



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Public Audit Committee

Thursday 9 January 2025

Session 6



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PUBLIC AUDIT COMMITTEE

1st Meeting 2025, Session 6

CONVENER

*Richard Leonard (Central Scotland) (Lab)

DEPUTY CONVENER

Jamie Greene (West Scotland) (Con)

COMMITTEE MEMBERS

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

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Graham Simpson (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stephen Boyle (Auditor General for Scotland)

Carole Grant (Audit Scotland)

Richard Smith (Audit Scotland)

CLERK TO THE COMMITTEE

Katrina Venters

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Public Audit Committee

Thursday 9 January 2025

[The Convener opened the meeting at 09:00]

Interests

The Convener (Richard Leonard): Good morning. I welcome everyone to the first meeting in 2025 of the Public Audit Committee. We have received apologies from the deputy convener, Jamie Greene.

James Dornan has stepped down from the committee. I place on the record my thanks for James's useful contribution during the short time that he was on the committee. I am also pleased to welcome to the committee his replacement, Stuart McMillan. Stuart, you have been a member of the committee in times past, and your experience will be very helpful to us. You are very welcome to the committee.

For the formal part of the introduction, I ask whether you have any relevant interests that you wish to declare.

Stuart McMillan (Greenock and Inverclyde) (SNP): First of all, thank you for the kind words and welcome.

I have two things that would be useful to put on the record. First, I chair Moving On Inverclyde, which is a recovery service that is in receipt of public money. Secondly, as I have indicated in the past in the chamber, my wife works part time for CalMac Ferries—I declare that for when CalMac and ferry issues arise in the committee.

The Convener: Those issues arise quite regularly at this committee, so thank you very much for that. It is very useful to place that on the record.

Decision on Taking Business in Private

09:01

The Convener: The second item on our agenda is for the committee to consider whether to take agenda items 4 and 5 in private. Are we agreed to do so?

Members *indicated agreement.*

Section 22 Report: “The 2023/24 audit of the Water Industry Commission for Scotland”

09:01

The Convener: I move on to the substantive part of the committee’s agenda this morning, which is consideration of the Auditor General’s section 22 report into the Water Industry Commission for Scotland.

I am pleased to welcome our witnesses, and to wish them a happy new year. We are joined by Stephen Boyle, the Auditor General for Scotland. Alongside the Auditor General is Carole Grant, an audit director at Audit Scotland, and Richard Smith, a senior audit manager at Audit Scotland.

We have a number of questions to put to you on the report. However, before we get to those, I invite the Auditor General to give us a short opening statement.

Stephen Boyle (Auditor General for Scotland): Good morning to the committee and happy new year to you all.

The report updates the committee following the conclusion of the 2023-24 audit of the Water Industry Commission for Scotland. Many of the issues that are contained in the report will be familiar to the committee following last year’s report and some of the evidence that the committee heard over the course of 2023.

As members know, last year, I highlighted significant weaknesses in financial management and governance issues in the Water Industry Commission for Scotland. Due to the timing of the audit cycle, the auditor has identified a further £74,832 of non-compliant expenditure that was incurred by the commission during 2023-24. The auditor has qualified his regulatory opinion in that regard, and I can confirm that that expenditure predated the publication of my earlier report, so that is some indication that that previous report’s findings have been acted on.

The appointed auditor also identified a further £20,355 of expenditure on business-class flights and meals, which, although compliant with policies, do not appear to represent value for money.

As the committee will be aware, the former chief executive and accountable officer tendered his resignation, with effect from 31 December 2023. The total cost of his departure to the public purse was £105,488. My report sets out the timeline and processes that were followed in reaching the decision in relation to that settlement. I am of the

view that the commission, with the support of its sponsor team at the Scottish Government, should have taken more time to consider the wider options available in respect of the departure before offering a settlement agreement to the former chief executive. The committee will be aware that the former chair of the board also resigned from the commission in October 2024.

Lastly, I recognise that action has been taken to address the financial management and governance weaknesses that were identified last year. Effective leadership from the commission’s board and senior management team, together with support from the Scottish Government sponsor division, will be essential to embed a positive culture of best value and provide clear strategic direction during this period of organisational change.

As ever, Carole Grant, Richard Smith and I will do our utmost to answer the committee’s questions.

The Convener: Thank you very much. I will begin by speaking about key message number 1, which is that

“The appointed auditor issued a qualified regularity opinion on the 2023/24 audit”.

How many public bodies do you audit, and how often do you issue that kind of qualification?

Stephen Boyle: Around 250 sets of accounts are audited each year. That does not equate exactly to the number of public bodies in Scotland, which is fewer because of the presence of additional charitable sets of accounts in some public bodies. Only public bodies for which I appoint the auditors are required to have a regularity opinion. I can come back to the committee with a precise number, but it is around 100 to 120.

This is a very rare event. Qualification of any kind is very rare, whether it is on true and fair view or, indeed, the other options that are available to an auditor. There can sometimes be what is referred to as an emphasis of matter, which is where an auditor chooses to highlight a matter of significance from the accounts but stops short of a qualification.

Richard Smith, as the appointed auditor, might also want to comment but, to be absolutely clear to the committee, this kind of qualification is a very unusual event. It signifies that a public body has not complied with rules, laws and regulations in respect of the money, which was voted for by Parliament through the budget act, to be spent properly.

The Convener: In the past 12 months, for example, how many qualifications have you considered it necessary to issue?

Stephen Boyle: Typically, any qualification results in a section 22 report that I bring before the committee. It is an extremely rare event. Five would be an unusual number. In some years, there are no qualifications whatsoever.

The Convener: When you gave evidence to us in the equivalent session in February of last year in relation to expenses and so on, you said:

“We do not see that type of activity in other audits.”—
[*Official Report, Public Audit Committee, 8 February 2024; c 29.*]

Last year, we were dealing with a section 22 report with an almost unheard of list of questions about the way in which the organisation was conducting itself, the way it was allowing governance arrangements to drift, allowing the expenses regime to be run and allowing unreceipted claims to be processed. We are still in that territory in this year’s audit, are we not?

Stephen Boyle: Yes. I guess that there are two angles for me to expand on. We have seen progress on the financial management, the internal control environment and compliance with policies. As I said in my opening statement, there is additional expenditure that has resulted in the qualification. I will bring in Richard Smith to explain to the committee why there is a regularity qualification this year. You will note that there was not one last year, and it is important to set out for the record why that is the case.

We have also seen progress on responding to the issues that were identified in last year’s report. A number of reviews took place last year, some of which have already been reported to the committee. Twenty-one recommendations were made, and they have all been implemented, which is an indication of positive progress. An organisational review is taking place, with more recommendations to be implemented. That has appropriately led me to the point at which I can say that it is now about embedding that change.

Saying that is all well and good. However, over many years, the committee has heard about turnarounds that can take place in 12 months and, quite reasonably, given what we reported last year, there is a degree of scepticism about whether the organisational change can be enacted to the level that is required in such a short period of time. At this point, I am keeping a watching brief to see, through the work of Richard Smith and his colleagues, whether we have the level of change and the embedding of progress that were so needed on the back of last year’s audit report.

I am keen to bring in Richard to explain some of the specifics with regard to the audit opinion and anything else that he wants to touch on.

Richard Smith (Audit Scotland): As the Auditor General has said, it is very unusual for us

to have a regularity qualification. What is perhaps even more unusual is that, generally, when we do have them, it is one material transaction that is irregular. What we have seen with WICS is a volume of transactions that, taken together, are material.

Picking up on the Auditor General’s last point, I would just say that we would have had a regularity qualification last year in relation to the training course attended by the chief operating officer and the gifts given to staff, had those transactions not been retrospectively approved by the Scottish Government. They were material last year, but the Scottish Government’s retrospective approval meant that they did not impact on our regularity opinion.

As for the 2023-24 audit, it is important to underline, first of all, that all the items that influenced our regularity qualification occurred in the first nine months of the year, which was before we issued the section 22 report on the 2022-23 audit. In effect, they had happened before we reported.

We identified three broad areas where expenditure was not in accordance with Scottish ministers’ guidance. First, there was a sum of £43,604 that did not meet Scottish public finance manual requirements on delegated authority limits. As with the situation last year, WICS required additional approval from the Scottish Government for those transactions. Of that amount, £19,484 related to a recruitment consultancy contract that, when it was tendered, was expected to cost £28,000. As that exceeded the £20,000 threshold, the commission should have gone to the Scottish Government for approval. A visiting international delegation was bought a gift that cost £120; again, that exceeded the commission’s delegated limit of £75, so it should have sought Scottish Government approval for that, too.

The third item, which the committee has already heard evidence on, was a retainer for the use of a King’s counsel for

“advanced reservation and commitment of diary time each quarter”.

That amounted to £6,000 a quarter, or £24,000 over the year. That should have been specifically approved by the Scottish Government not just because of the value, but because of the unusual nature of the expenditure. Even if it had been below the £20,000 threshold, we would have expected the commission to seek explicit approval for it.

In all three cases, the commission did not obtain Scottish Government approval. With the first two, which were identified through WICS’s own review, the commission went back to the Scottish Government to ask whether it could now receive

approval, and the Scottish Government made it clear that approval would not be provided.

Secondly, there were travel and subsistence expenses amounting to £23,774, which related primarily to the cost of flights, accommodation and subsistence that did not meet the authorisation of expenditures set out in the expenditure and payments section of the Scottish public finance manual. A lot of that sum related to hydro nation business development activity, which the committee has heard evidence on.

The third area was staff expenses of £7,454 for which there were no itemised receipts or other proof of purchase. Therefore, they did not meet the proof of purchase requirements set out in the SPFM.

The final thing that I would say is that the nature of those items is very similar to what we reported in our 2022-23 report, and it probably indicates that the lack of financial management had continued up to the point at which we issued the section 22 report on the 2022-23 audit.

The Convener: Graham Simpson will drill into those areas in a little more detail, but just for clarity, are you saying that all that type of activity—that non-compliant activity—stopped on 31 December?

Stephen Boyle: You will have seen that reviews of transactions have been subsequently undertaken by Scottish Government internal audit, supported by its partner EY, and we have already mentioned the implementation of recommendations made on the back of last year's audit. That suggests that this is not just a case of a management team saying, "A recommendation has been made." An auditor will be following that up to check on things.

I can never give a committee a blanket assurance that there will be no items of inappropriate expenditure, but there is enough assurance that points towards the change in culture, and when Richard Smith and his team carried out the audit during 2024, they did not identify in all of their sampling and testing of transactions any of that kind of expenditure after the date on which the section 22 report was published.

There is enough evidence to suggest that there has been a change in approach and a tightening of internal control. If it is helpful, we can give you more examples of changes in policies and procedures, one of which is around limits for meals. We have seen more evidence in WICS of rigour—it is pretty basic stuff, if I am honest—around the provision of receipts to support expense claims and the like. That suggests that, in the calendar year of 2024, WICS has responded appropriately to quite a difficult report. Going

forward, we want to see that that improvement has been sustained.

09:15

The Convener: I will now bring in Graham Simpson, who has questions on those areas of non-compliance.

Graham Simpson (Central Scotland) (Con): I was looking at the annual audit report on WICS for 2023-24. I do not know whether you have it in front of you, but page 33 says:

"Our targeted regularity testing identified 18 additional items of non-compliant expenditure, totalling £23,764, between April and December 2023."

You mentioned that already. The report goes on to list some of those 18 additional items. I will not list them all, but I will mention a few. There were:

"Travel and accommodation costs of £1,441 for the KC"

—the King's counsel, who was on a retainer—

"travelling to Edinburgh for a meeting with the former Chief Executive which were paid directly by the Commission rather than being invoiced".

I will take that item alone. How did they manage to rack up a bill of £1,400 for travel and accommodation?

Stephen Boyle: I will start with a brief comment and then bring in Richard Smith to set out for the committee the testing that he and the audit team undertook.

As the committee has heard, the engagement of the KC is one of the reasons why there was a qualified regularity opinion that the expenditure of £24,000 in 2023-24 was not subject to the usual rules and processes. I think that Mr Simpson knows that the relationship goes back many years.

I will come back to expenses in a moment, but WICS's analysis, which I think it reported last year, suggested that it had spent £243,000 from 2018 to 2024 on the retainer arrangement for KC services. That resulted in legal provision of £99,000. Therefore, it is clear that the difference—£144,000 of public money—was spent on KC retainer services that did not result in legal services to WICS.

Our understanding—Richard Smith is better placed to elaborate on this—is that WICS's arrangement was to cover the expenses, such as business-class flights and hotel accommodation, of the KC in circumstances when they travelled to Scotland for engagement. That all points to what we anticipate as legacy circumstances that do not represent good use of public money or value for money. As WICS confirmed to the committee in evidence last year, those arrangements have ceased.

I will bring in Richard Smith to say a bit more about the detail behind that.

Richard Smith: Paragraph 78 of the report explains that we took a targeted approach. We had a list of all non-staff expenditure. We went through it looking for items that looked unusual or potentially irregular, particularly any items that had not been picked up by WICS's review of transactions. Certain items looked as if they were unusual, but we knew that WICS's review had picked them up.

As part of that, we identified the expenses with the KC. The unusual thing, as you pointed out, was the fact that WICS was paying them directly. If the KC incurred costs as part of doing work for WICS, we would normally expect those to be billed to the commission as part of the KC's bill for that work. Those costs contributed to the £23,774 of expenditure that we included in our regularity qualification, which did not comply with the commission's travel expenses policy. There was nothing in the policy that said that WICS should meet those costs directly.

There is probably a wider value-for-money question as to the purpose of the meeting that you mentioned and whether it needed to be in person—whether that was the best use of public funds—or could have been carried out remotely. We do not have that detail. As the Auditor General pointed out, there is also the question whether the balance between the amount spent on the retainer and the amount spent on services delivered by the KC suggests that having the retainer in place for a prolonged period was not value for money.

Graham Simpson: Are you saying that the retainer should have covered those costs?

Richard Smith: No—sorry, I was not saying that. When WICS engages the KC to do a specific piece of work, we would expect that any expenses that the KC incurs as part of that work are part of what they bill the commission for, rather than the commission meeting those costs directly up front and paying for travel and accommodation. We are clear that the retainer payment was only so that WICS had access to the KC. In effect, if it did not use them at all during the year, it would incur costs of £24,000 regardless. However, as the Auditor General highlighted, the retainer costs were more than the actual costs of services delivered during 2023-24.

Graham Simpson: I do not want to labour the point too much, but do we know the breakdown of costs for that travel and accommodation?

Richard Smith: We have that detail in our files, but I apologise that I do not have it with me. I could provide it afterwards.

Graham Simpson: Okay, that is fine.

As I said, I will not go through the entire list, but there was another item that caught my eye. In paragraph 80, you say:

“Our testing also identified two further instances of meals, totalling £590.23, where the cost per head exceeded £50 per head and included external guests. One of these was a meal at the Road Hole Restaurant in St Andrews costing £370 that was attended by a visiting water services regulator and his wife.”

Is it normal practice that somebody's spouse would be covered when being entertained?

Stephen Boyle: No, it is not normal practice. It serves to illustrate the point, which is captured in the annual audit report and last year's reporting, that what happened reflected a culture of expenses and entertaining. The inclusion of alcohol and expensive meals is not normal and we do not see that in other organisations. That is why we sought to highlight it through our audit work.

Graham Simpson: Are you satisfied that that kind of spending has now stopped?

Stephen Boyle: We have seen sufficient evidence of change of policies and the beginnings of a change of culture in the organisation that I would be very surprised if WICS repeated such use of expensive restaurants and provision of entertaining services to visiting delegations and their partners. As I mentioned to the convener, I can never give you a blanket assurance that you will never see such things again, but there are sufficient indicators that what has gone before in WICS will not be repeated.

To allow me to speak confidently on that point, Richard Smith might want to elaborate on some of the steps that WICS has taken.

Graham Simpson: That would be useful.

Richard Smith: As the Auditor General said, with the position that WICS is in at the moment, we definitely would not expect that type of expenditure to be incurred. We did not see it in the last three months of the year, and a number of measures have been taken. Alongside that, there has been a cultural shift. The response has been positive and we have not had any pushback, with the commission understanding the seriousness of the issues and the fact that such expenditure was not acceptable and should not continue in the future.

WICS made specific revisions to its expenses policy because it had some clear deficiencies, and there was also the issue of it not being complied with. As part of the response to last year's report, WICS made a number of revisions to its travel and expenses policy, including to its guidance on air travel. Previously, there was no clear guidance on when business-class travel could be used. The policy now sets out that economy travel should be

used in all instances unless the journey is more than six hours, and even if it is longer than that, a business case needs to be made as to why non-economy travel is appropriate in those circumstances, which requires pre-approval.

There is revised guidance on subsistence, and WICS has reintroduced expenditure limits. At the start of 2023, following discussions with the chief executive, whose view was that the subsistence levels were not sufficient to cover the costs of meals, including business entertaining costs, WICS completely removed the limit, which was highly unusual and something that we have not seen before. It might be the case that bodies would periodically review and raise the limits, but, at that point, WICS removed the limits completely. It has now reinstated those limits—the limit is £20 for dinner in a city centre location and £15 in a non-city centre location.

WICS has added a business entertaining policy, which sets a slightly higher limit of £30 per head for dinner. Obviously, that is far more modest than what has occurred in the past. It has also revised the guidance on gifts and taxable benefits, which are issues that came up last year and this year. In addition, guidance on the cost of staff training and attendance at conferences has been formalised to make clear that, in all instances, a business case should be made, and staff should be aware of the need to deliver value for money with those attendances.

The other big change is that the purchase of alcohol has now been prohibited. Previously, it was not prohibited, which is highly unusual for a public sector body. It would be permitted if there was a special pre-approved event, but it would be highly unusual for WICS to have anything of that nature.

Graham Simpson: What kind of event might be considered—

Richard Smith: Based on our discussions with WICS, I think that it would be an awards ceremony or something of that nature, but we would not expect it to have anything of that nature in the short term.

Graham Simpson: Okay. Do you know why the limit was removed?

Richard Smith: As I mentioned, we were informed that the chief executive felt that the limits were no longer sufficient to cover the costs, particularly around the business entertaining activity that was taking place through hydro nation activity.

It is probably worth exploring further why WICS took the decision to completely remove the limits rather than agree a more appropriate limit or, as it

has done now, have a separate policy that covered business entertaining costs.

Stephen Boyle: Just briefly, to build on Richard's point, we normally see expenses limits being increased from time to time to allow for changes to the cost of living and so on. It is so stark and unusual to see a public body have a policy that removes the limit, as the former chief executive requested in 2023. A much more standard practice is to periodically change the amounts to allow for the change in inflation rather than do away with limits altogether.

Graham Simpson: Okay. Have you had any explanation as to why the limit was removed?

Stephen Boyle: The explanation that we have had is that it was a request by the former chief executive, because his view at the time was that—Richard has relayed this to me; this is what we were advised—the limits were not appropriate for the travel, and the locations that he was visiting, as part of the hydro nation strategy, which was enacted at that time.

Graham Simpson: Is WICS continuing to use business-class flights? I know that the hydro nation strategy has been paused, but have you come across any business-class flights being used?

Richard Smith: No. For the last three months of the year, our testing did not identify the use of business-class flights. As I mentioned, the policy has been revised, so unless staff were taking a flight that lasted longer than six hours, they would not be permitted to use business-class flights. In addition, as you said, hydro nation activity has been paused, so they would probably use such flights only if they were attending a conference or something.

Graham Simpson: Despite the assurances that you have been given, are you continuing to monitor the spending on an on-going basis?

09:30

Stephen Boyle: Absolutely. Richard Smith's 2023-24 audit has concluded. We have started planning for the 2024-25 audit as we plan for any audit. Richard is probably better placed than I am to set out for the committee how we target transactions in previous years, as he mentioned. In essence, we will assess the risks that are present in the organisation and the risks to our audit opinion, and we will capture those during the annual audit.

As you will know, Mr Simpson, in public audit in Scotland, we apply a wider-scope approach to audit, so we look at financial management, financial sustainability and aspects of the culture and value for money of the organisation.

Our audit of WICS continues, and I hope to see sustained progress and evidence that recommendations have been implemented, that they continue to be applied and that the change that we have seen in part of 2024 is embedded and can be reported publicly.

Graham Simpson: Earlier, you mentioned spending on a recruitment agency. I do not know if you are aware, but WICS recently issued a tender to seek a recruitment agency to find a new chief executive. If you include VAT, the value of that is around £45,000. That seems to be a large amount of money to find a new chief executive. Are you aware of that? If so, do you think that that is an appropriate figure? Indeed, should they be doing that in-house?

Stephen Boyle: I will start, and Richard Smith can come in if he wishes. I am aware of it only through the media report. I saw an article on it that mentioned the figures. Given that it now falls into the 2024-25 year, we will pick that up during this year's audit.

I do not know terribly much about it, as you would expect, but I recognise that WICS is a small organisation. It is not likely to have the level of recruitment expertise sitting within the organisation to support an important campaign to appoint a new permanent chief executive. Beyond that, I do not yet have enough detail to say whether it represents value for money.

It is interesting, and Richard can perhaps talk about this, that although part of the reason for the regularity qualification last year was recruitment costs, I do not think that it automatically follows that there will be one next year. It is not so much about the amount, albeit that we will look at value for money, but that the amount was not consistent with proper and effective procurement and tendering arrangements. If the tender has been done properly, which I expect that it would be, it will fall to us to make a judgment on value for money.

Fundamentally, Mr Simpson, value for money responsibility rests with accountable officers. It should be for the organisation, together with the sponsor team and the Scottish Government, to be satisfied that the approach represents good value. I will pass over to Richard, but we will be tracking that during this year's audit.

Richard Smith: I probably do not have too much to add to that. We are aware that WICS is in the process of recruiting a permanent chief executive. That would have been happening towards the end of 2024 and it will continue into this month. Our understanding is that the organisation is looking to go out to advert later this month, but we are aware of the expenditure only

through the media coverage, and we will be picking it up as part of our 2024-25 audit.

As the Auditor General said, we expect there to be a robust business case behind the use of any such consultants. There is commentary in our report about the need for that, and that we understand that it is a small organisation. There are also other areas where, due to the specialist nature of their work, the organisation needs to engage specialist engineers at times. It is not practical for it to permanently employ such staff, and we have no issue with that, provided that there is a robust business case and the organisation can demonstrate value for money in any of that consultancy work.

Graham Simpson: I have also read the media report, but I checked, and the tender notice appears on the Government portal, so they have gone through that. You will be able to find that yourself. It just struck me that it is a large amount of money to find one person. I suppose that you will have to make an assessment at some point as to whether that is value for money. However, it on the Government portal; I am not just relying on a media report that you also read.

Stephen Boyle: That is helpful. Thank you. I want to emphasise that, as Richard Smith mentioned, in addition to that being on public procurement portals, it is fundamental that the use of consultants is supported and underpinned by a robust business case. We will be looking at that as part of this year's audit.

Graham Simpson: I have one further question. After all our work and the evidence sessions that we have had with you and with WICS, I have been left with the nagging question whether we need such a regulator for Scottish Water, or a regulator in its current form, and whether it represents value for money. Is that something that you have considered?

Stephen Boyle: That trips over the boundary of my responsibilities. It is a policy decision for Scottish ministers whether to have a water regulator to oversee the work of Scottish Water and the commercial water activities of Scottish organisations. My work focuses on whether the organisation has achieved value for money and is consistent with the laws and regulations that apply to it. You will have seen, in the report and the evidence that the committee has taken, that it was not doing so in the period up to the publication of the section 22 report in 2023.

What I have not done—and, as I have said, it is probably not appropriate for me to do this—is ask whether that requires something more fundamental to happen. That is a decision for the Scottish Government and Scottish ministers.

Graham Simpson: I think that it is quite a fundamental question. This is an organisation that is regulating one body; it is not like the situation in England, where Ofwat regulates a number of private water companies. Here, we have a Government body that regulates another—only one—Government body, and it has a budget of £4 million and more than 20 staff. You might not want to answer the question, but surely it is valid to ask whether it is appropriate to have this body in its current form with that budget, or whether there should be something different.

Stephen Boyle: The only thing that I would add is that it is appropriate for all public bodies to be satisfied that they are delivering what is expected of them, and that might or might not be within the current organisational structures through which public services are delivered in Scotland.

As we explored with the committee when we briefed you on our recent fiscal sustainability and public reform report, the Government is progressing with a programme of public service reform. Indeed, I saw that, in the week or so before Christmas, there was correspondence from the Minister for Public Finance about the progress that is being made in public service reform, and it is intended that a new public service reform strategy will be published in the next few months. All of that provides the framework for capturing public services and how they are delivered through various different public bodies.

Graham Simpson: Thanks.

The Convener: I want to go back to something quite extraordinary that you told us a few minutes ago. You said that the limit on expenses—presumably for travel, subsistence and business entertainment, as WICS has previously described it—was not adjusted, but removed altogether by the former chief executive officer, who was the accountable officer. Was that approved by anybody—the chair of the board, the chair of the audit and risk committee, the sponsor division, or the deputy director? After all, the committee's concern throughout much of this has been not just that these things happened, but that they were allowed to happen.

Stephen Boyle: I will ask Richard Smith to set out for the committee our understanding of the processes.

You have raised an appropriate concern, convener, about the limit being removed. Limits exist for good reason; they are part of the internal checks and balances and control environment of the organisation and ensure that there is no opportunity, either deliberately or inadvertently, to misuse public money. Richard can set out the detail, but we take some reassurance from the recognition by WICS that that was a misstep by

the organisation and from its re-imposing of appropriate checks and balances and limits.

Richard Smith: I do not believe that the Scottish Government sponsor division was specifically made aware of that, but the board did approve the changes to the policy at that time—that is, in January 2023.

The Convener: Well, that is very interesting. We might return to some of that, but I now ask Colin Beattie to put some questions to you.

Colin Beattie (Midlothian North and Musselburgh) (SNP): Auditor General, WICS is a very small organisation—tiny, in fact—but for quite a number of years, it has adopted a culture in which the irregular is almost the norm. Buried within that is what I see as a level of extravagance not matched elsewhere in the Government sector. I know that action has been taken to put in place new limits on that, and new ways of controlling and managing expenditure through financial controls—all of those things—but underneath all that is still a culture that has been allowed to flourish, and which has been embedded for a great many years.

In reading your report, I detect—and this is my interpretation—an element of caution as to whether, in fact, that profound cultural change throughout the organisation as it is presently structured can actually be achieved. Am I reading too much into that?

Stephen Boyle: No, your analysis is fair, Mr Beattie. I will cover a number of points in my response, and then invite Carole Grant to talk about the confidence that we might take about how some of those changes will be embedded, and the role that the Scottish Government—and the sponsor team specifically—needs to play to ensure that the steps that WICS has taken will be effective into the medium term.

To go back to your opening remark, Mr Beattie, I think that it is a fair assessment that WICS was an outlier, in that its behaviours and culture were not representative of what we have seen in other Scottish public bodies. As I think that I have said to the committee a number of times, we do not see those types of transactions, and that culture and behaviour, elsewhere.

Why is—or was—that the case in WICS? Much of it can be attributed to the implementation of the hydro nation strategy, whereby WICS became a quasi-consultancy organisation operating within the public sector. Its people were travelling the world, and people were visiting the organisation from many different jurisdictions to learn about Scotland's approach to water regulation. That resulted in a quasi-consultancy private sector culture becoming embedded in WICS. We see that through the entertaining, the expensive meals, the

alcohol, the gifts, the hospitality and the business-class flights—all of those things were symptomatic of what we might see in a private sector consultancy organisation.

At the heart of it all, however, was this: even though WICS was being asked to deliver those types of activities as part of the hydro nation strategy—on a narrow interpretation, it was doing that well, generating seven-figure surpluses and contributing money that could be used for other parts of Scottish public expenditure—it did not have the underpinnings to do so successfully. It did not create a separate organisational structure through which to deliver consultancy activity; it was doing all of that as part of a Scottish public body, and it lost sight of its need to comply with the normal processes. The Scottish public finance manual still applied to the Water Industry Commission for Scotland, yet we saw many examples of where it was not complying with that successfully.

09:45

In addition to the new policies and procedures that are being put in place, more changes are being made in the organisation. Mr Simpson has already mentioned the recruitment of a new chief executive officer. It is crucial to get that appointment right, because leadership will be required to support change.

There have been changes to the board, some of which I mentioned in my opening remarks. The Scottish Government appointed two new non-executive board members, one of whom is now the interim chair of the organisation. That role will be vital in ensuring effective governance that strikes the right balance between supporting the delivery of the organisation's objectives and providing challenge and scrutiny and holding the organisation to account for its culture, objectives and behaviour.

It is important for the committee to hear from Carole Grant, in her role in leading our audit of the Scottish Government, about the sense of progress and the role of sponsorship. It is vital that the sponsorship arrangements are effective to ensure that WICS can move on from what we have seen in the past couple of years.

Carole Grant (Audit Scotland): In relation to the retrospective approval and the regularity opinion, that is an example of where the sponsor relationship has shifted. As part of the evidence that you took last year, you heard a presentation in which it was said, "The money had been spent and, therefore, we provided approval for it"; in other words, the line was not held in relation to what was expected and what should have taken

place before approval was given. That shows a shift in the sponsor relationship.

As the Auditor General has said, there has been recognition that the commission's move to becoming revenue generating was a real shift, and the mechanisms were not in place to support it in that and to ensure that it still held to the values of the public sector. The shift in culture happened at the point where the commission had to generate revenue. Moreover, as you have heard, all staff moved to working from home, so there was no base office where they could come together to build a more positive culture.

You will have heard me talk about the impact of the situation on sponsorship across the Scottish Government. All director generals have done deep dives into their sponsor arrangements, and the Government is preparing plans to strengthen them. Specifically, that is about providing a network so that there is peer support, because it is quite challenging to strike the right balance with regard to supporting bodies, knowing the line in relation to the accountable officer's responsibilities and providing the right guidance, scrutiny, structure and challenge. We are seeing changes in that regard.

Richard Smith, as the appointed auditor for the commission, will be continually reviewing this, but, in the past year, there has, perhaps, not been much business as usual happening in the commission, in relation to either the sponsor relationship or in the commission itself, because of the scrutiny that it has been under and the additional focus on it. As the commission moves forward, it needs to take stock of its relationship with the sponsor team, the culture that it is creating and how the sponsor team feeds into that.

However, that might take a bit of time. There might be cautious optimism, but you are right that it will take time for that approach to be embedded and for us to have longer-term insight to provide assurance and comfort that the culture is what we would expect it to be in a public sector body.

Colin Beattie: I am pleased that you brought up sponsorship. As you know, we have a fairly patchy history on the quality of sponsorship. The Scottish Government carried out a review of the whole sponsorship system, which threw up a lot of issues. I hope that the Government is still addressing those, because they are certainly long-term issues.

In the case of WICS, there is no doubt that sponsorship failed—it just did not do its job. Your follow-up section 22 report is a wee bit light on the sponsorship side. I would like reassurance that the sponsorship process that is in place now is effective and doing its job.

Stephen Boyle: Again, Carole Grant might want to come in on that. Richard Smith might also want to offer some insight on the governance structures within WICS; he might want to share his observations with the committee on the overt role and presence of Scottish Government sponsorship there. Not all the sponsorship activity takes place at committee; some of that important engagement takes place behind the scenes with the board and the chief executive.

Sponsorship remains a key area of interest for me, and certainly also for Carole Grant, through our audit of the Scottish Government. We want to see sustained evidence that there is sufficient rigour and that we have the right structures of sponsorship.

Carole might want to elaborate on what impact the Government expects on the back of the WICS audit reporting, following what has been a difficult period for Government sponsorship. Sponsorship has been a focus for the past four or five years. You mentioned the review that Eleanor Ryan undertook on behalf of the Scottish Government and its recommendations. However, it is clear that, despite that report and the many recommendations that were implemented, the situation at WICS still arose. There was not enough assurance that the work that had been done would act as a safeguard or would stop such circumstances arising.

The Government is responding. It is undertaking deep dives, there are peer networks, and learning is taking place within Government. However, at the moment, I am cautious about saying that all the necessary arrangements for sponsorship are in place.

Over the past few years in our discussions on this topic, the committee has heard reference to the fact that there has been a lot of turnover of individuals, particularly of those who have led on sponsorship, within the Scottish Government. It needs to satisfy itself that the underpinning structures can cope with people leaving their role and that the right level of training, expertise and so forth is provided.

I will pause there for a moment and bring in Carole Grant. I think that it would then be useful for Richard to say a bit more about WICS's experience of sponsorship.

Carole Grant: As the Auditor General said, a lot of action was taken following the Ryan review, which was about building the right structure, providing consistency of internal reporting and setting out frameworks. However—I know that the Auditor General reported this to the committee throughout that process—it takes time to embed that and to make the necessary changes for individuals and their relationships. The WICS

situation occurred at a time when those structures in relation to reporting were probably just being embedded.

The committee has heard in evidence sessions some reflections from the sponsor team about how, when it came to the commission in particular, the relationship really existed between the deputy director and the former chief executive. There is now much more formal engagement taking place across the sponsor team—the director, the chair of the board and the chair of the audit committee are all included in that engagement. We want that formal engagement to sit alongside the more informal support, because that is what will ensure that there is sufficient engagement and insight in relation to any potential issues that might be bubbling up. Particularly in relation to the commission, that is what we have seen occur over the past few months.

On the wider situation, I touched on the fact that it has been a time of reflection in relation to the role of the sponsor team and whether that is a specialism. Consideration has been given to what specific skills are required to enable individuals not only to offer support, but to provide challenge and scrutiny. The Auditor General spoke about having the skills and the expertise, but there is also the issue of how long someone should be in a position with that relationship. As external auditors, we are subject to rotation, and we assess our own independence and objectivity. Similar considerations apply in the sponsor space, because, as well as building good relationships, we want to ensure that there is still independent scrutiny.

Deep dives took place over the summer across all the sponsor arrangements, and the intention is for that to be more routine, with periodic work to take stock and think about the relationships. I will see that flowing through the assurance processes in the Scottish Government.

Colin Beattie: Over a period, we have seen a lot of failures in sponsorship. To be fair, the committee sees only the failures and not the successes, so we have no real feel for what they look like. However, does the fact that there have been so many failures over the years not mean that the whole sponsorship system is failing to deliver what it should deliver? Maybe there should be another look at how it all works and how that support is given.

Stephen Boyle: Although the committee has received reports from us over a number of years about where sponsorship has been deficient, you do not receive reports from me that say where it has worked well. We know that there are many examples of places where there has been effective challenge and where engagement happens routinely, day in and day out, between

the Scottish Government and public bodies. It is perhaps unfair and regrettable that instances of sponsorship failure, of which WICS is the worst, can taint the whole impression of the quality of sponsorship. However, it is a warning. If one example can slip through, does that suggest that systemic failures could happen elsewhere in those structures?

As Carole Grant outlined, the Government is responding appropriately, including in the individual case of WICS. Instead of it just being the same mid-ranking civil servant who has had the engagement over many years, we are now seeing director-level involvement with the organisation. Carole Grant also made the important point that we need to ensure that, for the Scottish Government, it is not a cosy relationship. It is akin to a board's dynamic with an executive team, whereby the board is supportive but also challenging. The sponsorship arrangement should be likewise so that there is an early radar.

Accountability comes back not just to the accountable officer of the public body but, ultimately, to the permanent secretary as the principal accountable officer. He will want to be satisfied that sponsorship is working effectively across the piece and that there are not one or two minor areas that could implode and call into question the robustness of the entire system. We are seeing evidence that the Scottish Government's response is appropriate.

Colin Beattie: I will ask you a couple of quick questions. We have talked about the changes that are taking place in WICS. In paragraph 84 on page 35 of the annual audit report, you talk about what has been done to address financial management weaknesses in particular. How long do you anticipate that it will take for financial management and a focus on value for money to be embedded across the organisation to the extent that they become business as usual?

Stephen Boyle: I will ask Richard Smith to comment on the likely timescales, as that comes up in his annual audit reporting. However, it ought not to take a long time. Quality financial management and value for money should be inherent in any public body's overall arrangements and should not be things that bodies build themselves up to. Richard can set out the detail of WICS's response to the audit recommendation, but there is no doubt that there needs to be a degree of urgency behind that.

Richard Smith: As you picked up, Mr Beattie, there is a recommendation in the annual audit report on making sure that financial management and a focus on value for money are embedded across the organisation. I will explain the reason for that comment. As we said earlier, we did not identify any irregular expenditure in the last three

months of the year. During that period, there was—understandably—a reaction from people in the commission who were looking to be very careful and were not spending money, and that was probably not a business-as-usual period. We are satisfied that, in that period, the behaviours were entirely appropriate and people were complying with policies.

We know that, historically, the tone set from the top encouraged employees not to comply with financial management policies. We would like compliance with financial management policies to become embedded and to become business as usual over a more sustained period. A lot of the individuals who work for WICS—all of them, in fact—have only ever worked under the former chief exec, and he very much set a tone of, "We'll do what needs to be done."

10:00

At this stage, we would be uneasy about saying that the issue has been entirely addressed and that all the problems have been solved. We need to see over the full 2024-25 financial year that WICS can demonstrate that it is complying with financial management policies. As part of the review of charges that it is doing ahead of the next regulatory period, it will need to use consultants, and it will need to be able to demonstrate that that expenditure is supported by robust value-for-money assessments and that all those decisions are backed up by clear business cases.

That is why we included that recommendation and why we have concluded that it is too early for us to say that best value and value for money have been embedded across the organisation. We would want to see a change in culture and a shift whereby business as usual means being aware of what is in the policies and in the SPFM, and ensuring that people are not only complying with them but are checking that others across the organisation are also complying with them.

Colin Beattie: Okay. I will stay on the financial side. Paragraph 8 on page 6 of the section 22 report talks about the three items of expenditure that did not meet the requirements of the SPFM. Paragraph 70 on page 32 of the annual audit report says that WICS sought retrospective approval from the Scottish Government's sponsor division. It did not receive that retrospective approval.

Given the concerns that arose during the committee's scrutiny of the 2022-23 audit report regarding the Scottish Government's previous retrospective approval of expenditure, are you content that WICS's subsequent request for retrospective approval has been handled appropriately by the Scottish Government?

Stephen Boyle: Ultimately, how the Scottish Government reached the decision in 2022-23 to grant retrospective approval is perhaps more a question for the Government than it is for me. It is quite a contrast that, this year, it chose not to grant retrospective approval. The committee probably heard the rationale for that in the various evidence-taking meetings that it held in 2024, in that the retrospective approval that was given in 2022-23 was probably given without sufficient rigour being applied by the Government.

When the Government was faced with a similar request during 2023-24, it declined to grant retrospective approval. That probably relates to the point that we have just talked about in relation to the Government's awareness, understanding and insight concerning WICS. The Government will be better placed to explain its judgments than I am. It declined to grant retrospective approval and declined to align itself with that level of poor public spending, which flowed through to the resultant audit qualification.

I am sure that it is not lost on the Government that an audit qualification is a very serious matter. To give the Government its due, it takes that as seriously as we do. A qualification is a very important thing, and it is not something that the Government wants for any of its public bodies, but it was not prepared to sacrifice its integrity by offering a rushed retrospective approval.

Colin Beattie: Other than an audit qualification, what does the refusal to grant retrospective approval actually mean? What does it do? What is the impact?

Stephen Boyle: I would not gloss over that—not that I am suggesting that you are. I think that that is a hugely significant thing for a public body. It is significant for its reputation, and it almost always results in a statutory report by the Auditor General to highlight the fact that there has been non-compliant public spending.

In relation to what the Government's refusal to grant retrospective approval means for individuals and the commission, the committee has seen pretty strong evidence of the Government's response to poor public spending by the organisation. There has been a change of personnel and of sponsorship arrangements and a focus on applying the report and the learning from it across all public bodies.

We are not talking only about a technical qualification on the accounts. We are seeing a real wake-up call in the commission and probably across the wider public sector. After all, nobody wants to be in the position that WICS found itself in.

Colin Beattie: We have been talking about retrospective approval, but I want to go back to the

question that I asked on sponsorship. I asked for an assurance that the current sponsorship arrangements with WICS are working well. I am not sure that I got a direct answer to that.

Stephen Boyle: You are right. I will ask Richard Smith to give you a bit of detail on how the process is working in practice. The only thing that I would add is that, as Carole Grant touched on, the director who is responsible for water policy is personally involved in the sponsorship arrangements with the organisation to a much greater degree than was the case before our report of 2023.

Richard Smith: As Carole Grant mentioned, the previous failings related primarily to the fact that all engagement was through the chief executive and one individual in the Scottish Government. We are aware that that has now changed, and a number of individuals from the sponsorship division are engaging not only with the new interim chief executive and accountable officer but with the board.

As part of the audit, for a number of reasons, we met each of the board members separately to get their views on the sponsorship arrangements, the general governance arrangements within the commission and the level of information and the responses that they get from officers. The view was that there is a much better relationship with the sponsor division. Again, we would want to see that over a longer period. It has been quite a tumultuous period. There are lots of reasons why we would expect the sponsor division to be engaging directly with the commission, but the view that has been fed back to us is that the sponsorship arrangements are working well.

As I mentioned earlier, WICS is in the process of recruiting a new chief executive, and the sponsor division is heavily involved in those discussions and the process around that. I feel that, albeit anecdotally from discussions—we have not been party to any of those discussions—the sponsorship arrangements are working effectively.

Colin Beattie: Good. I will leave that just now, but I have one final question about the financial settlement for the former chief executive. As you said, Auditor General, the total cost to the public purse was £105,488. You stated in your report that

“The Commission should have taken more time to consider the wider options”.

Did WICS provide any explanation about why it did not take longer to consider the options? The option that it chose to push through quickly virtually indemnified the chief executive against any repercussions from what was happening, because there was a settlement agreement that covers both parties. He was virtually given a get-out-of-jail-free card. What explanation was given

for why WICS narrowed the matter down so quickly, almost within days?

Stephen Boyle: I am recollecting the evidence that you heard from the former chair of the board in September or October last year, when he set out quite clearly the board's view of the circumstances, the legal advice that it had taken and how it had arrived quickly at a decision that a settlement agreement was the right course of action. As I set out in the report, it was a rushed decision. Although the board might have arrived at a decision that was perhaps the cleanest and one that could have been a lower-cost option, it did not allow for a wider exploration of some of the events leading up to the decision, some of the cultural issues and some of the decisions that were made about patterns of spending that the former chief executive had undertaken. Those options were closed off to the board by engaging in a settlement agreement and not taking a wider view—or receiving it, I should add—from the Scottish Government.

At that evidence session, you heard described the to-and-fro that took place between the sponsor team, the lead sponsor official at the time and the chair of the board, which very quickly arrived at a settlement agreement. It was the cleanest thing and it allowed the organisation to move on—you have heard some of the rationale for that. However, it closed off any wider exploration, investigations and evidence taking, and it did not allow for a full exploration of the circumstances.

For me, that takes us to our judgment that WICS spent £105,000, but might not have needed to spend all of that. There was ambiguity about contracts, terms and conditions and notice periods, some of which we understand and some of which we do not. We are not clear about why there were two contracts in place for the former chief executive, one of which was signed and one was not. That goes back 15 or 20 years. How were such circumstances allowed to continue in perpetuity? We felt that there were enough threads that could have been explored in more detail without rushing to a settlement agreement. As you suggest, once that agreement is in place, there is not really anywhere else to go. It is—or should be—a matter of regret for WICS and the Scottish Government that that was the decision that was taken quite hastily.

Colin Beattie: My understanding is that there has been quite a bit of controversy about settlement agreements over a period. I understood that settlement agreements had to be signed off at a very senior level, yet the evidence that I have seen is that Scottish Government ministers were unaware that the settlement agreement had been concluded. If I recall correctly, ministers wrote to WICS to that effect.

Stephen Boyle: You are quite right. The Cabinet Secretary for Wellbeing Economy, Net Zero and Energy wrote, in unambiguous terms, about how displeased she was that the organisation had entered into a settlement agreement in such terms.

I will not repeat what I have just said, but I am clear that more time should absolutely have been taken. The Scottish Government should have been more proactive at a more senior level in engaging with WICS before the settlement agreement was entered into.

Colin Beattie: Some of my colleagues also want to come in on this issue, so I will hand back to you, convener.

The Convener: Stuart McMillan has a question on this area, but I will ask him to ask it after I have asked my couple of questions, because then he will have the final block of questions.

I will go back and explore a little more the details of the former chief executive officer's contractual arrangements.

In paragraph 18 of the report, you described that the former CEO was initially appointed in November 1999 as the water industry commissioner. I presume that there was then a reform of the structure, which led to the establishment of the Water Industry Commission, and he was appointed as the chief executive officer of that in 2005.

In the following paragraph, you talk about the CEO's "initial contract". Is the initial contract the one from 1999, or is it from 2005?

Stephen Boyle: Richard, do you want to answer that?

Richard Smith: It is the one from 2005.

The Convener: Why then, within two years, was a revision proposed to that contract?

Stephen Boyle: The answer is that we do not know. We have not had clarity from WICS about why there was an additional contract or, ultimately, what the status of that contract was, because the former chief executive did not sign it. The extent to which it was legally enforceable—when things came to a crunch point, as they did at the end of 2023—is another important ambiguity that ought to have been explored in more detail. Financially, it is quite significant. Colleagues can correct me if I misspeak, but different notice periods—one of three months and one of six months—were applicable to the different contracts. With such ambiguity, more exploration was required.

The Convener: One of the other things that strikes me about this is that the initial contract from 2005—which provided the basis for the departure of the former chief executive—gave a contractual

entitlement to six months' pay or salary on resignation, but provided 12 months' pay or salary in the event of dismissal. Under those terms, it is conceivable that somebody in that position could be sacked for gross misconduct and be entitled to more notice pay than somebody who had handed in their resignation. It is extraordinary. I have never seen anything like that before in my life.

10:15

Stephen Boyle: I agree with you, convener. I find it staggering to see such disparity between the financial implications of a dismissal and those of a resignation.

I should step back for a second. We do not routinely explore the terms and conditions of senior executives in the Scottish public sector, but I was equally struck by the difference in those two elements.

The Convener: Perhaps it would be interesting to look at the contractual terms of other CEOs in non-departmental public bodies to see whether that is the norm and what its genesis was. As we discussed in the evidence sessions on last year's section 22 report, so many aspects of the operations of WICS appear to be counterintuitive. They appear to be the wrong way round. This strikes me as another example of that.

Stephen Boyle: It is a strange example of some of the outlying behaviours of WICS. I still believe it to be the case that the situation in WICS is not representative of terms and conditions, public spending, expenses and so forth. However, I have also reached the view that it reflects some of the cultural dynamics that took place in the organisation, such as those around the role of the chief executive and the quality of governance. You heard already that the removal of expenses limits was approved by the board. That was arrived at—whether the board was satisfied about the terms and conditions and, in particular, the conclusion of the settlement agreement—because, rather than stepping back, the board's approach was that the matter had to be closed off as quickly as possible.

The Convener: By my calculation, it was concluded within 17 days over the Christmas and new year period, so it was, as you say, rapid. You make the point in the report that much more consideration could have been given to other options. The legal advisers could have been asked for an opinion on the revelation that the 2007 contract had not been signed and what its status therefore was. That is the one that provided for three months' notice pay, rather than six months' notice pay, under such circumstances.

Stephen Boyle: Yes, that is right. There seems to have been a prevailing view within the board that, even if an investigation took place, it would

still incur cost if there was a suspension while that happened. However, it remains my view that that was a missed opportunity for the organisation to learn lessons that might have been applicable to the quality of sponsorship, wider behaviours, terms and conditions and other factors across the Scottish public sector.

After considering the evidence, we have reached the view that the Government should have played a more proactive role before the settlement agreement was concluded. Even though it did not give retrospective approval, effective, appropriate and dynamic sponsorship would have allowed it to have that engagement.

The Convener: As part of the audit, have you asked the Scottish Government why it did not take a more proactive approach?

Stephen Boyle: We have explored that. The reason is that sponsorship engagement tended to be undertaken almost solely by the former deputy director for water policy, rather than there being a wider team and more senior engagement from the Scottish Government. Only latterly—when retrospective approval was asked for and, as Mr Beattie touched on, the minister expressed displeasure about the circumstances—did the Government become aware of the situation, via the director general and the deputy director.

Of course, hindsight is helpful, but I would not expect such circumstances to arise again in the organisation. It was a feature of the relationship between the former chief executive and the deputy director.

The Convener: Okay. I have a couple more questions. One that you may not be able to answer is: do you know the reason why the 2007 contract was not signed by the former chief executive officer?

Stephen Boyle: Unfortunately, we do not know that. We have tried to look into it, but we are not able to give any view on it.

The Convener: That is fine. That may be for others to answer.

My final question is one that you might be able to address. In March 2024, there was an amendment to the Scottish public finance manual regarding the treatment of settlement agreements when an accountable officer is the subject of a settlement agreement. Do you have a view on whether that amendment is sufficient to address such situations in the future?

Stephen Boyle: It is a positive development—potentially one that should have been foreseen. However, the Government has responded appropriately and has made the necessary changes to the Scottish public finance manual.

The public finance manual is there to be used; inevitably the sections relevant to this situation will be used only rarely. It is incumbent on those who are charged with overseeing the SPFM to think about not just what is there but what other scenarios might unfold, to allow for the SPFM to be a living document that can be useful in a range of different scenarios.

It is a positive development. Carole Grant might want to pick up on this, but during an audit, we should ensure that all the components are relevant and timely for the circumstances that we find ourselves in.

The Convener: Thank you. I am delighted to invite Stuart McMillan to put some questions to you. Over to you, Stuart.

Stuart McMillan: Thank you very much, convener. I have a couple of quick questions on the previous section before I move on.

On the quick settlement and the very short timeframe, how common are such things? In your experience, over the many years that you have been in Audit Scotland, how often have you seen them?

Stephen Boyle: If you mean settlement agreements of that type, or which are made as quickly as that, the circumstances in which an accountable officer leaves are rare, and the Scottish public finance manual did not make adequate provision for them. Settlement agreements themselves are relatively rare, too. Together with the ambiguity around the contracts, those were all circumstances in which people should have said, "Let's take a bit more time and not rush." It felt like the board was taking a damage limitation approach, rather than one that involved stepping back and thinking about whether there was a need for a wider exploration of the issues.

In relation to your question, the timeframe of 17 days—which, as the convener rightly pointed out, took place over the Christmas and new year period—meant that the process was very abridged and, in my view, rushed.

Stuart McMillan: Thank you.

Regarding the 2007 contract and the legal advice that the board received—as with the convener's question, you may not be able to answer this—did you find any information or explanation why the contract was not signed but was allowed to sit there until the end point was reached and the chief executive left?

Stephen Boyle: I will ask Richard Smith to comment on that, especially in relation to the clarity of the legal advice that WICS received. At its heart, our position is that we are unclear why the additional 2007 contract remained unsigned

and whether that prevented it from being enforced by WICS in these circumstances.

I apologise, Mr McMillan. I do not wish to labour the point, but there is enough evidence about the circumstances to say that, because of all the threads involved, more time should have been taken. The Scottish Government, WICS and the board, with appropriate legal advice, should have said, "Let's take a bit of time." Even if it had been an extra fortnight or a month, more time could have been taken before rushing—my word—to a settlement agreement that closed off other avenues for exploration.

Richard Smith: I am probably going back over some stuff that we have already discussed, but the contract dated back to 2007, so the individuals who were involved in that are not around now. The board was unclear why there was a separate contract, but, although it had not been signed, the chief executive had been working under that contract for 16 years by that point.

We noted in the report that the legal advice did not provide a clear view on whether the contract was enforceable. I suspect that the reason for that was that the lawyers did not have clarity on the circumstances with the two contracts. The legal advice talked about what the position could be if there was a notice period of 12 months, but it did not state clearly, "We think that 12 months will be the notice period," or, "We don't think that 12 months will be the notice period." It just discussed the scenario that could occur if 12 months was the notice period. I will read out the advice verbatim: the notice period

"could be 12 months if the Chief Executive's position is correct. Notice is one of those parts of the contract that could be objected to without either party being sure whether the objection is validly made or not, because the change is only activated when notice is being served."

Clearly, that does not give a view either way. In the lawyers' defence, that is probably because they were working with the information that they had available and did not have enough information on the two contracts to draw a conclusion.

Stuart McMillan: It is fair to say that, given that the situation was unclear, the onus was on the board to clarify the position before moving forward with the contract.

Stephen Boyle: That is a fair assessment. I am recalling the evidence that the committee heard from the former chair. In his view, he was clear that the settlement agreement was the best course of action and that he had engaged appropriately with the Scottish Government sponsor team. However, as we set out in the report, there is enough evidence to say that more time should have been taken.

Stuart McMillan: I will move on to questions about the leadership and culture of the organisation. The report was interesting reading, to say the least—it took me back to reports that I was involved in when I was a member of this committee in the past, such as those on NHS Western Isles and Coatbridge College. Are you content that WICS is taking sufficient action to address the issues relating to staff wellbeing?

Stephen Boyle: I think that it is on the right path. There has been appropriate recognition of the cultural issues in the organisation. In fact, the committee has received correspondence from members of staff who have set out some of their concerns. Employee surveys have taken place, there have been appropriate diversity, equality and inclusion workshops, and human resources consultants have been used to tease out underlying issues in the organisation. WICS is also in the midst of an organisational change programme. Therefore, there is enough evidence to say that it is taking seriously the issues with the organisation that were touched on in our report.

As Carole Grant mentioned, WICS is exploring its estate, because it became a virtual organisation during Covid. That would have had some positive benefits but, in this case, it exacerbated issues and behaviours that were witnessed. The organisational change programme is in train. It will be for the new chief executive and the board to satisfy themselves that the programme is being implemented properly, with the right progress being made to support the organisational objectives of WICS and the experiences of the people who work for it. I think that even WICS would say that this is work in progress.

Stuart McMillan: Will you be keeping the situation under a watchful eye?

Stephen Boyle: We will. Through his annual audit, Richard Smith will be closely tracking progress on the many recommendations that were received and progress with the organisational change. Later this year, he will set out his views in the annual audit report for 2024-25, and I will consider any further public reporting on the back of that.

Richard Smith: I will come in briefly to provide one further update. Since we issued our annual audit report, the Scottish Government has published its review. There are 10 additional actions in the change programme that are specifically focused on building greater openness and trust in the organisation and ensuring that better information is gathered and reported to the board on staff issues and wellbeing.

It was clear from our work and what came out of the Scottish Government review that there have been issues with how the organisation has been

managed in general—it goes wider than financial management—and there are certain individuals in the organisation who feel that they have not been treated well. As the Auditor General alluded to, the committee has been made aware of that through some of the previous submissions to the committee. In the light of WICS's annual audit report, that point has been added to the organisational change programme.

10:30

Stuart McMillan: That is helpful—thank you. I move on to WICS's international work. On the face of it, WICS has managed to bring a substantial amount of additional revenue into Scotland, but there is a bit of ambiguity regarding the accounting and the actual sums of money.

On WICS's international work starting again, your report is clear. It says:

"It is critical that appropriate governance arrangements and financial policies are in place to provide clarity on what is permissible activity and expenditure as part of this work."

I am aware that the final decision on international work will be taken in spring this year. What needs to happen to ensure that any international work that WICS undertakes is in line with the expectations for public sector bodies?

Stephen Boyle: You are right. The hydro nation strategy is the basis on which the international consultancy work was undertaken for Scotland to share its water services expertise with other jurisdictions that seek to develop similar approaches, and that generated significant revenue for the organisation.

As I touched on earlier, the tension that exists is in how such consultancy-style services can co-exist with the requirements on public bodies under the auspices of the Scottish public finance manual. As the committee has heard, we have witnessed and heard about behaviours and activities being delivered by this Scottish public body that would be much more common in a commercial, consultancy-style organisation.

A factor that the Government might want to consider is organisational structure. For example, it could introduce a different style of group structure for the application of international activities, or it might be that those activities continue to lie with the public body but that it is set out specifically that expenses and hospitality are delivered either not at all or consistently in line with Scottish public finance manual expectations.

Stuart McMillan: Have you had any direct dialogue with the Scottish Government on the recommendations that you have put forward?

Stephen Boyle: Yes, we have. We bring any statutory report that we prepare to the attention of

the Scottish Government. As you have heard, the Scottish Government will be interested in it and its audit and assurance committee will be sighted on it. Most significantly, the Scottish Government is interested in the fact that the report relates so directly to its sponsorship of WICS.

Carole Grant might want to say a bit more about the work of the Scottish Government's audit and assurance committee in respect to WICS.

Carole Grant: Before I talk about that committee, I note that revenue generation, as it was initially talked about, was one of the key strands of reform. There has been a period of reflection on that, but I note that there are some public bodies that engage internationally and have done so for many years. It is not that it cannot happen; it is just about the organisation being geared up for it and understanding that it is different.

The Auditor General's report on WICS has triggered a number of actions as part of the Scottish Government's assurance process, not only in the sponsorship space but in the thinking around the income that comes into the Scottish public sector, what the structure needs to look like, what controls and mechanisms have to be in place and, reflecting on the structure of organisations, as the Auditor General said, what would work best. We are waiting to see the outcome, particularly for WICS, in relation to the hydro nation programme and what the way forward will be on that.

Stuart McMillan: That is helpful—thank you.

The report states:

"It is critical that all parties, Board members, senior management, staff and the sponsor team, work together to move the Commission into a stronger place in delivering its regulatory role while ensuring Best Value in the use of its resources."

With those comments in mind, to what extent have the issues that you have reported on at WICS—and the efforts that have been required to address those issues—impacted on its ability to perform its regulatory role?

Stephen Boyle: There is cautious optimism that the events that the committee has considered over the past year or so are being addressed with organisational change arrangements and progress in strengthening its governance and executive team arrangements. However, you have also heard about and taken evidence on the fact that this has been a significant distraction for the organisation and that it has not been consistently in a business-as-usual place since this reporting came to light.

In particular, the appointment of a new permanent chief executive will give the organisation the opportunity to refocus on what it

exists to do. Much of the organisation's focus has been on the hydro nation strategy, but that has been paused. The organisation has been in something of a vacuum with regard to delivering its role and purpose. Having said that, we do not have any evidence that it is not regulating Scottish Water and others effectively. However, this situation will not have helped. The organisation needs to move on and get itself to a place where it embeds effective leadership, culture and financial management and delivers what it is there to do.

Graham Simpson: Carole Grant, you mentioned that you are aware of other Government organisations that do international work. Can you give us any examples?

Carole Grant: The Auditor General might know of more than me, but the one that springs to mind is Scottish Enterprise, which does a lot of work internationally. My understanding is that the structures for that work have been in place for a number of years. There might be other examples.

Stephen Boyle: That was the example that I was going to offer, too. As you will know, Scotland undertakes a lot of inward investment activity, which requires international engagement, travel and so on. For the committee's information, I am considering doing a specific audit on inward investment activity. I can report further to the committee when I engage with you on my work programme.

Graham Simpson: Presumably, an organisation such as Scottish Enterprise would operate to a fairly strict set of rules around expenditure and entertaining.

Stephen Boyle: Yes, indeed. The auditors of Scottish Enterprise have not highlighted any concerns. From all that I have seen in my engagement with Scottish Enterprise, I think that it is a well-run organisation with appropriate controls and governance arrangements in place.

The Convener: Thank you for the evidence that you have provided to the committee. Some important matters have been placed on the public record, including revelations that—dare I say it—perhaps give us a bit more evidence than is contained in the section 22 report itself. Auditor General, I thank you, Carole Grant and Richard Smith for your time and for the information that you have given us.

I move the committee into private session.

10:38

Meeting continued in private until 11:19.

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