KPMG

INFRASTRUCTURE, GOVERNMENT AND HEALTHCARE

Scottish Criminal Cases Review Commission

Annual audit report to the Scottish Criminal Cases Review Commission and the Auditor General for Scotland

Year ended 31 March 2009

17 June 2009

AUDIT

AUDIT ▪ TAX ▪ ADVISORY

Contents

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About this report

This report has been prepared in accordance with the responsibilities set out within the Audit Scotland's *Code of Audit Practice* ("the Code").

This report is for the benefit of only the Scottish Criminal Cases Review Commission and is made available to Audit Scotland (together "the beneficiaries"), and has been released to the beneficiaries on the basis that wider disclosure is permitted for information purposes, but that we have not taken account of the wider requirements or circumstances of anyone other that the beneficiaries.

Nothing in this report constitutes an opinion on a valuation or legal advice.

We have not verified the reliability or accuracy of any information obtained in the course of our work, other than in the limited circumstances set out in the scope and objectives section of this report.

This report is not suitable to be relied on by any party wishing to acquire rights against KPMG LLP (other than the beneficiaries) for any purpose or in any context. Any party other than the beneficiaries that obtains access to this report or a copy and chooses to rely on this report (or any part of it) does so at its own risk. To the fullest extent permitted by law, KPMG LLP does not assume any responsibility and will not accept any liability in respect of this report to any party other than the beneficiaries.

Executive summary

Financial statements

On 17 June 2009 we issued an audit report expressing an unqualified opinion on the financial statements of the Commission for the year ended 31 March 2009 and on the regularity of transactions reflected in those financial statements.

The Commission continues to disclose a contingent liability in respect of potential lease dilapidations, which will require to be reviewed in 2009-10 following management's decision on future accommodation arrangements.

Procedures are in place to ensure discussion of key guidance from the Commission's Scottish Government sponsor division, as well as other relevant laws and regulations.

Use of resources

The financial outturn is within the Scottish Government funding allocation and the Commission exceeded its efficiency target for 2008-09.

Progress continues to be made in addressing information technology risks, particularly in relation to information security, but internal audit reported concerns over the lack of a formal business continuity plan.

Corporate governance

The statement of internal control does not disclose any significant weaknesses in the Commission's systems of internal control. The content of the SIC is consistent with our understanding.

Internal audit's annual report concluded that there was "*substantial assurance on the risk, control and governance arrangements established by the Scottish Criminal Cases Review Commission*".

Performance management

As outlined on our audit plan overview 2008-09, no specific performance audit work was required to be undertaken during the year. The Commission achieved three out of four performance targets and continues to make progress in establishing arrangements to secure Best Value.

Scope

Our audit work is undertaken in accordance with Audit Scotland's *Code of Audit Practice*. This specifies a number of objectives for our audit.

Audit framework

This year was the third of our five-year appointment by the Auditor General for Scotland as external auditors of the Scottish Criminal Cases Review Commission ("the Commission"). This report to the Commission and Auditor General provides our opinion and conclusions and highlights significant issues arising from our work.

We outlined the framework under which we operate, under appointment by Audit Scotland, in the audit plan overview issued to the Commission on 20 April 2009.

The purpose of this report is to report our findings as they relate to:

- the **financial statements** and our audit opinions on net operating costs and the regularity of transactions;
- **use of resources**, including financial outturn for the year ended 31 March 2009 and financial plans for 2009-10;
- arrangements around **governance and accountability**, including risk management and our consideration of the work of internal audit; and
- **performance management** and the Commission's arrangements to achieve efficiency savings.

Best Value

Audit Scotland and the Scottish Government have been committed to extending the Best Value audit regime across the whole public sector for some time now, with significant amounts of development work having taken place during the last year. Using the Scottish Executive's nine best value principles as the basis for audit activity, Audit Scotland selected five areas as priority development areas (use of resources, governance and risk management, accountability, review and option appraisal, and joint working).

Plans are being developed for the application of a series of toolkits on the use of resources in future years based on an assessment of risks during the audit planning process.

Responsibilities of the Commission and its auditors

External auditors do not act as a substitute for the Commission's own responsibilities for putting in place proper arrangements to account for the stewardship of resources made available to it and its financial performance in the use of those resources, to ensure the proper conduct of its affairs, including compliance with relevant guidance, the legality of activities and transactions, and for monitoring the effectiveness of those arrangements and, through the accountable officer, to make arrangements to secure Best Value.

Action plan

This report includes an action plan containing one area for development identified during our financial statements audit fieldwork. Responsibility for taking action and monitoring progress in response to all our recommendations lies with management.

Acknowledgement

We wish to record our appreciation of the continued co-operation and assistance extended to us by your staff.

Financial statements

We have issued unqualified opinions on the financial statements and the regularity of transactions reflected in those financial statements.

One key issue arose from our audit of the financial statements. The Commission continues to consider its future accommodation plans. The outcome of this decision will determine whether the Commission is required to meet lease dilapidation costs. A contingent liability is disclosed in the 2008-09 financial statements.

Recommendations

The action plan includes a recommendation for improvement in the following area:

Area for development	Action plan reference
Management need to consider the impact of decisions on accommodation arrangements and consider any potential liability in relation to lease dilapidations.	One

Audit opinions and key issues

Reporting arrangements and timetable

In accordance with the Commission's timetable, draft financial statements were available for audit on 26 May 2009. This allowed for timely completion of the audit and consideration and approval of the financial statements after the audit committee on 9 June 2009.

Audit opinion

Following approval we issued an audit report expressing an unqualified opinion on the financial statements for the year ended 31 March 2009 and on the regularity of transactions reflected in those financial statements.

Key issues arising during our audit of the financial statements

Our audit plan overview identified some key risk areas. We have concluded our work in these areas and summarise the results throughout this report. One risk related to the financial statements and our conclusion is summarised below.

Key risk area	Conclusions
Lease dilapidations	Under the terms of the property lease for Portland House, which is due to expire in 2014, there is a requirement that the Commission return the premises to the landlord in a specified condition, excepting fair wear and tear. Over the period of the lease internal redecoration and redesign of the premises has been completed by the Commission. To date, management has been unable to estimate the potential costs of meeting this obligation and, in line with 2007-08, disclosed this obligation as a contingent liability. Management's anticipated decision in 2009-10 on future accommodation arrangements will require them to undertake a review to facilitate quantification of the potential costs of returning the premises to the landlord.

We did not identify any other risk areas during our audit of the financial statements.

Regularity of transactions

In order to gain assurance over the regularity of expenditure we updated our understanding over the processes in place to receive Scottish Government circulars, register, allocate and distribute responsibility for action points and monitor and follow up these action points.

We have considered the specific requirements of a number of financial circulars, particularly those in relation to remuneration, and did not identify any instances of non-compliance.

Service organisations

Our audit approach is tailored to reflect the Commission's arrangement whereby accountancy services are provided by the Scottish Government.

Implementation of International Financial Reporting Standards

The public sector will prepare full IFRS compliant financial statements for the year ending 31 March 2010. This is preceded by a shadow conversion process.

The 2007 Budget had announced that central government and health bodies would report under international financial reporting standards ("IFRS"), as adapted by HM Treasury through the financial reporting manual ("IFReM"), from 2008-09. Following consultation with Government departments and the Financial Reporting Advisory Board on the technical work needed to implement this change, the Government now intends to move to IFRS from 2009-10 as announced in the 2008 Budget.

Central government bodies will be required to prepare their financial statements on the basis of the IFReM from 2009-10. Shadow IFReM financial statements, including an opening balance sheet, will be required for 2008-09. The shadow IFReM financial statements were subject to a 'dry run' audit in accordance with timescales prescribed by the Scottish Government. The timescales are set out in the table below.

	Presented for audit	Completion of dry-run audit
Opening 2008 IFRS based balance sheet	28 November 2008	28 February 2009
2008-09 shadow IFRS based financial statements	30 November 2009	28 February 2010

As a result of the audit of opening balances a report was issued to management highlighting the work done, our findings and areas for further work by management. This did not identify any significant matters. Our work was undertaken in accordance with guidance included in Audit Scotland's note for guidance 2008/6: *Auditors' role in the implementation of international financial reporting standards*. The Commission is continuing to plan for the production of the shadow IFReM financial statements.

Our work on the 2008-09 shadow IFReM based financial statements will be performed as part of our 2009-10 audit.

Use of resources

The financial statements report a surplus against Scottish Government funding in 2008-09.

The Commission exceeded its efficiency target through increased use of information technology and process improvement.

Internal audit reported that the Commission does not have a formalised business continuity plan. Management continues to making progress in formalising suitable arrangements. Management has made progress in addressing information technology risks, particularly in relation to information security.

Recommendations

We did not identify any significant recommendations for development of the Commission's arrangements to manage the use of resources.

Financial management; information management

Financial position and budgetary control

Our audit plan overview identified a key risk area in relation to the Commission's funding. We have concluded our work in this area and summarise the results below:

Key risk area	Conclusions
Funding requirements	There was a risk that inadequate funding levels would lead to the Commission being unable to discharge its corporate aims and objectives effectively. The Commission achieved three out of four key targets and reported an underspend against its Scottish Government funding allocation.

The Commission achieved an outturn of £1,016,474 against a budget of £1,215,000. The main reason was reduced staff and non-pay costs against budget for the year. Reduced staff costs were the result of a vacancy at legal officer level, compared to the Commission's agreed staff complement, and savings arising from turnover at administrative level. Within non-pay costs, the Commission made savings over the course of the year in relation to postal charges, advertising, publications and office equipment.

We have reviewed the financial and budgetary control systems and concluded that they are adequate for the size of the organisation.

Capital expenditure of £6,543 was incurred compared to the budget of £15,000.

Efficiency savings

The Commission achieved £202,931 of savings against a target of £78,486. Savings were primarily achieved through increased use of information technology and process improvement initiatives.

Financial planning

The 2009-10 financial plan forecasts an outturn of £1,213,500 compared to the corporate plan outturn of £1,250,750.

Information management

The third key risk area identified in our audit plan overview, and our subsequent consideration of management's arrangements, is summarised below:

Key risk area	Conclusions
IT security	A number of risks were identified in the prior year in the Commission's corporate risk register in relation to IT security. Management has reviewed the register and made progress in upgrading the back-up system, which was completed in November 2008. Procedures have been established to combat any external breach of IT security.

Internal audit reported that the Commission does not have a formalised business continuity plan in place. Management continue to making progress in formalising suitable arrangements.

Governance and accountability

The statement of internal control does not disclose any significant weaknesses in the systems of internal control. The content of the statement is consistent with our understanding of the Commission.

Internal audit completed their agreed plan for the year and concluded that there was "*substantial assurance on the risk, control and governance arrangements established by the Commission*".

The majority of key financial controls are designed appropriately and operating as intended.

There are procedures to ensure consideration of guidance from the Scottish Government, together with other relevant laws and regulations.

Recommendations

We did not identify any significant recommendations for development in governance and accountability arrangements.

Corporate governance arrangements

Introduction

Corporate governance is concerned with structures and processes for decision-making, accountability, control and behaviour. The three fundamental principles of corporate governance – openness, integrity and accountability – apply to all bodies.

Through its chief executive, the Commission is responsible for establishing arrangements for ensuring the proper conduct of its affairs, including compliance with relevant guidance, the legality of activities and transactions, and for monitoring the adequacy and effectiveness of these arrangements. The *Code* requires auditors to review and report on the Commission's corporate governance arrangements as they relate to:

- the Commission's reviews of its systems of internal control, including its reporting arrangements;
- prevention and detection of fraud and irregularity;
- standards of conduct and arrangements for the prevention and detection of corruption; and
- its financial position.

Corporate governance framework

The Commission's corporate governance framework was established in line with the management statement and associated financial memorandum with the Scottish Government. The management statement sets out the broad framework within which the Commission should operate, although it is not legally binding, and details the responsibilities and accountabilities of the Scottish Ministers, the chair of the Commission and the Commission's Accountable Officer. The financial memorandum sets out financial provisions in greater detail.

The Commission's board currently operates with nine members appointed by Her Majesty The Queen on the recommendation of the Scottish Minsters. The Ethical Standards in Public Life etc. (Scotland) Act 2000 required the implementation of a code of conduct for board members, outlining their responsibilities. In line with the model code, the Commission's code contains rules of conduct on:

- general conduct;
- registration and declaration of interests;
- lobbying and access to members of public bodies; and
- political activity.

The register of interests of members is updated twice annually and is made available for review on the Commission's website.

We considered the Commission's corporate governance arrangements, which, combined with that of internal audit, allowed us to conclude that, the corporate governance framework has been designed and implemented appropriately.

Statement on internal control ("SIC")

We are satisfied that the statement complies with the Scottish Government guidance, that the processes put in place by the accountable officer to obtain assurances on the system of internal control are adequate, and that the contents of the statement are consistent with the information emerging from our normal audit work.

Risk management; internal audit; prevention and detection of fraud and irregularity

Risk management

The board delegated authority for establishing and monitoring arrangements to the audit committee. The audit committee approved the risk management strategy and risk register in December 2008. The strategy includes guidance on objective setting, risk identification, evaluation of risk, controls identification and evaluation, review and assurance of risks. The risk register is also considered by the board, which retains ownership of the risk register.

Internal audit

Internal audit services are provided by the Scottish Government internal audit division. In their annual report, internal audit concluded that there is "*substantial assurance in relation to the risk, control and governance arrangements in place at the Commission*."

In conducting our work for the year we have given due consideration to the findings of internal audit.

Fraud and irregularity

The Commission's approved fraud policy identifies specific responsibilities for the prevention and detection of fraud. The Commission also has an approved public interest disclosure reporting policy, which complies with the requirements of the Public Interest Disclosure Act 1998.

Management did not identify any significant instances of fraud or irregularity during the year.

Performance

The Commission achieved three out of four performance targets.

Management's consideration of Best Value is based on an internal action plan, which reports that progress has been made in establishing processes in 2008-09 and management anticipate that each of the nine Best Value principles will be 'well developed' during 2009-10.

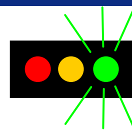
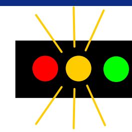
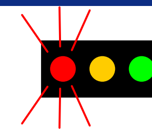
Recommendations

We did not identify any significant recommendations for development in performance management arrangements.

Performance management

Performance management arrangements

The Commission sets itself specific targets on an annual basis. We have summarised management's performance report on achievement of 2008-09 targets in the diagram below.

Progress against targets		
Fully achieved 3 targets (75%) 	**Partially achieved** None 	**Not achieved** 1 target (25%) 

Management did not achieve its target of ensuring that sufficient cases were reviewed to ensure that none were more than 12 months old at the start of the 2009-10 reporting year. The management commentary in the Annual Report notes that this was a challenging target and only one case is now older than 12 months. The target in the previous year was 95%; demonstrating improvement during 2008-09 despite the overall target of 100% not being achieved.

Performance targets for 2009-10 are similar to 2008-09. Management has increased the target on allocating cases to legal officers from one month in 2008-09 to ten days in 2009-10.

Best Value

In 2006-07, management completed a self-assessment against the nine core principles of Best Value and reported that the Commission was either 'well developed' or 'under development' in all categories. An action plan was agreed which identified a number of actions to be taken forward during 2007-08, with a responsible officer and review date identified for each action.

In December 2007, the Best Value action plan was updated to reflect progress made and identified that all actions were either complete or underway. During 2008-09, progress has been made in the majority of areas. Management anticipates that all outstanding and ongoing actions will be implemented during 2009-10.

Appendix one – action plan

Priority rating for recommendations		
Grade one (significant) observations are those relating to business issues, high level or other important internal controls. These are significant matters relating to factors critical to the success of the Commission or systems under consideration. The weakness may therefore give rise to loss or error.	**Grade two** (material) observations are those on less important control systems, one-off items subsequently corrected, improvements to the efficiency and effectiveness of controls and items which may be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified.	**Grade three** (minor) observations are those recommendations to improve the efficiency and effectiveness of controls and recommendations which would assist us as auditors. The weakness does not appear to affect the availability of the controls to meet their objectives in any significant way. These are less significant observations than grades one and two, but we still consider they merit attention.

No.	Issue and recommendation	Management response	Officer and due date
1	Future plans for the accommodation remain uncertain, together with the potential cost of any lease dilapidations. Management's anticipated decision in 2009-10 on future accommodation arrangements will require them to undertake a review to facilitate a quantification of the potential costs of returning the premises to the landlord at the end of the lease. *(Grade two)*	Agreed. In line with the Commission's Asset Management Plan, the value of any lease dilapidations will be assessed in 2009-10 at which point advice will be sought if necessary on the appropriate means of providing for any likely future costs.	Director of Corporate Services 31 March 2010