

Public administration in government

Purpose

1. The Committee is invited to take evidence from John-Paul Marks, Permanent Secretary to the Scottish Government, on issues relating to public administration in government including:
 - Progress made in response to aspects of the Committee’s inquiry into effective Scottish Government decision-making (“the Decision-making inquiry”),
 - More recent exchanges with the Scottish Government regarding the development of Financial Memorandums,
 - The Scottish Government’s Consolidated Accounts for the year ended 31 March 2023,
 - Progress made in responding to the three harassment reviews which took place in 2020/21.
2. These annual evidence sessions have previously taken place on [3 May 2022](#) and [16 May 2023](#). At this evidence session Mr Marks will be accompanied by the following Scottish Government officials:
 - Lesley Fraser, Director General Corporate
 - Gregor Irwin, Director General Economy
 - Jackie McAllister, Chief Financial Officer
3. This session falls within the public administration aspect of the Committee’s remit, which is to provide “oversight and scrutiny of the way in which government exercises its overall functions and the quality and standards of administration provided by the civil service in the Scottish Government”.¹

Background

4. Mr Marks took up post as Permanent Secretary (PS) on 1 January 2022, having previously worked as Director General, Work and Health Services at the Department for Work and Pensions. As PS, Mr Marks leads more than 7,000 civil servants working for the Scottish Government.
5. The Scottish Government website also explains that Mr Marks is the principal policy adviser to the First Minister and Secretary to the Scottish Cabinet as well as the principal accountable officer for the Scottish Government and “is

¹This wording is from a Parliamentary Bureau paper on establishment of committees, June 2021.

personally responsible to the Scottish Parliament for the exercise of his responsibilities. This includes management of the Scottish Government's £49 billion budget and the economic, efficient and effective use of all related resources."

6. As the Committee heard during its decision-making inquiry (more on which is set out below), Mr Marks is a member of the Civil Service Board and also a member of the weekly leadership team led by the Head of the Civil Service, Simon Case. Mr Marks explained that these meetings are the means by which he inputs the perspective of those working for the Scottish Government into any reviews of the civil service.
7. During his annual evidence session on 16 May 2023, Mr Marks spoke to the key areas of focus for him at that time. These included:
 - a. providing policy advice and, in particular, supporting the revised policy prospectus following the appointment of a new First Minister and Cabinet;
 - b. establishing new capabilities in the workforce to respond to new challenges such as the war in Ukraine and social care improvement;
 - c. balancing the budget;
 - d. focusing of some core capabilities to improve value for money in the Scottish Government around governance, investment security and financial control; multiyear workforce planning and estates 'rightsizing'; improving public body sponsorship; record keeping; and freedom of information and correspondence management.
 - e. the application of a private investment framework; and
 - f. embedding a values-based approach to workforce culture.
8. There have also been inquiries into aspects of the civil service undertaken at the UK Parliament including:
 - a. On 16 April 2024, the Permanent Secretary [gave evidence to the Public Accounts and Constitutional Affairs Committee](#) at the House of Commons on Devolution Capability in Whitehall.
 - b. On 29 February 2024, the Scottish Affairs Committee at the UK Parliament [launched an inquiry](#) into the challenges and opportunities which arise from having a single, unified Civil Service working for both the UK and Scottish Governments.
 - c. The ongoing inquiry by the Public Administration and Constitutional Affairs Committee into [Civil Service Leadership and Reform](#) which, in [January 2024](#), took evidence from Lord Maude on his report of November 2023 entitled "[Independent Review of Governance and Accountability in the Civil Service](#)".

Effective Scottish Government Decision-Making

9. On 3 July 2023, the Committee published its [report on Public Administration – effective Scottish Government decision-making](#). In it, the Committee makes a number of recommendations intended to support greater understanding and transparency over how the Scottish Government takes decisions. On 31 August [the then Deputy First Minister](#) and Cabinet Secretary for Finance (now the Cabinet Secretary for Finance and Local Government and hereafter referred to as the Cabinet Secretary) and [the Permanent Secretary](#) responded to that report. Summarised below are key Committee recommendations together with summaries of the responses from the Permanent Secretary and the Cabinet Secretary.
10. Following receipt of these responses, the Committee wrote on 19 September to the [Cabinet Secretary](#) and, separately, to [the Permanent Secretary](#) seeking further clarification and also seeking an update, by the end of March 2024, on some aspects of their responses. A further response was received on [2 November 2023](#) from the Cabinet Secretary, with subsequent updates received on 25 March 2024 from the [Permanent Secretary](#) and [from the Cabinet Secretary](#) which have also been summarised below.
11. At the time of its report publication in July 2023, the Finance and Public Administration Committee wrote to the Public Accounts and Constitutional Affairs Committee at the UK Parliament drawing its attention to the Committee's findings, given its work related to the Civil Service. The Committee also wrote to the Cabinet Secretary and Head of the Civil Service, Simon Case, drawing his attention to the Report's findings and recommendations and inviting him to provide any comments. Mr Case has confirmed that he does not intend to respond to the Committee's report as the Permanent Secretary to the Scottish Government has already written to the Committee.

Transparency

12. A key purpose of the Committee's report was to provide greater transparency over how decisions are taken. During the course of its inquiry, the Committee identified a significant mismatch between the information publicly available about the civil service (for example on its website) and how it works in practice.
13. The Committee recommended that the civil service makes public how it supports Governments of different political parties in different areas of the UK at the same time whilst remaining one civil service. Allied to this recommendation was a call for a stronger presence and identity for the civil service that supports the Scottish Government, beginning with more detail on the role and accountability of the Permanent Secretary to Ministers and his relationship to the wider civil service governance structures such as the civil service board and leadership group. More generally, the Committee's report makes recommendations aimed at providing greater transparency over decision making.

14. In his response, the PS sets out his role and responsibilities, confirming that “positive and valuable engagement as a civil service profession takes places across all the nations of the UK”, all of which operate to the same core principles.
15. In his March 2024 update, the PS confirmed that he remains committed to exploring what further information can be made more accessible publicly in relation to his role and relationships with wider civil service governance and how the Civil Service working for the Scottish Government explains what it does. He identifies information set out on the [Scottish Government's website](#) and the [Civil Service Code](#).
16. The PS further explains that “devolution has afforded some scope for differences in matters of people policy and on how the Scottish Civil Service operates”. In that regard, the Scottish Civil Service Code contains its own provisions and notes that civil servants are accountable to Scottish Ministers, thus enabling civil servants to maintain the ability to serve future governments of different political persuasions. The [Civil Service Management Code](#) sets out the framework for departments in setting local employment policy and terms and conditions of service, albeit the terms and conditions of Senior Civil Servants (SCS) are reserved to the UK Government. The PS also highlights the role of the Constitutional Reform and Governance Act 2010 (a UK wide Act) in requiring civil servants to “carry out their duties for the assistance of the administration as it is duly constituted for the time being.”
17. The Cabinet Secretary's response sets out how, as members of the [Open Government Partnership](#), “we are working alongside other governments by committing to the values of openness, transparency, accountability and citizen participation.” In his March 2024 response, the PS highlights the current delivery of [Scotland's third Open Government National Action Plan](#) 2021-2025 in partnership with civil society.
18. The Cabinet Secretary explains that she remains committed to ensuring the principles of openness and transparency, acknowledging that continuous improvement activity and exercises to learn lessons are valuable routes to develop the policy advice process and the transparency and accountability of decision-making. As such, the Cabinet Secretary committed to report back on how Scottish Government reflective learning and sharing “including more transparency monitoring and evaluation can be more fully embedded in Scottish Government to improve the accountability of government decision-making”. One example the Cabinet Secretary highlights is through a cross-government working group led by the Chief Social Policy Adviser to streamline and improve Impact Assessment processes which are a “crucial component of the approach to decision-making” on the likely effects arising from a proposed policy.
19. In addition, the Cabinet Secretary confirms that the Chief Social Researcher has established a cross-Scottish Government evaluation group “to enhance the use of evaluation across Scottish Government policies.” This work, she explains, is to be used to develop learning and development for policy professionals in line with

[Policy Profession Standards](#) (these standards set out the expectations of all civil service policy professionals across the UK). In her update of March 2024, the Cabinet Secretary explains that further to her previous responses “Scottish Government Policy Profession is introducing new resources for reflective learning and sharing as a direct response to the Committee’s report. These activities also support the use of evaluation to improve practice.” This will include recent policy practice from across the UK as well as case studies and will complement existing Scottish Government activity. Examples of reflective learning are provided such as COVID-19 Learning and Evaluation Oversight Group, Social Security Experience Panels and the Ukraine Warm Scottish Welcome Programme.

20. The Cabinet Secretary highlights the role of *In the Service of Scotland (ITSOS)* vision and values as providing an important basis for the kind of culture described in the Committee’s report.

Process

21. The Committee’s report highlights the importance of having a framework for decision-making which is based in reality and which sets out key characteristics or standards to support effective decision making and against which performance can be assessed. The Committee sought clarification from the PS on how he undertakes his role in providing strategic advice and how he evaluates advice from across the Scottish Government to identify areas for improvement.
22. Responding, the PS sets out how policy advice is evaluated to determine consistency with the Scottish approach to policy making and to identify any areas for improvement. This includes the role of the National Performance Framework (NPF) in underpinning decisions and framing policy making and services. The PS highlights the role of the Executive Team in considering advice on significant policy programmes and the “extensive clearance process “applied to cabinet papers. The PS set out the range of tools available which provide a foundation for a more systematic approach to policy development and advice² all of which, he explains, are compatible with the tenets of the Christie Commission and the NPF. This work emphasises an outcome-based approach to government and evidence “and is reflected in the way we engage, gather, and utilise data and evidence”.
23. The PS also explained that he had, during 2022-23, sought improvements in performance reporting on outcomes. Going forward “regular performance reporting, and our Annual Performance Analysis for the Consolidated Accounts will be aligned to the three missions in the Policy prospectus.”
24. The Cabinet Secretary responded by highlighting how the Scottish Government is undertaking improvement work in relation to its corporate services to develop people and systems including through a focus on leadership development through its people strategy; its estates strategy, the Technology Roadmap and

² Such as the Centre of Expertise for Business Cases, HMT Green Book, Scottish Public Finance Manual, Impact Assessment Framework, Better Regulation Framework.

the HR and finance transformation programme. In assessing the advice from civil servants, a range of matters including how policies are expected to deliver on the three missions (of equality, opportunity and community) are considered.

25. Incoming Ministers are also supported by their peers formally through the [Scottish Ministerial Code](#) and, for those appointed after March 2023, a new approach to inductions which encompasses briefings on the Code, on propriety and ethics emphasizing the role and value of transparency. Support for incoming Ministers also includes regular meetings with Ministerial peers and policy development support from officials and Ministerial peers. Feedback is being gathered on the induction approach, which will “contribute to adjustments and improvements for future appointments and we will consider how these learnings can be shared.”
26. Later in its report, the Committee also sought clarification of how the Scottish Government assesses the quality of its engagement across the different policy areas in Government to identify any areas for improvement. This followed stakeholder calls for a more systematic approach and for greater consistency in their experience of engagement with the Scottish Government.
27. In relation to how evidence is used in policy making, the Committee sought clarification of how inward secondments are used “to draw in additional resource and to provide staff with broader experience (including of policy implementation) and any plans to build on existing arrangements for both inward and outward secondments.” The PS responded that he had encouraged, and had expanded, the use of inward secondments as well as supporting academic secondments organised via the UKRI Policy Fellows Scheme.
28. In the Cabinet Secretary’s response, the role of the [Scottish Policy and Research Exchange](#) (sponsored with the Scottish Parliament and a number of Scottish Universities) in accessing relevant academic expertise was highlighted. She added that as part of the Policy Profession Project, policy standards will focus on increasing capability to use such bodies to obtain expert evidence and advice with the effectiveness of these arrangements being reviewed over the coming months. In her 2 November update, the Cabinet Secretary set out further information on the role of SPRE, confirming that its function is as a knowledge broker rather than providing research outputs per se. Post-covid, the Scottish Government is looking to rebuild engagement between academics and policy makers, for example through an in-person event in early 2024.
29. In the update of March 2024, the Cabinet Secretary highlights the role of the Policy Profession curriculum in promoting the Scottish Government’s expert support for effective engagement via the Participation Framework, a guide to good practice in participation work across Scottish Government. In addition to developing relationships with academics and work underway to consolidate and improve access to data, the Cabinet Secretary highlights ScotSCIENCE, a platform which provides support and co-ordinates key activity for science functions across Government.

30. In relation to the challenges Government faces in balancing short-term issues with tackling longer term issues, the Committee recommended that consideration be given to civil servants working for the Scottish Government providing long term insight briefings on the challenges facing Scotland over the next 50 years. This is particularly given that civil servants working for the Scottish Government provide continuity across different Governments.
31. Responding, the PS highlighted horizon scanning work already undertaken as well as work underway to strengthen the Government's capacity to assess future risks and preparedness. He confirmed that, in addition to responding to the SFC's Fiscal Sustainability report, "we will begin publishing reports of longer term insights in the early autumn of next year to create a new resource for public bodies and partners in the third and private sector". He added that "we will also continue to consider and respond to the independent analysis on long term fiscal sustainability produced by the Scottish Fiscal Commission."

People

32. In its report, the Committee explores the potential benefits of 'churn' in 'generalist' civil servants (such as providing opportunities to staff to gain a range of skills and experiences and promotion opportunities) as well as the potential negative impacts (such as loss of institutional memory, and the disruption in continuity of good advice to Ministers). The Committee acknowledged the recent development, within the civil service, of job families which it understood was aimed at enhancing capabilities and providing for career development but sought clarification of the extent to which this (and any other mechanisms) will address the negative impacts of churn.
33. In his response, the PS set out how the Scottish Government's adoption of professions is in line with the emerging practice across the civil service. The profession classification along with a job family and job type will, the PS explains, be assigned to all jobs.
34. In his March 2024 update, the PS confirms that "As part of our new HR and Finance system (Oracle Cloud) all jobs are being classified into a profession and a related job family and job type." As such, he notes that these measures have already been seen to reduce churn in some key areas. In addition, the Digital Recruitment Service has been implemented which has seen a significant increase in successful permanent recruitment and delivered considerable savings. The wider People Strategy and workforce planning have, he explains, also resulted in reductions in the total workforce size, with contingent workers "reducing by 29% to 1,436 contingent workers in December 2023, taking it below the pre-pandemic position in March 2020."
35. In addition, the PS highlights progress in operationalising the [Civil Service Policy Profession Standards](#) to develop an enhanced learning offer and curriculum for the Scottish Government (available in Spring 2024), led by experts from across the organisation and its professions. The PS explains that the Policy Profession

within Scottish Government is commissioning a new, comprehensive guidance on working with Ministers to improve decision-making. This is alongside new learning resources being developed with the Executive Team Strategic Governance Office to raise awareness of the corporate governance arrangements within the Scottish Government, and responsibilities within the formal Scheme of Delegation and Accountable Officer model.

36. The Committee agreed with witnesses that the relationships between Ministers and the civil service (and senior leaders in particular) are key to fostering a culture of full, frank and informed advice, robust challenge, and learning from mistakes. The Committee sought information from the PS on how he seeks to assure himself that his senior leaders are embodying the culture, skills and attitude needed to lead by example. In relation to the designation of Accountable Officer (which was cited as providing a greater confidence and assurance to provide challenge), the Committee invited the PS to consider whether there should be more explicit delegation of specific key policy development functions to SCS.
37. Responding, the PS sets out the range of ways he engages with the organisation and senior leaders in relation to development and professionalism. The performance of SCS is assessed on what has been achieved, and how, through regular conversations and performance reviews. The Scottish Government leadership framework sets out the expectations of Senior Leaders. In relation to the Committee's recommendation regarding potential widening of the Accountable Officer delegation, the PS cites the role of Schemes of Delegation as setting out the key policy development functions of SCS. In providing advice to Ministers, Directors work within the Accountable Officer responsibilities of their Director General, with this framework intended to ensure the explicit delegation of a range of responsibilities to senior civil servants. These delegations are reviewed each year and the PS confirms that "we would be happy to review the content of the letters issued in April 2024 to ensure any issues raised by the Committee in relation to SCS are considered."
38. In his March 2024 update, the PS explains that "We have recently reviewed our Director General Assurance processes to ensure they remain effective and fit for purpose; a pilot approach was trialled from late 2023, with the aim of supporting a more thematic and assurance-focused conversation on priorities." The refreshed approach is now being adopted as standard across Director General portfolios.
39. The PS identifies other approaches which supplement the above delegations including formal appointment of Senior Responsible Officers for major projects and programmes, scrutiny through the annual Certificates of Assurance process and the work of the Scottish Government Audit and Assurance Committee in areas such as risk management, the controls environment and people and performance related issues.
40. In her response to the Committee's report, the Cabinet Secretary highlights the role of *In the Service of Scotland* which sets out core ways to working "which

have been shown to drive positive change effectively in the past”. As an example, the DFM explains that “enabling a culture of continuous improvement” has been identified as one of five strategic priorities for the Scottish Government’s corporate transformation work in 2023. Other examples include a regular focus on ways of working and in internal communications, as well as the annual *In the Service of Scotland* all-staff event. The Scottish Government corporate governance system “serves as an accountability framework and decision-making process that support resources allocation and the delivery of Scottish Government outcomes through performance reporting and review. This includes the Corporate Board which oversees the governance system and provides advice to the PS.

41. In her letter of March 2024, the Cabinet Secretary identifies other ways the Scottish Government has been making its *In the service of Scotland* values and vision a reality, including piloting approaches to delivery of LEAN Six Sigma³ training and internal staff networks. She adds that the recently formed Strategy, Performance, Delivery & Resilience Directorate is developing a strategic approach to support the delivery of outcomes, which is driving improvements across the organisation and through which the FM receives regular updates on progress with delivering the 3 missions.

42. In his March 2024 update, the PS sets out how the Risk Management Improvement Programme has “strengthened the processes for the identification, management, reporting and discussion of risk at Executive Team and Corporate Board. Corporate capability has also been strengthened with the introduction of mandatory risk management learning for all civil servants within the Scottish Government and through an annual assessment of risk management maturity. He reports that this, along with other actions, led Scottish Government Audit and Assurance Committee members to recently note that Scottish Government’s approach to risk management had improved in the last 18 months.

43. The PS also highlights more recent work such as—

- a. the [First Minister’s announcement in March 2024](#) that there is to be a review of Scottish Government’s use of mobile messaging apps and non-corporate devices which will also explore:
 - i. if updates are required to both the Ministerial Code and Scottish Civil Service Guidance with a particular focus on the government’s interaction with statutory Public Inquiries;
 - ii. whether the use of apps is relevant in a government setting and where and how relevant data should be stored and retained;
 - iii. the value of messaging apps to Ministers in emergency situations and draw on best practices used in other jurisdictions.

³ **Lean Six Sigma** is a process improvement approach that uses a collaborative team effort to improve performance by systematically removing operational waste and reducing process variation.

- b. The Information Commissioner recently launched a separate intervention into the Scottish Government's handling of informal communications and steps taken to record key decisions and actions.
- c. The Scottish Government published its refreshed Freedom of Information (FOI) Improvement Plan in January 2024.
- d. The publication of [annual mandate letters](#) to Cabinet Secretaries from the First Minister;
- e. The publication of the annual performance report as part of the [Scottish Government's Consolidated Accounts for the year ended 31 March 2023](#).

Standards

44. Whilst welcoming recent developments to enhance the capabilities of civil servants working for the Scottish Government, the Committee noted that there must also be a coherent and systematic way to assess the quality of decisions made. Based on the evidence the Committee received, it considered that oversight of, and accountability for, the quality of decision-making across the Scottish Government is an area that the Permanent Secretary should provide significantly greater focus. The Committee cited examples of how standards in decision-making can be set, sustained, assessed and improved, such as the Future Generations Commissioner in Wales or through the New Zealand Policy Project.
45. The Committee also sought the views of the PS on whether there is now a need for a central unit or body to bring oversight across the Scottish Government and to ensure the continued professionalism of civil servants working for the Scottish Government.
46. The PS explained that "standards in policy making are supported by a range of initiatives- including the Civil Service Policy Professions standards". He added that to improve capability across a range of policy-making skills (including providing advice), a new learning curriculum was being developed which would be aligned with the Policy Profession Standards. This is currently at its first stage and, the PS confirms that the Committee's recommendations would provide useful insights to inform the next phase of work.
47. Concluding, the PS states that "with my senior team and through the work described here and elsewhere, I undertake to report back on the recommendations of the Committee at a suitable point."

Financial Memorandums and Framework Bills

48. This session, the Committee has expressed concern about the increasing use of "framework" Bills and the quality of Financial Memorandums (FMs) provided by the Scottish Government. Most recently, the Committee wrote to the [Presiding Officer](#), [Cabinet Secretary for Justice and Home Affairs](#) and [Minister for Parliamentary Business](#) setting out some of these concerns, arising in part from

evidence on the FM for the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill. This follows on from previous concerns set out in its reports and correspondence relating to the FMs for the National Care Service (Scotland) Bill and the Circular Economy (Scotland) Bill. The Committee also sought a copy of the Scottish Government 'Bill Handbook', to better understand the guidance provided to civil servants in producing Financial Memorandums.

49. [Responding on 18 April 2024](#), the former Minister for Parliamentary Business (MfPB), George Adam MSP, explains the Government's approach to framework Bills as well as the Government's approach to the preparation of FMs. He also provides extracts from the Scottish Government "Bill Handbook" and associated guidance relevant to the development of FMs. He also draws the Committee's attention to his letter also dated [18 April 2024](#) to the Delegated Powers and Law Reform Committee (DPLRC), which related to the use of framework bills.
50. In his 18 April letter to the DPLRC, the then MfPB highlights that there is no specific definition of a framework Bill and invites it to agree with the Scottish Government's suggested definition. He also notes "that the issue of framework bills has a long history in this Parliament" and the examples of framework bills in Session 6 do not represent a step change in trends. He sets out examples dating back to 2000 which he explains demonstrate "that the issue of framework bills is not new or novel". In relation to the current Scottish Government's approach, "The development of Bills, and the nature, form, and function of delegated powers in them, is considered on a case-by-case basis and the approach taken is ultimately driven by what is fit for purpose in the specific context of each Bill."
51. The then MfPB explains that the inclusion of delegated powers in a Bill is not an opportunity for Government to side-step parliamentary scrutiny given Parliament's processes and procedures governing delegated powers are robust and comprehensive.
52. In his letter to FPAC, the then MfPB comments that the Scottish Government can only introduce a Bill if requirements set out in rule 9.3.2 of Standing Orders in relation to the provision of a Financial Memorandum "are met".
53. In relation to how civil servants are supported to provide Financial Memorandums, the then MfPB explains that Bill teams:
 - a. can, and do, draw on a wide range of support and expertise across Government during the development and parliamentary passage of their Bill. This can include support and assistance from portfolio Finance Business Partners as well as analysts (when particularly complicated calculations and methodologies are involved);
 - b. are encouraged to start the process of developing FMs as early as possible and to devote adequate resource to the task;

- c. are provided with general guidance on the Bill process, and that the interests of FPAC in FMs is emphasised and is well understood across the Government;
- d. are provided with written guidance on the development of FMs to ensure a consistent approach is taken (extracts from the Bill Guidance are annexed to the then MfPB's letter);
- e. are also expected to consult widely with stakeholders who will be impacted by the Bill so that their views on costs can be taken into account in modelling.

54. The then MfPB comments that "A range of Ministerial controls are also in place to ensure appropriate oversight of the financial impact of Bills and their presentation in Financial Memorandums." He sets out the approach of Cabinet to the anticipated costs and affordability of Bills, as well as the FM clearance procedure by Ministers.

55. The then MfPB observes that "It is worth emphasising that there is no formal process under Standing Orders for submission of an updated FM during Stage 1 – Standing Orders (Rule 9.7.8B) provide only for revised or supplementary FMs to be provided if a Bill is amended at Stage 2 so as to substantially alter any costs, savings etc. There is also no convention in place that I am aware of which governs precisely when and how updated information should be presented to your committee prior to that."

56. He suggests that, given the differences in perspective between the Scottish Government and the Committee on the process for the provision of updated Financial Memorandum information, there would be merit in developing a standard approach. As such, he has asked his officials to engage with the clerks on these issues.

57. The FPAC agreed at its meeting on 30 April 2024 to consider its approach and respond to the letter from the then MfPB at a later meeting.

Scottish Government's Consolidated Accounts for year ending March 2023

58. In September 2022, the Committee agreed to consider the Scottish Government consolidated accounts each year as part of its annual evidence session with the Permanent Secretary, as Principal Accountable Officer.

59. The Consolidated Accounts report actual outturn and compare it to the budget authorised by the Scottish Parliament. They cover around 90% of that budget and report:

- a. the amount the Scottish Government spends against each main budget heading and the reasons for any significant differences,

- b. the amounts distributed to public bodies,
- c. assets, liabilities and other financial commitments carried forward to future years, and
- d. contain a performance report.

60. The Scottish Government's [Consolidated Accounts for the year ending March 2023](#) were laid in the Parliament on 16 November 2023 alongside the corresponding [Auditor General for Scotland's audit report](#). The AGS reports that total net expenditure by the Scottish Government during 2022/23 was £49,767 million, £509 million less than the agreed budget. The resource budget was underspent by £188 million (0.4 per cent) against a budget of £47,895 million. Capital was underspent by £321 million (13.5 per cent) against a budget of £2,381 million.

61. In his report conclusion, the Auditor General explains that the Scottish Government should:

- agree its approach to the provision of consolidated information for the Scottish public sector and agree a timetable for completion as a matter of urgency.
- develop a clear roadmap of how the design and delivery of public services will be transformed to be financially sustainable, this should include the establishment of a cohesive workforce strategy that takes account of key factors such as the impact of growth in the NHS.
- clearly prioritise projects and programmes and consider how the public sector estate can support transformation of services.
- use the Policy Prospectus as an opportunity for a step change in the accessibility and transparency of its performance reporting. The performance report in the Consolidated Accounts should present clear targets and outline the progress that has been made in achieving the critical missions.
- review its governance and assurance arrangements to ensure they are efficient and effective and support the continued period of change and uncertainty being faced.

62. The Permanent Secretary gave evidence to the Public Audit Committee on the AGS report on the Scottish Consolidated Accounts at [its meeting on 18 January 2024](#). In evidence, the Permanent Secretary confirmed that the Governance Review was underway whilst the corporate transformation programme is responding to "concerns that Audit Scotland previously had about systems and processes not being fit for purpose and about insufficient investment; that is being corrected."

63. In relation to workforce planning, the Permanent Secretary explained that the workforce will be marginally smaller in 2022-23. He added that "Our workforce is rightsizing to what we can afford, but the process is also about making sure that we have the right skills and capabilities for delivering our programme."

64. Further to his [letter of 12 January 2024](#) on the production of whole of government accounts, the Permanent Secretary explained to PAC that progress had been

made with the inclusion of spending from other bodies, including non-ministerial bodies and bodies that are funded from the budget. Further progress would, however, been challenging as it relies upon UK whole of Government accounts, the production of which has been impacted by the pandemic. As such, Scottish Government officials are exploring with Audit Scotland alternative approaches such as providing additional financial information that consolidates the assets and liabilities of all the public sector bodies in Scotland that are funded through the Scottish Government budget.

65. A SPICe briefing in Annexe A provides more detail in relation to the Consolidated Accounts.

Scottish Government's response to Session 5 Harassment Reviews

66. A key focus of the Committee's previous annual evidence sessions in 2022 and 2023 was scrutiny of progress against the Scottish Government's response to the three harassment reviews that took place in late Session 5. The Scottish Government's response focused on three broad areas of improvement:

- rebuilding confidence in its complaints process,
- improving the robustness of, and compliance with, its document management and storage processes, and
- improving the effectiveness of its internal arrangements for managing issues involving propriety and ethics.

67. This response led to:

- a. an updated process for civil servants making a complaint about a Minister or former Minister including the publication, every 6 months, of the number of ongoing cases, and
- b. an [Implementation Plan of actions \(to be completed by 2021\) and a Continuous Improvement Plan](#) (which set out a further set of measures for reporting on by the end of 2022).

68. The Committee also took evidence from the former Deputy First Minister, John Swinney MSP, on the Scottish Government's quarterly updates to the Committee on the progress against the actions in the Scottish Government's Implementation Plan and Continuous Improvement Programme (CIP) and updated complaints process.

69. On [14 February 2023](#), the Scottish Government wrote to the Committee explaining that "We consider that the CIP has now completed its activities and has embedded ownership and responsibility for the supporting actions in establishing the culture and behaviours we wish to see in the areas identified for improvement." It therefore proposed to absorb those activities into ongoing work in the organisations rather than through another iteration of the programme. The measures of the success of the CIP will be through the UK Civil Service People Survey (the [most recent](#) of which is for 2023 and was published on 24 February

2024). Subsequent analysis by the Propriety and Ethics Team will ensure appropriate action is taken to improve the scores.

70. On [23 February 2023](#), the Committee wrote to the former Deputy First Minister and confirmed that this quarterly reporting was no longer necessary as those activities had been completed. Instead, the Committee sought an annual update on how the complaints process and new measures for information management, record-keeping and cultural change are bedding in, with a view to exploring this update in its annual evidence sessions with the Permanent Secretary in May each year. The former DFM noted this request in his response on [20 March 2023](#).

71. The Annual Update on the progress against the actions in the Scottish Government's Implementation Plan and Continuous Improvement Programme (CIP) and updated complaints process, due to inform this evidence session with the Permanent Secretary, is currently awaited.

Committee Clerking Team

May 2024



Finance and Public Administration Committee
18th Meeting 2024 (Session 6)
Tuesday 21 May 2024

2022-23 Scottish Government Consolidated Accounts

Introduction

This paper provides background on the [Scottish Government Consolidated Accounts 2022-23](#) in support of a Committee evidence session with the Permanent Secretary, John-Paul Marks. It also draws on findings from the [Auditor General for Scotland's \(AGS\) audit of the 2022-23 Consolidated accounts](#).

The Consolidated Accounts cover:

- Nine portfolios of the Scottish Government
- Scottish Government administration
- Nine Executive Agencies
- NHS bodies and the Mental Welfare Commission
- Crown Office and Procurator Fiscal Service

The Consolidated Accounts cover around 90 per cent of the budget approved by the Scottish Parliament. The budget approved by Parliament also includes some bodies not covered by the Consolidated Accounts:

- Directly funded bodies (SPCB and Audit Scotland)
- Non-ministerial offices (Consumer Scotland, Environmental Standards Scotland, Scottish Fiscal Commission, National Records of Scotland, Registers of Scotland, Scottish Courts and Tribunal Service, Office of the Scottish Charity Regulator, Revenue Scotland, Food Standards Scotland and the Scottish Housing Regulator)
- Pension Schemes (NHS Scotland Pensions Scheme and Scottish Teachers' Pension Scheme).

The AGS's report is presented under four broad headings:

- Financial management
- Financial sustainability
- Financial and performance reporting
- Governance

This paper presents issues for potential further discussion under the same headings.

Financial Management

Underspend on 2022-23 Budget

There was an underspend in 2022-23 of £509 million (1% of the total budget), made up of a Resource budget (day-to-day spending) underspend of £188 million (or 0.4 per cent of the Resource budget) and Capital (infrastructure spending) of £321 million (13.5 per cent of the Capital budget).

Under the devolution settlement, the Scottish Government operates within a fixed budget and is not allowed to overspend in any given year. The ability to carry forward underspends by adding them to the Scotland Reserve means that resource can be carried forward and used in future years. The amount that can be held in the Scotland Reserve has been capped for a number of years at £700 million. The £700 million cap was increased by inflation (the [Treasury's GDP deflator will be the inflation measure](#) used for setting the increase) from 2024-25 under [the terms of the revised Fiscal Framework](#). The Scotland Reserve cap increased by the Treasury GDP deflator as at November 2023 which was 1.68%, increasing the Scotland Reserve cap to £712 million for this financial year.

Page 120 of the Consolidated accounts sets out the underspends in 2022-23 by portfolio area, split by Resource and Capital outturn. The largest total underspend relates to Health and Social Care (£261 million) followed by Net Zero, Energy and Transport (£110 million) and Education and Skills (£56 million).

Looking specifically at Resource underspends, the AGS's report explains that the Health and Social Care portfolio had "lower than anticipated non-cash accounting transactions, including NHS provisions, impairments and depreciation" which resulted in a £211 million underspend. The Net Zero, Energy and Transport Resource allocation was underspent by £62 million due to underspends in "active travel schemes, low carbon and other transport initiatives". However, these underspends were "partially offset by an overspend in the Social Justice, Housing and Local Government portfolio of £77 million due to the teachers' pay award and higher than expected year-end fair value adjustments for housing loans, shared equity schemes and charitable bonds."

On the Capital underspend side, there were underspends across all portfolios with the largest occurring in the Education and Skills (£94 million) and Social Justice, Housing and Local Government (£72 million) portfolios. The AGS report states:

“Due to the accounting for student loans, with applications for loan funding being less than expected and student loan repayments being higher, the Education and Skills portfolio reported an underspend of £94 million. Social Justice, Housing and Local Government portfolio reported an underspend of £72 million primarily due to higher than anticipated capital receipts from individual homeowners who are part of the shared equity schemes.”

Emergency Budget Review

The Emergency Budget Review (EBR) of 2022-23 assessed all devolved spend (in-year) to free up resources for interventions on the cost-of-living crisis, improved pay deals and increased demand for certain public services. These were necessary due to the unforeseen impact of inflation at the time the original 2022-23 budget was set. The initial review undertaken in September identified £560 million in savings and the subsequent November review identified £615 million in spending reductions and reprioritisation.

There was also an increased focus on workforce planning with recruitment controls introduced by the Scottish Government:

“These included the requirement for Director General approval before any recruitment, re-grading of roles and new temporary responsibility supplement opportunities. These measures are expected to be in place until the end of the 2023/24 financial year.”

The AGS concludes that:

“The introduction of the EBRs indicates the Scottish Government was able to quickly apply financial management approaches to ensure a balanced budget was achieved. However, many of the options applied are non-recurring or delays to expenditure/policy introduction, such as utilising the drawdown of [Scotwind monies](#)⁴ or reserve balances. While this provides short-term relief to financial pressures it is not sustainable in the longer term.”

Social Security

The annual accounts of Social Security Scotland have had an audit qualification each year since 2018-19. This is in respect of the regularity of an estimated level of overpayments attributable to fraud and error in benefits administered by the Department of Works and Pensions (DWP).

⁴ Following the devolution of the Crown Estate, the ScotWind leasing process allowed developers to apply for seabed rights to plan and build windfarms in Scottish Waters. The Scottish Government claim that the [first leasing round generated £700 million for the public finances](#), and a subsequent clearing round in August 2022 generated a further [£56 million which was used as part of the Emergency Budget Review](#).

The 2022-23 accounts of Social Security Scotland include benefit expenditure of £3,402.6 million administered by the Department of Work and Pensions (DWP) under an agency agreement with Scottish Ministers. Due to this delivery arrangement, Social Security Scotland cannot directly assess the levels of fraud and error in these benefits “and is instead reliant on DWP’s annually published estimates.”

Estimated overpayments on benefits delivered by DWP resulting from fraud and error range from 1.1 to 5.2 per cent. The AGS’s report notes that this means an estimated £60.7 million of overpayments were made in Scotland.

“As a result, Social Security Scotland’s external auditor qualified their regularity opinion as these overpayments were not incurred in accordance with relevant legislation and regulations.”

This qualified audit opinion on the Social Security accounts requires the AGS to assess the potential impact of Social Security Scotland’s inclusions within the Scottish Government Consolidated Accounts. The AGS states in his report that:

“I concluded that, for 2022-23, the likely amount of error and fraud incurred is not significant enough to influence the economic decisions of the users of the consolidated accounts and therefore I have not qualified my opinion in respect of this matter.”

Crown Office and Procurator Fiscal Service

The Scottish Government’s Consolidated Accounts includes details of losses and special payments. The largest individual special payment was of £16 million made by the Crown Office and Procurator Fiscal Service (COPFS) during 2022-23 (page 115) which relates to specific legal cases brought against the Lord Advocate by individuals in connection with the acquisition and administration of Rangers Football Club. Provisions for liabilities and charges (page 175) include £8.8 million in respect of the same cases.

To date the COPFS has accounted for £60.5 million of unplanned costs in connection with these claims against the Lord Advocate. Some cases have been resolved, with sums paid to the pursuers totalling £51.7 million to March 2023 with a further £8.8 million provided in respect of cases still to be finalised. In February 2021, the Lord Advocate made a statement in the Scottish Parliament about this matter and has committed to further public accountability and to a process of inquiry once all litigation has concluded.

Borrowing

Under the terms of the Scotland Act 2016, the Scottish Government can borrow £450 million per year, up to a cumulative total of £3 billion for capital spending. Capital borrowing can be used to allow the Scottish Government to increase the amount of capital investment that can be undertaken (which would otherwise be limited by the capital budget set by HM Treasury and any revenue-financed investment).

The AGS's report notes that capital borrowing in 2022-23 was £300 million, which is lower than the £450 million threshold.

The Scottish Government can also borrow for resource spending, up to a maximum of £300 million per year (increased to £600 million from 2024-25 by the revised Fiscal Framework) and up to a cumulative maximum of £1,750 million.⁵ However, such borrowing is only allowed if there have been forecast errors. That is, the resource borrowing can only be accessed if errors in forecasts meant that the Scottish Government has access to less resources than had been expected due to errors in the forecasts on which the budget was based. This can reflect errors either in the Scottish Fiscal Commission or Office for Budget Responsibility forecasts, both of which underpin the Scottish budget.

In 2022-23, the Scottish Government borrowed £47 million for resource spending, which was permitted due to forecast errors in previous budgets.

In relation to combined capital and resource borrowing, the AGS notes (paragraph 24) that:

“Due to the accumulation of annual borrowing in recent years, loan repayments are increasing and totalled £160 million in 2022-23 (£95 million in 2021-22). The Scottish Government will need to continue to manage these loan repayments alongside all other financial pressures in the years ahead.”

Investment in private companies

During 2022-23 the Strategic Commercial Assets Division (SCAD) was formed with the purpose of consolidating expertise and increasing capacity to respond in cases arising where companies require support or intervention from the Scottish Government.

There are a number of financial interventions in private companies undertaken by the Scottish Government, which are now being managed by SCAD.

⁵ As mentioned, the revised fiscal framework has increased the borrowing limits from 2024-25 by inflation (as measured by the Treasury's GDP deflator at the time of the Scottish Budget 2024-25). The deflator at the time of the Scottish Budget in December 2023 was 1.68%. As such, the capital borrowing annual limit for 2024-25 was increased from £450 million to £458 million and a cumulative total of £3.05 billion. The Resource borrowing cumulative cap total increased from £1.750 to £1.779 billion. The Scotland Reserve cap increased from £700 million to £712 million.

Total investments incurred in private companies in 2022-23, the total overall and the value of the private companies are reflected in the consolidated accounts. These are summarised in [exhibit 2 of the AGS audit of the 2022-23 Consolidated accounts](#). Key points of note include:

- Prestwick Airport incurred spend of £1.7 million in 2022-23, taking total Scottish Government investments to £52.5 million, with the airport valued at £11.6 million
- Ferguson Marine (Port Glasgow) Holdings Limited (FMPG) has had total investment of £237.5 million (£63.2 million in 2022-23) and is valued at £82.6 million.
- The Scottish Government has invested £50.9 million in Burntisland Fabrications Limited (BiFab). BiFab was placed in administration in December 2020 and the Scottish Government is now pursuing a return through the administration process.
- In December 2016, the Scottish Government issued a 25-year financial guarantee contract to SIMEC Lochaber Hydropower Limited. The Scottish Government receive an annual fee in return for the guarantee. The Scottish Government's annual exposure is between £14 million and £32 million, over the lifetime of the contract. In March 2021, Greensill Capital (UK) Limited, the major provider of working capital to GFG Alliance (the holding company), went into administration. There continues to be uncertainty regarding the financial stability of GFG Alliance group.

European Structural and Investments Funds

Following the UK's withdrawal from the European Union, ESF and ERDF funding is being replaced by UK Government-led funding programmes including the Shared Prosperity Fund, Community Renewal Fund, Community Ownership Fund and the Levelling-up Fund. This has been [an area of Committee interest](#).

Guidance setting out the requirements of the Shared Prosperity Fund was issued in August 2022 and three rounds of Levelling Up Funds have been announced. The UK Government has committed to match previous EU funding. Under the Withdrawal Agreement, the UK will continue to participate in the Multiannual Financial Framework programmes, like ESF, until it ends in 2024.

The AGS report notes (paragraph 29) that both the European Social Fund (ESF) and the European Regional Development Fund (ERDF) remain operational with access to funding available until June 2024. At page 88 of the Consolidated Accounts the Scottish Government includes some commentary on the long-term risks at the close of the European Structural Fund Programmes in 2025 and approaches they are taking to manage these risks.

Paragraph 30 of the AGS's report discusses a "new methodology" for reclaiming costs from these European funding schemes, stating:

“As a result of implementing the new methodology, the Scottish Government anticipates being able to reclaim less than it pays out to lead partners. As a consequence, the Scottish Government assessed the recoverability and have written off £36 million to date in respect of grant payments already made (£16 million in 2020/21; £2 million unwinding of the write-off in 2021/22, and a further £21.5 million in the 2022/23 Consolidated Accounts).”

Resettlement of displaced Ukrainians

The Consolidated Accounts reflect total expenditure of £231 million of support to Ukrainians in Scotland in 2022-23, and a financial commitment of £25.5 million in relation to temporary accommodation contracts.

The AGS’s report provides an update on the Ukrainian resettlement programme. By the end of June 2023, the Scottish Government had sponsored 32,600 visas and more than 25,100 displaced people from Ukraine had arrived in the UK on a visa with a Scottish sponsor.

The AGS notes the “swift action taken by the Scottish Government to assist displaced Ukrainians applying some of the lessons learned from its response to the Covid-19 pandemic.”

Financial sustainability

Whole of Government Accounts

Accounts for the whole of the devolved public sector would provide an overall perspective on the financial position of the public sector. This comprehensive picture is difficult to obtain from individual sets of accounts. According to HM Treasury:

“The aim of Whole of Government Accounts (WGA) is to enable Parliament and the public better to understand and scrutinise how taxpayers’ money is spent. By presenting the public finances in a framework familiar to the commercial and accountancy professions, WGA increases transparency and accessibility of information about public finances.”

The Scottish Government has committed to producing accounts covering the whole of the devolved public sector. This commitment dates back to 2016, as per para 43 of Audit Scotland’s 2019-20 audit of the Scottish Government Consolidated Accounts. However, the Auditor General for Scotland had been recommending the production of such accounts prior to this – see for example paragraphs 33-34 of the Public Audit Committee Legacy Paper from Session 4.

The AGS notes the continued lack of progress around the presentation of the Whole of Government Accounts (WGA).

The AGS states:

“the Scottish Government continues to explore how it intends to prepare these accounts while ensuring they are meaningful and transparent. I understand that an alternative proposal is currently being developed. The Scottish Government needs to agree its approach to the provision of consolidated information for the Scottish public sector and agree a timetable for completion. The continuing absence of a full public sector account reduces the transparency and accountability over public spending, assets and liabilities in Scotland.”

Public service reform

The Consolidated Accounts notes the Scottish Government’s ten-year programme of public service reform which is “focused on ensuring Scotland’s public services are sustainable and continue to improve outcomes and reduce inequalities.” Alongside work with public bodies “to consider all opportunities to reduce cost and direct collective resources towards shared priorities”, the accounts explain that work is “ongoing to review and reform structures that support local governance and community planning.” The Committee is also undertaking ongoing scrutiny of the Scottish Government Public Service Reform programme.

The AGS report outlines the Scottish Government’s plans for public service reform, including the creation of the Public Service Reform Directorate in paragraphs 44-45. He states:

“I recognise that public service reform will take time and that the Scottish Government will need to balance short-term efficiencies, to assist the challenging immediate financial situation, with longer-term ‘spend to save’ reform plans.

The Scottish Government must develop a clear roadmap of how the design and delivery of public services will be transformed to be financially sustainable.”

The AGS is planning to undertake a performance audit on Public Service Reform and Fiscal Sustainability this year, with the expectation it will report towards the end of 2024.

Financial and Performance reporting

Scotland Reserve

The AGS notes that with regard to the Scotland Reserve, the Scottish Government’s “policy is to apply any underspends for use in the following financial year –

The 2022-23 provisional outturn statement notes that £700 million was used to support expenditure in 2022-23 with a further £244 million due to be applied in 2023-24.”

However, the AGS concludes:

“The Scotland Reserve balance is not in the financial statements within the Scottish Government Consolidated Accounts. Information about the Scotland Reserve should be considered as part of the Scottish public sector consolidation detailed at paragraph 43 above.” [This relates to the provision of Whole of Government accounts mentioned above].

Performance reporting

Pages 4-75 of the Consolidated Accounts are taken up by a performance report. This includes a headline summary of progress made towards Scottish Government’s strategic priorities during 2022-23 and information on progress on a portfolio-by-portfolio basis in a Performance Analysis section.

The AGS notes that the performance report is too long and it is challenging to form an overall picture of performance and how this links to financial decision making. In similar comments to previous audits of the Consolidated accounts, the AGS states:

“The performance report needs to be shorter, more concise and more transparent with a golden thread linking all aspects of performance and providing an overall view of progress. The lack of good indicators and milestones across all areas makes monitoring the impact of policy and spending decisions more difficult. It also makes it harder for the Parliament and the public to scrutinise the Scottish Government’s performance and assess whether spending is achieving maximum value.

I noted last year that some limited improvements had been made to the performance report and recognise that this has continued. It still remains difficult to form an overall picture of the performance of the Scottish Government and its own contribution to the national outcomes.”

Governance

Governance arrangements

The Governance Statement on pages 77-93 of the accounts summarises how the core Scottish Government is controlled and directed.

The AGS is “content that the Governance Statement is consistent with the financial statements and has been prepared in accordance with guidance issued by the Scottish Ministers.”

The AGS states:

“I reported last year that many of the main governance groups are attended by the same individuals (both executive and non-executive) and cover similar topics, themes and risks. This increases the risk of duplication, inefficiency, or blurred lines of responsibility between the different roles and remits of each group.

I am aware that alternative approaches are being piloted, however the governance and assurance process should be reviewed, refined and streamlined where appropriate. Such a review would offer the Scottish Government the opportunity to consider further its governance and operational structures and streamline its decision-making processes to fully support the various demands, both internal and external, on the organisation.”

Ross Burnside

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