee, but I have been working really hard, alongside a very dedicated team of people, for two years to implement all those recommendations and do more than what was recommended for us. The progress is absolutely constant, and the picture changes very regularly. We have monthly senior management team meetings, and I am pushing new things through each and every one of those meetings. We are not static. The fact that the picture has changed, and continues to change, should not—I would hope—come as a surprise to the committee.

I am happy to go through the 26 recommendations now, if the committee would find that helpful, or I can send something to the committee after today.

**The Convener:** I think that that is a provocative question that you have put, Mr Bruce. We do not want you to go through all the recommendations now. I will say what we are interested in as the Public Audit Committee. If you sat here and said, "We've arrived and everything's been done", we would probably question whether that was probable or not, but we want to get a sense of how many of your 26 recommendations—or the 22 as accounted for by the audit—have been implemented. The auditors said that they thought that it was about half and half. Half had been fully implemented, to the credit of you and the people who work in the organisation, and half were—again, quite creditably—work in progress.

We recognise that some of these things are moving targets and that there are changes—it is a dynamic organisation. You coined a memorable phrase when you said that it is akin to rebuilding a plane in flight, which is a rather good way of putting it. You do not need to go through each recommendation individually, but can you say whether about half of the recommendations are still work in progress or whether more have been implemented? Are more of the recommendations ones that can readily be implemented so that you can say, "We've done that now and we can move on to something else"?

**Ian Bruce:** Of the recommendations that are categorised as work in progress—as I said, it is quite nuanced, but I will pluck one out of the air—one was that we review all our policies. We have 96 policies and procedures sitting on a register. We are currently sitting with seven, which are relatively minor and technical ones. That is one of the recommendations that have not been fully implemented, but the policies come before the

senior management team every month, and then in front of all the staff every month, because we consult on prospective changes to them. It would appear on the surface that that recommendation has not been fully implemented, but I suggest that we have made significant progress in that respect.

Another recommendation was that we review the website. That was the subject of a separate project plan. Again, that does not currently look like it has been fully implemented, but far and away the majority of the website has now been reviewed. We just have, I would suggest, some fairly loose ends in relation to a few of the remaining ones.

**The Convener:** Okay—that is fine. I am conscious that we are coming towards the end of our session, but I know that the deputy convener, Sharon Dowey, has a series of questions that she wants to put to you, so we will finish with her.

**Sharon Dowey (South Scotland) (Con):** Good morning, Mr Bruce. You mentioned that the commissioner's office has been granted additional funding, and you spoke about workforce planning. In answer to a question from Roz McCall, you also said that you have three new staff in place. Could you tell us a wee bit more about progress in recruiting and training to build capacity and how that is helping to address the backlog of cases?

**Ian Bruce:** Yes. We have been addressing the backlog anyway, but bringing on board the new staff will lead to it being cleared, and we will then be back to business as usual. Other than the grade 2 post that I mentioned, which is the investigations support officer, we have not yet onboarded the additional investigating officers and the hearings and investigations officer that we require. Once they are in post, we will be able to make significant progress on complaints handling.

**Sharon Dowey:** How many positions in total do you still have to recruit for?

10:00

**Ian Bruce:** On the investigations front, the staff have been recruited, but they all have periods of notice to work. We advertised in December, and we went through all the interviews and practical tests in March. We have recruited people to all the investigations posts that we require to be filled, but they are not all in post yet, because they are serving their notice periods with their current employers. They will all be in post by the end of May.

**Sharon Dowey:** How are you getting on with the backlog of cases?

**Ian Bruce:** It might help if I give some headline figures. At the start of the previous financial year, we had roughly 60 complaints cases sitting at the

admissibility stage. That was clearly very challenging for us and for complainers, so we introduced a number of measures. The number of cases was sitting between 50 and 60, so I brought forward workforce planning, because we were not moving the needle and we absolutely had to. I recognised that we needed more resources, but I also recognised that we needed to do something about the number of cases that were sitting with us.

We introduced a triage system, which operates by capturing evidence before it potentially becomes aged. We also identified complaints that we ought to take out of turn because people could be at risk of continuing harm. Those could be complaints relating to bullying, harassment and so on. We identified complaints that we could not investigate—for example, complaints about council services and that type of thing, which is nothing to do with ethical conduct—and let people know as soon as possible that we would not be taking their case forward for investigation.

All those measures have been in place since about October last year. As I said, at the start of the previous financial year, we had about 60 complaints, but we are now sitting at 22. There has therefore been a significant reduction in the number of cases that have been sitting at the admissibility stage during the year.

That leaves us with a rump of cases that require investigation. Some of them are quite complex. We are at a record level in terms of investigations and reports to the Standards Commission. We currently have 30 live investigations under way, so that gives you an idea of what we are doing. During the past three weeks, we have submitted 11 reports to the Standards Commission, and we have five hearings in the pipeline.

The backlog has gone down, but the number of live investigations is going up—and it will only go up.

**Sharon Dowey:** On average, how long does it take to deal with a complaint—from somebody making the complaint, to informing somebody that there is a complaint against them and then to conclusion?

**Ian Bruce:** The last time that we looked at that—we are planning to check the averages again quite soon—the average time for initial assessment was 13 weeks and the investigation stage took, on average, 37 weeks. We did some benchmarking with our equivalents in England and Wales, and that worked out quite well. Those averages were based on the workforce as it was, so I anticipate that we will bring the numbers down.

We have just published KPIs in our manual, which publicly show how quickly we plan to get

through investigations. Clearly, I am ambitious in that area, because I do not like either complainers or respondents waiting to hear the outcome of a complaint. I know that that can be really stressful.

**Sharon Dowey:** You have said that some complaints are obviously more serious than others. Is there support in place for people who make complaints or for people who have a complaint made against them?

**Ian Bruce:** No, and that is a matter of concern to me. It is not that I have not raised that issue with the Government, and it has been raised with me in other committees. I met officials recently on that. It is not only me—both I and the Standards Commission for Scotland feel that support should be in place, but neither of our organisations feels that it is appropriate for us to provide that support. At the end of the day, I am the investigator. Clearly, I need to be seen to be wholly impartial and separate from the matters that I investigate. That is not to say that all our staff are not trained to be kind and respectful to the people we deal with, but we do not provide pastoral support.

The codes of conduct are brought forward by the Scottish ministers in statute, and we feel that there is potentially a role for the Scottish Government in thinking about whether support could be provided—not just for complainers but potentially for respondents and witnesses—particularly in those sorts of cases. We take a trauma-centred approach to cases of that nature. We know from our Rape Crisis Scotland training that interviewing people can be a triggering event in relation to what people might have witnessed, so that support has to be wider.

For what it is worth, I might as well relay to the committee that I have been in touch with the Standards Commission, and I think that our intention is to write to whoever ends up with this portfolio, now that there has been a change of ministers, to highlight the issue and to see whether they wish to do anything about it.

**Sharon Dowey:** The Auditor General reported some progress in producing a performance management framework that tracks progress against the business plan. The commissioner's office plans to introduce performance indicators to track complaints handling by 2023. Can you give us the latest position regarding the performance management framework and performance indicators?

**Ian Bruce:** Yes. I mentioned the strategic plan, the business plan, individual section action plans and individual staff action plans. For me, that is the performance framework, and we track progress against our business plan at every senior management team meeting. Every year, we publish progress against last year's business plan;

we will be doing that shortly. The only missing element was key performance indicators.

As I said, we will publish the manual tomorrow. That will include all the KPIs relating to the time taken for investigations. We have a range of statutory KPIs that we are obliged to report against in our annual report, and I have introduced some new ones. I mentioned regular SMT meetings. I drafted those KPIs last February, but I managed to secure SMT agreement to their implementation only yesterday, so those will come in for the next financial year.

However, in general terms, at the end of the process that they have been through, complainers and respondents will be able to provide me with anonymous feedback on the process and the extent to which the office worked in accordance with our values. We will publish our performance in relation to those matters.

**The Convener:** May I seek verification on one point? All the reports that I have seen say that there is an eight-month wait for an initial assessment of a complaint. Did you tell us that that has now been cut to 13 weeks, which is just over three months?

**Ian Bruce:** No. The average is 13 weeks. Eight months is what is on the website banner—it represents the outlier case. We are talking about only one complaint that was from eight months ago, whereas the others have been cleared. After that, the longest waits relate to one case from August 2022 and one from October 2022.

We discussed the banner yesterday. It was our decision to put it on the website. Clearly, we do not want to put people off, but we want to be transparent and to manage expectations. I mentioned averages. We are revising that again—the banner might already have been changed. We will provide a link for people so that they can see where we are in relation to MSP complaints, councillor complaints and member complaints, as well as what the average wait is. We will provide all that information, but it is probably too much to put on a banner.

**The Convener:** You described the eight-month wait as the outlier, but did you put that on your website to inform people who might have a complaint of the length of time that they might have to wait?

**Ian Bruce:** Yes, but we are revising that.

**The Convener:** Do you not qualify that by saying what the average wait is? I know that you do not want to falsely raise people's expectations, but it can also be a deterrent. If I have a complaint about the way that I was treated last week and am told that that behaviour will not be addressed for eight months, there is the issue that other



incidents might happen between now and then to people who might be in the same position as me. In my view, that seems to be an odd decision to take.

**Ian Bruce:** We have revisited that; we revisited it yesterday. You are not the only individual to make that point. It was made relatively recently at a meeting of the Standards, Procedures and Public Appointments Committee and in discussions with the Standards Commission. We will provide a lot more detail so that people have a proper understanding of how long the wait might be.

**The Convener:** I think that my next point also came up at the SPPA Committee meeting. You have touched on this, but I can safely say on behalf of the Public Audit Committee that we would be very supportive of welfare support being in place for respondents and, in particular, people who have lodged complaints. It seems a little bit unbalanced to have an apparatus through which complaints can be processed without having a wraparound support mechanism for people. If you and the Standards Commission are making those representations, we would be supportive of that.

**Ian Bruce:** Thank you.

**The Convener:** Thank you very much for your evidence, which has been very useful. You are right, Mr Bruce: we hope that we do not see you next year either, because that would indicate how much progress had been made. It has been a valuable session for us. Thank you very much for coming in and giving us the answers to some of our questions.

**Ian Bruce:** I am grateful for the opportunity. I will take the time to review the evidence, as it appeared to me that you might require a good bit more detail in relation to some of the responses that I gave. Perhaps I will communicate with the clerks to ensure that you have everything that you need to be reassured about some of what I said to you.

**The Convener:** We very much appreciate that. We also appreciate your response to Willie Coffey's questions about sharing the legal advice. That has been a bit of a bugbear of ours, so we would really appreciate greater transparency on it.

Thank you very much for your evidence.

I suspend the meeting to allow for a change of witnesses.

10:13

*Meeting suspended.*

10:16

*On resuming—*

## **Auditor General for Scotland (Work Programme)**

**The Convener:** Under agenda item 3, we will take evidence from the Auditor General and his team on their work programme for the next period of time.

I welcome Stephen Boyle, the Auditor General for Scotland, who is joined by Gemma Diamond, director at Audit Scotland, and Mark Taylor, audit director at Audit Scotland.

As usual, we have a series of questions that we would like to put to you, Auditor General. To begin with, also as usual, I ask you to make a short opening statement to get us under way.

**Stephen Boyle (Auditor General for Scotland):** Many thanks, convener. I am delighted to be with you again to discuss and consult on my forward work programme.

In preparing the latest version of the work programme, I have, of course, considered the current context of the delivery of public services in Scotland. Challenges that existed before 2020 have, as we have seen, been made worse by the pandemic and the cost of living crisis. Budgets are forecast to tighten further in future years, and there is now, therefore, an urgent need to increase the pace and scale of public sector reform to deliver sustainable public services in the future.

It remains a volatile time, and my work programme needs to respond quickly to emerging issues, risks and challenges. Public audit will focus on supporting public bodies to tackle the biggest social and environmental challenges that they face. That means that my programme needs to be flexible, and I plan to continue to use a range of audit products and approaches to address and report on those matters.

My work programme sets out that I am interested in what and how public services deliver. I turn first to the what. Public services face real short-term challenges in managing demand and budgetary pressures. I will consider how they are managing those challenges and how they are providing sustainable public services, but that should not be to the detriment of long-term sustainable outcomes, improved outcomes and financial balance.

I know that the committee and I share an interest in whether policy ambitions make a difference to users of public services; that will continue to be a core part of my work. Scotland's public sector is at a crossroads—reform has not yet been delivered on a scale that will ensure that

public services remains sustainable in the future. We discussed much of that in respect of the national health service at the committee's meeting last week.

That is why I will focus on how public bodies enable change, both individually and as part of a wider system. That includes how they are embracing key enablers of change, such as empowering people and communities, preventative spend, reducing inequalities, embracing new digital approaches and improving efficiencies. Public audit has a key role to play in supporting improvement and embedding good practice in our public bodies.

Equalities has been a consistent priority in my work since I took up post, and it will remain so. I intend to ensure that our public audit work reflects the lived experience of members of the public who use and rely on public services.

I will continue to have an interest in climate change, health and social care, public finances and economic growth. I am also interested in how the public sector is managing its workforce so that it has the skills and capacity to deliver the services and the scale of change that are required.

I suspect that today's discussion is likely to focus largely on my public reporting or performance audit work. However, the committee will be familiar with the fact that, each year, I also prepare reports on the financial audit of public bodies. I discharge that responsibility through section 22 reports on public bodies. They will vary in number, depending on the issues that auditors identify during their annual audit activity.

Through today's discussion and wider feedback from the Parliament, I want to ensure that my longer-term work programme considers the key areas of interest to members of the Scottish Parliament, and that it focuses on the topics that will add greatest value in supporting effective parliamentary scrutiny. I will use the feedback from this committee and committees across the Parliament to finalise my longer-term priorities and work programme.

As ever, Mark Taylor, Gemma Diamond and I look forward to engaging with you and answering your questions.

**The Convener:** Thank you very much indeed. You mentioned the committee's priorities, so I am bound to ask this. Last week, we published a report on the construction of ferries 801 and 802. In that report, we made some recommendations on work that we thought that it would be useful to be included in your work programme, recognising that we cannot instruct you to do anything. Those recommendations were about the procurement of the vessels and what we thought would be a useful forensic analysis of the money that was

paid over to Ferguson Marine Engineering Ltd. Have you had any time to consider that? How do you plan to give that consideration?

Secondly, on a broader point, something that is not explicitly mentioned in the work programme papers that we have seen is the discussion about the business investment framework that was published last year by the Scottish Government. The committee has some ideas about how that could be improved, and we have had some useful discussions in public evidence sessions with you about that, especially around the Scottish Government's consolidated accounts.

Could you give us some reflections on those points?

**Stephen Boyle:** I will take those questions in reverse order. You referred to the Scottish Government's consolidated accounts as being the vehicle through which we have reported on the progress that the Government has made with its investment framework until now. I have not yet made any definitive decisions about further audit work on that. I expect that it will remain the case that, through the audit of the Scottish Government and the now annual section 22 report, I will continue to give an update on matters emerging from the audit, and I will follow up on themes that have arisen in previous years.

The auditor has not scoped that report yet; they are in the throes of approaching the financial year end. However, it is very likely that that will be the most appropriate vehicle through which to satisfy our shared interest that the framework is effective, that the lessons not just from Ferguson's but from other investments are being understood, and that the Government's approach to managing the higher-risk investments that it has undertaken and the outcomes of those investments are clear and transparent, and deliver value for money. I suspect that the audit report will remain the best vehicle for doing that.

Thank you for your reference to the committee's report on the vessels for the Clyde and Hebrides. I am very clear on the recommendations that the committee has made to me. I am also grateful to you, convener, for referencing, as you did in the first session of this morning's meeting, the independence of office holders. As Auditor General, I am not directed by the committee; for completeness, I should say that I am not directed by the Government, either.

We are carefully considering the significant recommendations that the committee has made in its report. I will, of course, write back formally to the committee over the next few weeks to set out my intentions. There are some relevant live factors that will, in part, inform my work. One is the ongoing investigatory activity that King's counsel is

currently undertaking on behalf of Caledonian Maritime Assets Ltd. We are tracking the progress of that work carefully, and we are also taking a bit of time to consider how we might best respond to the recommendation about forensic analysis, which I know the committee has explored and we have discussed during previous evidence sessions. I will set that out clearly and publicly in writing to the committee.

What I am saying, I suppose, is that none of the recommendations that you made came as any surprise to me, convener. We will set out where we intend to go next.

**The Convener:** That is very helpful.

I want to take us on to a matter that you have previously spoken about and informed us of. It is one that not only the current committee but our predecessor committee in the previous parliamentary session identified as being extremely important. We get section 22 reports, for example, which contain recommendations, but because, the following year, a follow-up section 22 report is not produced on that organisation or public body, we lose track of what happens to the recommendations.

Therefore, we would value the ability to have oversight and continuity of interest. I recall that you said that you also saw that as being important, and that you were in discussions with the Scottish Government about establishing some kind of framework that would allow that to become a routine outcome of the audit work that you do and the reports that you present. From memory, December 2022 was mentioned as the date by which you hoped to be finalising that process. Could you bring us up to date with where things are with that framework? Are you taking any other steps to address that issue of being able to follow through on and keep track of recommendations that you and your auditors have made, which is, by common consent, a deficiency?

**Stephen Boyle:** I will bring in Gemma Diamond, who has led much of our work on tracking not just recommendations, but the wider impact that public audit looks to have through its audit reporting. That applies to section 22 reports and the recommendations that we make in those, but also to the impact of our wider public reporting, such as section 23 reports and other outputs.

Before I hand over to Gemma, who can take the committee through the work that we have been undertaking, I should mention that a fairly well-established process is now in place for section 22 reports whereby, typically, I prepare a follow-up section 22 report where there have been significant issues from one report to the next—indeed, the committee covered much of that ground in its earlier session. If I do not undertake a

follow-up section 22 report, I will write to the committee to set out the wider progress that has been made.

The annual audit report, which draws on section 22 reports, is also available publicly. Perhaps that is for a narrower audience. Typically, it is for the public body itself, but it is available through the Parliament's *Business Bulletin*. It sets out the progress that an individual body has made. That is quite narrow. Gemma Diamond will set out the follow-up work that we have been doing on the wider impact.

**Gemma Diamond (Audit Scotland):** We have been doing a huge amount of work to look at how best to monitor and report on the impact of our recommendations and, as Stephen Boyle mentioned, our audit work as a whole. We have been doing some pilot work to look at how best we can do that, how best we can gather the information, what resources it will take to look at the implementation of those recommendations and how best we can gather feedback. As you know, some of our recommendations go to all public bodies, so we are looking at the best way to gather information, potentially taking a risk-based approach.

10:30

We have been doing that pilot work to make sure that we can get a framework in place that we know that we can implement and that will give us the information that we need. Through that process, we have been talking to the Scottish Government about its arrangements for following up on recommendations and about how to make sure that our timings work well together to strengthen the system as a whole.

We have been learning a lot of lessons as we have been doing that work. We have been looking back at some of our recommendations and thinking about what we can learn about how best to phrase our recommendations, whether we sometimes have too many recommendations in our performance audit reports and might need to focus down on some key areas, and whether we should look at putting clearer timeframes on our recommendations.

We have already implemented additional internal guidance on how to write effective recommendations and how to put procedures in place to agree action plans with public bodies on those recommendations, so as to give us and the public bodies clarity about exactly when we will come back to follow up recommendations and what evidence we will be looking for.

Importantly, we also want to set out the change that we want to see as a result of those recommendations, so that we give the public body

accountability over exactly how to implement each recommendation by being clear about the outcome that we seek to achieve by making that recommendation.

As I have said, our pilot work is largely coming to a conclusion. We now have a whole lot of information, and our next step is to consider what information to make available publicly—what information we would report to the committee and what information might be put on our website to make for full transparency for people who are interested in looking at recommendations. We want to do that in a way that makes the narrative really clear, so that it is about not just whether a recommendation has been implemented but what that tells us about the change that has happened in those areas and what it means when we bring all that together.

We want to look at some of the themes of recommendations. Is it the case that some types of recommendation are harder for public bodies to implement than others? What does that mean for our future focus in audit work? We want to make sure that we are clear about not just whether single recommendations have been implemented but what that tells us overall, so that we have a much richer picture of information.

Over the next few months until the end of the summer, we hope to become clearer about the public information that we want to take forward. It is really important work, and we are keen to share it with the committee at the right time.

**The Convener:** You alluded to our previous evidence session today, during which we discovered that 22 recommendations had become 26, not because four had been added on but because some of those 22 had been subdivided. Is there typically interaction with a public body in formulating recommendations, or are they imposed on it?

**Stephen Boyle:** There absolutely is interaction. All reports that go to a public body, whether they are from Audit Scotland through a section 22 or section 23 report, or from auditors that I appoint, go through a clearance process. The body receives a draft report with draft recommendations and has the opportunity to agree on the factual accuracy and reasonableness; the evidence of whether the recommendations have been accepted or otherwise will be in the management response. For each recommendation, the public body will set out what it intends to do, who is responsible for that and what the timescale is. The auditor almost never dictates the timescale—it is for the public body to decide how and when, with the resources at its disposal, it chooses to implement each recommendation.

**The Convener:** Yes—it would not be the first time that accountable officers have said, in front of the Public Audit Committee, that they have agreed all the recommendations in full, and then proceeded to give evidence that suggested that they did not. *[Laughter.]*

Roz McCall has follow-up questions on certain areas but, before I get to her, I invite Willie Coffey to come in.

**Willie Coffey:** Auditor General, how can the public be assured that a difference has been made? It is one thing to deliver recommendations—to agree with them, say that you are implementing them and then actually implement them—but how does anyone determine whether performance has improved, or whether a difference has been made in the quality and value of public services? That has been a recurring issue at the Parliament's audit committees over many years. How do you plan to square that circle—if you can—to show the public that differences have been made? How can we evidence that?

**Stephen Boyle:** First, I acknowledge that this is not straightforward territory. If it were, we and our predecessors would have done what you describe many years ago. Gemma Diamond will want to come back in on this. I am sure that we all agree that we want better public services, whether that results from public bodies acting by themselves or from an audit process that leads to recommendations with associated implementation and impact.

Sometimes the process is straightforward. If an auditor makes a recommendation and it is implemented and leads to a tangible difference in a public body's performance, that is great; we can attribute the change in performance to the recommendation. However, more often than not—as you will know, Mr Coffey—many other factors influence a public body's performance.

I am keen for Gemma Diamond to say a bit more on that. We try to recognise those elements through the evaluation work that we undertake. What drivers, alongside the specifics of an audit recommendation, will influence a public body's performance? Where is audit making a difference? How can we be clearer and more helpful? It is multifaceted. I am not trying to sit on the fence on this; I am simply reflecting the sheer complexity of the measures and drivers of public body performance.

**Gemma Diamond:** It is a complex environment. Our audits are often carried out in areas in which there is a lot going on, and there are many different policy ambitions and changes. We often report on situations as they are unfolding. Audit does not involve waiting for something to finish

and then looking back; it often happens alongside a number of other things.

With our impact work, we are keen to look at different timeframes in order to understand impacts over time. We have an immediate impact in terms of whether the public body recognises our key messages and accepts the recommendations in our report. Is there a positive acknowledgment of the change that is required? That leads to us following up, after a period of time—normally around 18 months—on those recommendations and looking at the evidence that supports their implementation.

However, we are also keen to look at the longer term; we are still developing that work. How can we work over the longer term so that our input is not simply about an individual report? As the committee will recognise, common themes often come up across our reports. For example, our individual audit reports, and our national performance reports, have long been recommending long-term financial planning. We want to look over the longer term to see whether there is an overall shift in public bodies' long-term financial planning, not only in respect of individual recommendations. As the committee will appreciate, 18 months is often not long enough for us to know whether a change has made a difference; that may unfold over a much longer period.

It is a complex area, but we are keen to set out as clearly as we can what the information tells us in the short term and the medium term, and where possible in the longer term, so that we can use it to direct where our work would add best value, and where we might consider additional support for public bodies to best implement the recommendations.

**Willie Coffey:** Do you ever see a day when Audit Scotland will say, "We looked at that organisation and made those recommendations, but it hasn't made a blind bit of a difference to public performance, outputs or outcomes"? Are there any spectacular examples of improvements? Would you see yourselves getting into that territory so that the public could get that information from you?

**Stephen Boyle:** I certainly hope to report on examples of the latter, but we will report transparently, regardless of whether there is more work to be done or there is stellar performance. We tried to capture some of that in our written material, but I note that our role in supporting and facilitating improvement in public services does not apply only to the body in question.

We want—and, to be honest, expect—our work to be used widely across public bodies, whether by the bodies themselves, the sectors that they

are in or across the public sector. The themes in our recommendations are generally relevant across the piece, whether they are for good governance, financial management, sustainability or other factors.

One point that I should have mentioned earlier concerns the performance of Scotland's public bodies: how Scotland performs. There is a well-established system in the Scottish public sector, through the national performance framework, for setting out the expectations for how public bodies will deliver. The committee will recall a number of occasions on which Audit Scotland has asked for greater clarity on the connection between intended outcomes and public spending. That overarching system will, I think, help to provide clarity in getting public bodies to understand how their performance should be shaped and where they fit in. Public audit is part of that framework.

**The Convener:** As I mentioned, Roz McCall has questions on particular aspects of some of our longer-term areas of interest.

**Roz McCall:** I have a few questions that home in entirely on young children, and on bits and pieces around child and adolescent mental health services.

The draft work programme refers to progress that has been made towards implementing recommendations that were made in earlier reports, such as the 2018 report on "Children and young people's mental health"; the 2020 report on "Scotland's City Regions and Growth Deals"; and the 2021 report on "Improving Outcomes for Young People through Education". Can you give a brief update on that progress?

**Stephen Boyle:** Of course. Through our proposals, we seek to signal our interest in areas in which we have tangible plans for further work. Alongside those, we are tracking and monitoring other areas that will shape further work in years to come.

I will bring in my colleagues in a moment; Mark Taylor might be best placed to say more about the city deals work, and Gemma Diamond can comment on any of the other areas.

The 2021 report on educational outcomes was one of the first reports that I brought to the committee as Auditor General. It examined the Government's progress in closing the poverty-related attainment gap in Scotland. Our overall judgment was that there was regional variation across Scotland, but there had been limited progress in delivering on the Government's overall objective.

We know, and we have seen, that there has already been significant investment through Scottish attainment challenge funding. We are

currently monitoring that, with a view to picking the right time to undertake further work on the ambition to close the attainment gap. There is always a judgment to be made as to when audit can go back in effectively. We do not want to do it too soon, but equally we do not want it to be so late that policy has been implemented and the next thing moved on to. We are tracking that issue as part of our work programme, and in the next iteration of the programme we can probably be more definitive about when we intend to go further.

Before I hand over to Mark Taylor and Gemma Diamond, I will cover the mental health aspect. I have a joint piece of work with the Accounts Commission currently in progress on adult mental health services in Scotland. We intend to publish it in September; it will set out the totality and effectiveness of arrangements to deliver adult mental health services. When the Accounts Commission and I commissioned that work from Audit Scotland, our intent was to review adult services, because we had looked at children and adolescent mental health services relatively recently, with a view—as with the educational attainment gap—to following up relatively soon. We are currently tracking that; opportunities will become more definitive as progress on the Government's policy intent in those areas becomes clearer.

**Mark Taylor (Audit Scotland):** I will say something quickly on city deals. We are following up the recommendations that we made in the previous city deals report. That is part of the impact work that Gemma Diamond talked about; she might want to add a bit more detail on that.

A broader point, which is reflected in the materials before the committee, concerns how often we think about such things. We often think about how an audit fits with what is planned and how it develops. On city deals, there is an opportunity not only to look back at the deals, the mechanisms in and around their construction and the wider growth deals outwith cities, but to think about how that might fit with work that we do on the economy in the future and how we link all that through.

Often, when we think about the programme, we think about not only specific pieces of audit work, but how they built up through time to give you exactly the broad picture for which you are asking: a picture of how things change through time and link in through the wider system.

10:45

**Gemma Diamond:** Our follow-up work on the city deals report was part of our pilot for the impact work that I just spoke about. The team went back and looked at how the recommendations had been

taken forward to inform the changing landscape and determine what lessons could be learned for the current context from how those recommendations had been applied. We will publish a short briefing on that in June.

Through our impact work, we will pull together themes as a whole, in order to be transparent, and will make the information available publicly. Where information arising from our impact work might be helpful for other public bodies, we will make that publicly available. The city deals briefing is an example of that. For our work on education outcomes, there will be a short blog relating to specific points where we think that there is a public interest and a narrative to tell.

The committee will see some of that follow-up work, in the form of a full section 23 report, as part of a series of pieces of work or through individual, smaller products, to bring those issues to light.

**Roz McCall:** I will go back to something that you said, Mr Boyle, regarding transitions to adult mental health. The previous Auditor General for Scotland made comments about things that were taking place with the Royal hospital for children and young people, the department of clinical neurosciences and the child and adolescent mental health service in NHS Lothian. Can you give me any update on that?

**Stephen Boyle:** I am fairly clear that we have not included those matters in the scope of the report that is due to be published. I do not have an up-to-date position, and I suspect that none of us has. We can go back and engage with the auditors of NHS Lothian for an updated position and come back to the committee in writing.

**Roz McCall:** Okay. I will bring my questions back to the slides that were provided for the work programme rather than go off piste.

I notice that work on early learning and childcare is in the pipeline. Are you able to give the committee some information about the scope of that work at this early stage? Will you be looking at childcare from the view of a care-experienced child as well?

**Stephen Boyle:** The audit on early learning and childcare is in progress and coming to a conclusion. The Accounts Commission, Audit Scotland and I have an on-going interest in the Government's progress on delivering the 1,140 hours of nursery provision for children. The publication of that report is upcoming. We anticipate that that will be before the summer recess. We will engage with the clerks on when the briefing for that will take place, and we will set out the findings of that report in detail for the committee soon.

The committee will recall that one of the significant intentions behind delivering the 1,140 hours and the expansion of that care, especially to two-year-old children, was to provide parents and carers with more economic opportunity and opportunity to build family income. The Government's own evaluation of that aspect of the policy implementation will not take place yet. That is reasonable; it was the intention that that would come at a later stage. Our report will cover whether the policy has been rolled out, how it has been applied across Scotland, and whether the centres are now available. We will set that out for the committee.

There is an equalities component of that work. On whether it has covered care-experienced people specifically, that is wrapped up in the wider consideration.

When we have previously outlined our areas of interest to the committee, we have included care-experienced young people as a potential area for a stand-alone piece of work in the future. That remains a potential area for us to consider, but we have not scoped out a particular piece of work. We are, of course, tracking and monitoring the Promise work and how that is being taken forward. We have not yet signalled our intent to do any specific audit work in that area, but we are monitoring it closely.

**The Convener:** We turn to questions from our deputy convener.

**Sharon Dowe:** When we discussed your strategic priorities and work programme in September 2021, we raised the possibility of using section 22 reports to highlight good practice across the public sector where appropriate. Do you have the scope to do that—if you hope to do that—if and when the occasion arises?

**Stephen Boyle:** Yes, I have the scope to do that. I will always weigh up the merits of highlighting the performance of a particular public body through a section 22 report or other vehicles. Equally, the work that we are doing on impact is a route for giving profile to areas in which public services are delivering well.

As I mentioned earlier, we absolutely recognise—and, indeed, embrace—our responsibilities to promote good practice, but we do that through a range of vehicles such as formal public reporting, round-table meetings, and contributions at speaking events.

Having said all that, it is fair to say that the majority of section 22 reports that the committee considers cover situations in which there is a matter of concern. I expect that the balance will remain in areas in which there are weaknesses that need to be addressed. I should say that section 22 reports bring impact for both the public

body concerned and the wider sector, including other public bodies. My approach therefore involves weighing up which particular vehicle is most appropriate to discharge my public audit interest and that of the committee.

The best example of where there has been a more balanced opportunity is the Scottish Government section 22 report, which is now part of the annual architecture of public audit reporting because of its systemic importance. Given the scale of public spending that goes through the Scottish Government's consolidated accounts, in my judgment and that of my predecessors, it is appropriate that an annual section 22 report is prepared to support public scrutiny and transparency.

There are other organisations in that frame, which I am considering how best to report on publicly. If I may draw attention to one that is mentioned in my submission, under the Police and Fire Reform (Scotland) Act 2012, the Auditor General has the ability to undertake best value work on police and fire services. Until now, neither I nor my predecessor considered that that was a timely thing to do.

The committee will recall that its predecessor committee received many section 22 reports on the Scottish Police Authority. It is welcome that those have subsided over the past few years as that organisation has become more stable and is delivering its responsibilities. Nonetheless, it still spends millions of pounds of public money each year in delivering a unique public service. Therefore, together with the inspectors of constabulary and fire and rescue services, I am beginning discussions about how and when we might have an opportunity to review how those parts of public services are being delivered. I draw that to the committee's attention not because I have any expectation that there are material issues of concern there, but because how public money is spent and how such services are delivered are matters of public interest.

**Sharon Dowe:** That takes me on to my next couple of questions, which are on policing. Will the work that is planned on policing include a comprehensive review of governance, as recommended by the Public Audit and Post-legislative Scrutiny Committee in its legacy paper?

**Stephen Boyle:** I recall that matter well. Perhaps that is the only area in which I have diverged from the interests of the committee in my work programme. I reached the view that what I understood to be the stability with the Scottish policing governance round table meant that I did not consider that to be the best time to undertake that work.

I should say that I had in my mind that, at a future date, the best value powers might be an appropriate vehicle for considering policing arrangements, including governance in the round. The quality and effectiveness of governance are central to the consideration of best value, and a review of governance in the round would be part of that. I would not want to prepare the scope of that while I am speaking to you now, but it is safe to say that high-level governance would be part of that. However, I do not think that it would extend to specifics such as the legacy of the challenges that policing was going through four or five years ago.

**Sharon Dowey:** Can you provide an update on the Scottish Government's Scottish policing governance round table, which was established to consider the governance of policing in Scotland? We understand that the most recent set of minutes that is available online is for the 15 March 2021 meeting.

**Stephen Boyle:** I will do my best to recall where that has got to, but it might be that the Government is best placed to advise the committee of its intentions. I will correct this if I am wrong, but it is my understanding that that body has concluded its work and no further meetings are planned.

**The Convener:** Thank you very much. I am conscious of the time, so I encourage members and witnesses to make their questions and answers as concise as possible. I turn to Colin Beattie to ask a couple of questions about digital exclusion.

**Colin Beattie:** Before I ask those questions, I want to briefly refer back to the convener's remarks about the ferries at the beginning of the session. As you know, I have raised the possibility of an investigation on a number of occasions in the past months. I am pleased to hear that you are going to take a serious look at the committee's recommendations and come back to us on them.

There is no pressure here, but I would find it extremely difficult to understand it if a decision was made not to carry out some sort of scrutiny, because tens of millions of pounds of public money have been involved, and people have the right to know where that money has gone. It is over to you on that decision. As I said, there is no pressure.

I do not expect a response to that.

**Stephen Boyle:** I am happy to respond and to state for the record that we are considering the committee's recommendations very carefully, especially on that point. I know about your and the committee's long-standing interest in the funding that went to Ferguson Marine Engineering Ltd and how that money was used. Mark Taylor might want to say a word or two about that. We are

giving careful thought to how we might build that into an audit response. I certainly will respond to the committee formally before long.

**Mark Taylor:** I absolutely endorse what the Auditor General said. We are looking very carefully at the issue, and part of that involves looking at the practicalities. We understand what the situation is at the broad level, and I anticipate that we will do some early work to see what the art of the possible is to help to inform the Auditor General's decision.

**Colin Beattie:** You may tell me if I am wrong, but I understand that the Auditor General has already arranged that the paperwork that is sitting at Ferguson's has been secured, although it is not in great shape.

**Stephen Boyle:** That is correct, Mr Beattie. The security of those records has been confirmed. I do not have an up-to-date position, but the most recent briefing that I had was that they were not collated in a way that was readily accessible and useful at this stage. That will be part of any subsequent process.

11:00

**Colin Beattie:** I will move quickly to my questions on digital exclusion, which is an important issue in my constituency. About five years ago, the Office of Communications told me that 34 per cent of adults in my constituency did not have access to the internet or smartphones, which was an extraordinarily high amount. I hope that that has improved since then, although I do not have a figure.

It is really important that that be looked at. You state that you are taking a human rights-based approach to digital exclusion. What does that mean?

**Stephen Boyle:** I will say a wee bit about the general intent and ask Gemma Diamond to speak more specifically about the scope of the work and its human rights-based nature.

In my introductory remarks, I mentioned our long-standing interest in the issues of equality and equity in relation to public services. The area of digital services is not entirely new territory for us: it is some two-and-a-half years since we published a briefing paper on the R100—reaching 100 per cent—broadband roll-out arrangements in Scotland.

In this audit, we look across the breadth of public services, using the strength of the Scottish public audit model, which is based on my work and that of the Accounts Commission, to look at how services are being delivered, how that is changing, what the intent is and how well people are being consulted and communicated with.



The committee has heard many examples of how quickly public services changed during the pandemic. We heard of the NHS using NearMe for consultations with general practitioners and there are other examples.

To go back to my introductory comments, we are looking at what that actually means for the public. We often hear the public body perspective, but how are the public receiving those changes to services? Gemma might want to develop this part of my answer. We need to think about whether people's rights are being protected and whether, when public bodies change the nature of service delivery and embrace some of the positives and efficiencies that we would expect to find in public sector reform, they are still enshrining the fundamental need for people to access services in a way that does not exacerbate some of the digital exclusion that you know of in your own constituency.

**Gemma Diamond:** We have an interest in equalities and in broadening that out into seeing how best we can embed human rights in our audit approach. We recognise certain areas in which we can take a really different approach to the audit. We wanted to start this audit with the people and work our way backwards through the service, rather than taking a top-down approach of looking at policy and how that is implemented.

Digital exclusion is a really complex area, as there is intersectionality and lots of different things happening to exclude people from public services. This is not just about the technology: there is a breadth of other issues, including wider poverty, that we want to understand. We hope to involve service users in the audit, using their perspective to shine a different light on what public services are doing and how they are coming together with other services, such as third sector organisations, to support people who are digitally excluded. We are taking quite a different approach to auditing. That is not new territory for us—we have done a lot of service user engagement before—but this is about really embedding that within an audit and using it as our lens for the audit process.

**Colin Beattie:** There are two aspects to that. You talked about R100. Some people are excluded because the physical service has not been made available to them, which has an impact on them, their business and so on. However, there are also those who choose not to engage and not to be part of the digital world. There is a surprising number of such people, as I have found at first hand. If they make that choice, is that a human rights issue? Probably not: it is their choice. Some people may not wish to engage, because of age or any other reason. How do you separate out the genuine human rights issue, in order to target those who are most in need of digital inclusion?

**Stephen Boyle:** You are right. Both those factors are relevant. I will bring Mark Taylor in on that in a moment.

It is important to respect the choices that individuals make about how they access services. We have all seen the way in which not just public services but the wider services that the public use have changed. We only need to look at how the number of banks on streets across the country has changed. The extent to which those changes were planned and the public were engaged in those changes is not a matter for us, but when public bodies make that scale of change, it matters that people are clear that it is happening. Community empowerment legislation is also a relevant factor.

I am meeting colleagues tomorrow to begin to consider the scope of that work so that people's rights are respected. It is fair to say that we can expect how public services will be delivered to change fundamentally during this decade. People's rights and their ability to access those services need to be fair and equitable, regardless of their household income or where they choose to live in Scotland. We want to evaluate that and make high-quality recommendations on the back of that evaluation.

**Mark Taylor:** The physical stuff such as infrastructure, broadband connections and availability of devices is a big part of this audit work. As the Auditor General says, we are very much at the scoping stage.

What is also clearly in our sights that relates to that question are the skills that people need in order to use something, and their confidence—an important word—to do so. It is one thing to have a device in your hand, but it is another thing to have the skills and confidence to use it. That is also in our sights as part of the audit work.

**Colin Beattie:** I guess that there is always a desire to quantify and put a figure or number on exclusion. There seems to be lots of different wrinkles in that. How will you tease those out and ensure that, when you put a number on something, you are putting it on the right thing?

**Stephen Boyle:** I refer you back to Gemma Diamond's answer. It was appropriate to start with the public for this piece of work. You are describing the nuance between somebody who is digitally excluded by choice and somebody who is excluded by the design of others. We are clear that we need to capture that as part of the judgments that we make about how public services are being delivered and what that means for individuals across Scotland. We are well sighted on that, Mr Beattie, and we will build it into our scope.

**Colin Beattie:** My second question is about estates management. As you know, over the years

we have looked at figures from colleges and the NHS in particular where there have been maintenance backlogs that have been categorised from urgent to less so. You are going to be doing some work on this. Are you going to pick out the college sector and NHS for it and give us some sort of a feel for where they are going—are they improving or are they going down? There is a lot of money involved in those sectors and we need to understand the issues.

**Stephen Boyle:** I agree; a huge amount of public money is tied up in public assets, and money still needs to be spent to maintain the public sector estate. I am drawing on last year's resource spending review. One of the components of public sector reform that the Scottish Government has set out is the intention to review how public sector services are delivered across the vast array of publicly-owned buildings and assets that exists in Scotland. It has also been signalled that that model will change over the decade.

That is connected to your earlier question about digital services. If working habits change for people who are employed in the public sector, along with the habits of the public in how they access services, we can reasonably assume that the public sector estate, which needs to be maintained properly, will not exist at the scale that we currently operate in the years to come. That transition has to be managed carefully so that, if we are to have a smaller footprint of public bodies, it is done in a way that respects community empowerment, gives opportunities to communities and maximises the return to the public sector when assets are disposed of.

I agree with you absolutely that the backlog of maintenance—you mentioned colleges and we talked about the matter last week in the NHS context—is a result of the temptation to prioritise investment in new buildings and assets without maintaining the estate that exists.

We have not scoped out our work in any great detail yet but those are the factors that we are actively considering.

**Colin Beattie:** I am glad that you used the term “public sector” because, although I focused on colleges and the NHS, issues around which have come before us in big numbers, there is the wider public sector. Is there anything on your radar that would pull everything together so that we could see the whole public sector liability in that regard? That is probably ambitious.

**Stephen Boyle:** As you know, we have called for many years now for whole-of-Scotland public sector accounts that, as a very helpful starting point, would set out what Scotland owns and the respective liabilities. It is seven years since a clear

commitment was made to produce that but we do not have it yet. Through our work and the committee's scrutiny, we hope to see progress on that.

**Willie Coffey:** I have a supplementary question on the digital exclusion work that you are going to do, Auditor General. I am pleased to hear that that is going ahead. Will it extend to examining the models of interaction that can often cause exclusion to widen? For example, when people try to get information from or interact with their energy supplier online, they often talk to a software bot rather than to people. It is difficult to negotiate your way through that kind of stuff. Will you spend any time considering the models of engagement that, in my opinion, widen exclusion?

**Stephen Boyle:** I am pleased that you mentioned that. I am happy to take it away for our scoping work, which we are in the throes of.

I recognise that we are all different in how we want to interact with public services. I read something recently that said that many people prefer to deal with a chatbot as opposed to picking up the phone or speaking to somebody face to face. Public sector services must, at the right cost and efficiency, tailor their services so that they avoid the thing that we are looking to evaluate, which is people being digitally excluded against their free will. We look to make progress on the future proofing of services, so I am glad that you mentioned that point and we will factor it in.

**The Convener:** The final area that we want to cover before we finish up is the sponsorship of public bodies, which has been the subject of some discussion and evidence gathering at the committee over the past couple of years, in relation to concerns that we had about the Crofting Commission and more broadly.

The Scottish Government gave an undertaking last spring, I think, to have a review and we took evidence in the autumn of last year but it seems as though it is a continuing concern. At one point, you said that there might be an opportunity for a fundamental audit of the sponsorship arrangements. In the context of the work programme discussion, can you tell us where you are on that? It seems to be a recurring theme and we would like progress to be made on it.

11:15

**Stephen Boyle:** I share your wish, convener, that progress be made on that. I listened carefully to the permanent secretary when he gave evidence to the committee a couple of months ago about the progress that had been made against the consultants' recommendations. Alongside that is the judgment that I made in the section 22 report that there are still risks to the Government's

successful implementation of the recommendations for more effective sponsorship.

When it comes to the vehicle, I am not being definitive just yet, but it is most likely that, for the time being, I will do it through the Scottish Government section 22 report. If progress continues to be made, which I hope it will, we will take stock at that point as to whether a more fundamental evaluation is required of the sponsorship and governance arrangements for the Scottish Government bodies. I will take a bit of time over the rest of the year, convener, just to see the progress that the Government makes.

**The Convener:** Okay. It is fair to say—and some would argue—that the project Neptune outcomes will address that. We started with the ferries and will finish with the ferries. There was some concern about the sponsorship role of Transport Scotland and how that all fits together, so it is not just historical—we as a Public Audit Committee have contemporary concerns about how sponsorship arrangements are working in practice.

**Stephen Boyle:** Yes, that is true and I share those concerns, especially given some of the recent examples. I will also look at the judgments that the Finance and Public Administration Committee will make as part of its review of how Government in Scotland is working. That will provide very helpful insight, which I will draw on and consider as part of our future work.

**The Convener:** I agree with that.

Thank you all very much indeed for your evidence this morning. I am sorry that we have been a bit short of time. Perhaps we should have allocated a bit more time. The discussion of your work programme is important for us, because it is a first step in a path that is ahead of you, of engaging with other committees of the Parliament so as to be informed about what would be the most useful areas of work for you to concentrate on and to pick up some of their empirical insights on the policy areas that they have dealt with over the past year and those that they are looking forward to dealing with in the future.

Again, I thank the Auditor General, Gemma Diamond and Mark Taylor for giving evidence, and I move the committee into private session.

11:17

*Meeting continued in private until 11:35.*



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