



Scottish Courts and Tribunals Service

2020/21 Annual Audit Report to the Board and the
Auditor General for Scotland

August 2021



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Key messages

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This report concludes our audit of Scottish Courts and Tribunals Service for 2020/21.

This section summarises the key findings and conclusions from our audit.

<p>Annual report and accounts</p>	<p>The annual report and accounts were approved by the SCTS Board on 16 August 2021. We report within our independent auditor’s report unqualified opinions on the annual accounts, regularity and other prescribed matters.</p> <p>We found that SCTS has appropriate administrative processes in place to prepare the annual report and accounts, and the required supporting working papers. Our thanks go to staff at SCTS for their assistance with our work.</p>	
 <p>Financial Sustainability</p>	<p>Auditor judgement</p>	
 <p>Financial Management</p>	<p>Auditor judgement</p>	
<p>A key priority for SCTS is to address the court case backlog caused by the COVID-19 pandemic, and use the opportunities presented by this response, to develop a more efficient, resilient and user-focussed justice system. As a key partner in the Scottish Government’s Recover, Renew and Transform programme of work, SCTS has received additional funding in 2021/22 to enable them to increase court case capacity from September 2021. Current modelling suggests this increased capacity will enable SCTS to address the court case backlog by 2025.</p> <p>Medium term operational planning to support this increased capacity and business as usual activity is currently ongoing, including workforce planning and plans to address the maintenance backlog. Further work will be required to reflect this in the medium term financial strategy.</p> <p>The SCTS met the overall budgetary requirement for the Department Expenditure Limit (DEL) in 2020/21 reporting an underspend of £8.516million, of which £6.429million related to non-cash depreciation.</p> <p>In year funding movements totalled £31.8million of which £8.4million related to the exceptional loss of fees and fines income as a result of the pandemic. £7.5million was also allocated to set up remote jury centres. Scottish Government approved the application of revenue underspends to fund capital projects in year.</p> <p>Significant work has gone into building the technical capacity within the finance team and to the establishment of an appropriate team structure. However operating in a competitive market place, the finance team continues to face challenges in attracting appropriate, skilled recruits.</p>		

 <p>Governance & Transparency</p>	<p>Auditor judgement</p>	
 <p>Value for Money</p>	<p>Auditor judgement</p>	
<p>Governance arrangements at SCTS are deemed to be appropriate and have continued to operate effectively throughout the period. The COVID-19 pandemic has presented unprecedented challenges to the operation and governance of SCTS. However, we are satisfied that appropriate action has been taken to mitigate the impact of these challenges on SCTS' governance arrangements.</p> <p>Our assessment has been informed by a review of the corporate governance arrangements in place and the information provided to the Board and Committees.</p> <p>There is scope to improve the transparency of decision making by publishing Board and Committee papers on the SCTS website.</p>		
<p>An established and appropriate performance management framework is in place at SCTS with appropriate performance reporting to the Board. Performance has deteriorated compared with prior year; however this is partially explained by the significant impact of the pandemic on court waiting times.</p> <p>SCTS was innovative in its response to the pandemic, increasing the use of digital services to allow court activity to continue throughout lockdown restrictions. The Executive Team intend to undertake a lessons learned exercise in 2021/22 to support continuous improvement.</p>		

Definition

Our wider scope audit involves consideration of the Board's arrangements as they relate to financial sustainability; financial management, governance and transparency and value for money. We have used the following grading to provide an overall assessment of the arrangements in place as they relate to the four dimensions.



Introduction

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We carried out our audit in accordance with Audit Scotland's Code of Audit Practice and maintained auditor independence.

Scope

1. This report summarises the findings from our 2020/21 audit of the Scottish Courts and Tribunals Service (SCTS).
2. We outlined the scope of our audit in our External Audit Plan, which we presented to the Audit and Risk Committee at the outset of our audit. The core elements of our work include:
 - an audit of the 2020/21 annual report and accounts and related matters;
 - consideration of the wider dimensions of public audit work, as set out in Exhibit 1;
 - monitoring SCTS' participation in the National Fraud Initiative (NFI); and
 - any other work requested by Audit Scotland.

Exhibit 1: Audit dimensions within the Code of Audit Practice (2016)



Responsibilities

3. SCTS is responsible for preparing an annual report and accounts which show a true and fair view and for implementing appropriate internal control systems. The weaknesses or risks identified in this report are only those that have come to our attention during our normal audit work and may not be all that exist. Communication in this report of matters arising from the audit or of risks or weaknesses does not absolve management from its responsibility to address the issues raised and to maintain an adequate system of control.
4. We would like to thank all management and staff for their co-operation and assistance during our audit.

Auditor independence

5. International Standards on Auditing in the UK (ISAs (UK)) require us to communicate on a timely basis all facts and matters that may have a bearing on our independence.
6. We confirm that we complied with the Financial Reporting Council's (FRC) Ethical Standard. In our professional judgement, we remained independent and our objectivity has not been compromised in any way.
7. We set out in Appendix 1 our assessment and confirmation of independence.

Openness and transparency

10. This report will be published on Audit Scotland's website www.audit-scotland.gov.uk.

Adding value through the audit

8. All of our clients demand of us a positive contribution to meeting their ever-changing business needs. Our aim is to add value to the SCTS through our external audit work by being constructive and forward looking, by identifying areas of improvement and by recommending and encouraging good practice. In this way, we aim to help SCTS promote improved standards of governance, better management and decision making and more effective use of resources.

Feedback

9. Any comments you may have on the service we provide, the quality of our work and our reports would be greatly appreciated at any time. Comments can be reported directly to any member of your audit team.

Annual report and accounts

The annual report and accounts are the Board's principal means of accounting for the stewardship of its resources and its performance in the use of those resources.

In this section we summarise the findings from our audit of the 2020/21 annual report and accounts.

Annual report and accounts

Unqualified audit opinion on the annual report and accounts

The annual report and accounts for the year ended 31 March 2021 were approved by the Board on 16 August 2021. We report unqualified opinions within our independent auditor's report. We did not identify any significant adjustments to the unaudited annual report and accounts.

We found that SCTS has appropriate administrative processes in place to prepare the annual report and accounts and the required supporting working papers. Accounts presented for audit were of a good standard.

Overall conclusion

11. The annual report and accounts for the year ended 31 March 2021 were considered by the Audit and Risk Committee on 2 August 2021 and approved by the Board on 16 August 2021. Our independent auditor's report includes:
 - An unqualified opinion on the financial statements;
 - An unqualified opinion on regularity; and
 - An unqualified opinion on other prescribed matters.
12. Our audit opinion was based on the Board approving the financial statements and signing the letter of representation. Within the letter of representation, the Board confirmed that there are no subsequent events that require

amendment to the financial statements.

Our assessment of risks of material misstatement


13. The assessed risks of material misstatement described in the table below are those that had the greatest effect on our audit strategy, the allocation of resources in the audit and directing the efforts of the audit team. Our audit procedures relating to these matters were designed in the context of our audit of the annual report and accounts as a whole, and not to express an opinion on individual accounts or disclosures. Our opinion on the annual report and accounts is not modified with respect to any of the risks described below.

Our assessment of risks of material misstatement and how the scope of our audit responded to those risks

Management override

In any organisation, there exists a risk that management have the ability to process transactions or make adjustments to the financial records outside the normal financial control processes. Such issues could lead to a material misstatement in the financial statements. This is treated as a presumed risk area in accordance with ISA (UK) 240 - *The auditor's responsibilities relating to fraud in an audit of financial statements*.

Noted in the 2020/21 External Audit Plan

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14. We have not identified any indication of management override in the year leading to material misstatement or significant concern. We have reviewed SCTS' accounting records and obtained evidence to ensure that transactions were valid and accounted for correctly. We have also reviewed management estimates and the journal entries processed in the period and around the year end. We did not identify any areas of bias in key judgements made by management and judgements were consistent with prior years.
 15. In 2019/20 we identified that a number of users had access to both post and authorise manual journals. In response to this recommendation, SCTS have prepared a Manual Journal Policy (January 2021) to clarify the necessary approval and segregation of duties for different journal types. The journal should always be created by a separate individual but the policy does allow for one individual to approve, upload and post the journal providing the nature of the journal is in line with the scheme of delegation and the individual is executive officer level or above. We identified a number of these journals as part of our testing and did not identify any indication of fraud or management bias.
 16. With manual journals created outwith the nominal ledger, there is no control in place to prevent an individual from creating, approving and posting a journal, or to detect where this has occurred (for example, through exception reporting). Management rely on behaviours to comply with the policy and are assured that completion of daily/monthly reconciliations, the reconciliation assurance review process and oversight from Finance Business Partners should detect any significant indicators of fraud or error arising from manual journals. However, because of the lack of connectivity between the finance


and other systems across SCTS, there is a requirement for a high number of manual journals and therefore an increased risk of fraudulent or erroneous journals being posted.

Action Plan Point 1

Revenue recognition

Under ISA (UK) 240 - *The auditor's responsibilities relating to fraud in an audit of financial statements* there is a presumed risk of fraud in relation to revenue recognition. The presumption is that SCTS could adopt accounting policies or recognise income and expenditure transactions in such a way as to lead to a material misstatement in the reported financial position.


Noted in the 2020/21 External Audit Plan

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17. At the planning stage of our audit, we concluded that the revenue recognition risk was present in all revenue streams except for SCTS' revenue resource allocation from Scottish Government.
 18. We have gained reasonable and appropriate assurance on the completeness and occurrence of income, and we are satisfied that income is fairly stated in the financial statements. To inform our conclusion, we have evaluated the type and extent of revenue transactions and reviewed the controls in place over revenue accounting. We carried out substantive testing to confirm that SCTS' revenue recognition policy is appropriate and has been applied consistently throughout the year.

Risk of fraud in the recognition of expenditure

Practice Note 10 - *The Audit of Public Sector Financial Statements* recognises that most public sector bodies are net spending bodies and notes that there is an increased risk of material misstatement due to improper recognition of expenditure.

Noted in the 2020/21 External Audit Plan

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19. We have evaluated each type of expenditure transaction and documented our conclusions. We gained reasonable assurance over the completeness and occurrence of expenditure and are satisfied that expenditure is fairly stated in the financial statements. To inform our conclusion we carried out testing to confirm that SCTS' policy for recognising expenditure is

appropriate and has been applied consistently throughout the year.

Payroll records

SCTS introduced a new payroll system part way through 2020/21 with the old system due to be decommissioned in January 2021. Moving between key systems introduces additional risk of misstatement, especially when completed part way through a financial year. There is an increased risk of misstatement due to incomplete or duplicate payroll data following the transfer to the new system, or that transferred records are inaccurate.

Noted in the 2020/21 External Audit Plan

20. Data was transferred into the new payroll system (iTrent) as at 31 July 2020 by the new payroll provider MHR. SCTS operated iTrent in tandem to the old system for a number of months to confirm the accuracy of information, with the new system going live from 1 October 2020. Checks over the transfer and reconciliations between the two systems were completed in four stages;
- Stage 1 - SCTS reconciled outputs from the legacy payroll system to the information provided to MHR
 - Stage 2 – MHR confirm that data conversion files for the new payroll system reconcile to the legacy payroll values provided
 - Stage 3 – MHR and SCTS confirm that data loaded into iTrent reconcile to the legacy payroll system at an employee level
 - Stage 4 – MHR and SCTS confirm that totals per iTrent reconcile to the legacy payroll system.
21. We have reviewed the reconciliations and are satisfied that these have been appropriately completed. We have gained assurance that there is no material misstatement in the financial statements as a result of the transfer to a new payroll system.

Update to our initial risk assessment


22. Planning is a continuous process and our audit plans are updated during the course of our audit to take account of developments as they arise. We have specifically updated our risk assessment to identify asset valuation and the dilapidations provision as key accounting estimates. We recognised this as a key audit risk, as follows:

Valuation of tangible and intangible assets – key accounting estimate

SCTS has an extensive estate covering a range of buildings across Scotland. The value of land and buildings was £501.43 million as at 31 March 2020. SCTS values its assets on a five-year cycle, within indexation applied in intervening years to take account of price movements. The valuation provided by the valuer as at 31 March 2020 recognised a material uncertainty, indicating that lower confidence could be attached to the valuation than otherwise would be the case given the unprecedented impact of COVID-19 on global markets. We included an emphasis of matter paragraph in our independent auditor’s report on the 2019/20 financial statement to draw attention to this.

In addition, SCTS holds intangible assets with a value of £11.156 million as at 31 March 2020, including the internally generated case management system (ICMS). With no active market, these assets are held a depreciated replacement cost.

There is a significant degree of subjectivity in the measurement and valuation of tangible and intangible assets. This subjectivity and the material natures of SCTS’ asset base represents an increased risk of misstatement in the financial statements.

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23. During 2020/21, SCTS reported additions of £11.631 million to tangible assets and £8.283 million to intangible assets. We have reviewed these capital transactions and gained assurance that they have been accounted for in line with the Government Financial Reporting Manual (‘the FReM’) and SCTS’ accounting policies.
 24. SCTS capitalised enhancements of £4.837million to land and buildings in 2020/21. Management do not deem these additions to have had a significant impact on the current value of each asset, hence no valuation has been undertaken. Given the immaterial nature of each addition, we deem management’s assessment to be reasonable and have not identified any indication that the carrying value of the assets are materiality misstated.
 25. SCTS applies annual indexation in between the full valuation undertaken every five years. We have gained assurance that the carrying value of SCTS’ estate in the financial statements is in line with the valuer’s report received from the external valuers (Avison Young) and that the application of indexation was arithmetically correct. In accordance with ISA (UK) 500 “Audit Evidence” we have considered the competence, capability and objectivity of the professional valuer and did not identify any items which gave us cause for concern over the


suitability of the valuer. We confirmed that the basis of valuation for assets is appropriate based on their usage and reviewed the reasonableness of valuation assumptions applied. Overall, the valuation capital movements were in line with our expectation.

26. Management provided assurances that useful life and valuation of the Integrated Case Management System, is appropriate and that there are no material indicators of impairment. This conclusion is in line with our expectation and we have gained reasonable assurance that the carrying value of intangible assets is free from material misstatement.

Dilapidations provision – key accounting estimate

SCTS recognise a provision for estimated amounts due on the expiry of property leaseholds to return the properties to their original condition. The amounts due and timing of payment depends on the terms and conditions of each lease, the extent of alterations carried out by SCTS and general wear and tear over the period of the lease. The value of this provision as at 31 March 2020 was £3.990 million.

There is a significant degree of subjectivity in the measurement and valuation of provisions. This subjectivity represents an increased risk of misstatement in the financial statements.

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27. We are satisfied that the amount recognised as a provision appropriately reflects the data provided by the external valuer (Avison Young). We have reviewed management’s estimation for the provision and related disclosures, and are satisfied that these comply with the requirements of the FReM. In accordance with ISA (UK) 500 “Audit Evidence” we have considered the competence, capability and objectivity of the professional valuer and did not identify any items which gave us cause for concern over the suitability of the valuer.

Other risk factors

Impact of COVID-19 on the financial statements

28. COVID-19 continues to present unprecedented challenges to the operation, financial management and governance of central government bodies. We have continued to monitor the impact COVID-19 could have on the annual accounts, considering any government and/or relevant wider announcements as they pertain to the audit.
29. We have not identified any areas of increased risk of material misstatement to the financial statements and/or our audit opinion in response to COVID-19.

Key accounting estimates

30. Changes to ISA (UK) 540 “Auditing Accounting Estimates and Related Disclosures” places increased regulatory requirements on the auditor in respect of the auditing of significant estimates at the planning and completion stage.
31. We have identified asset valuation and the dilapidations provision as significant accounting estimates and have recognised a key audit risk in relation to these.
32. We have revisited this assessment throughout the audit and have not identified any other accounting estimates that we deemed to be significant to the overall financial statements. Consideration was given to depreciation rates, provisions, leases and accruals.

An overview of the scope of our audit

33. The scope of our audit was detailed in our External Audit Plan, which was presented to the Audit and Risk Committee in January 2021. The plan explained that we follow a risk-based approach to audit planning that reflects our overall assessment of the relevant risks that apply to SCTS. This ensures that our audit focuses on the areas of highest risk. Planning is a continuous process, and our audit plan is subject to review during the course of the audit to take account of developments that arise.
34. At the planning stage we identified the significant risks that had the greatest effect on our audit. Audit procedures were then designed to mitigate these risks.
35. Our standard audit approach is based on performing a review of the key financial systems in place, substantive tests and detailed analytical procedures. Tailored audit procedures, including those designed to address significant risks, were completed by the audit fieldwork team and the results were reviewed by the audit management team. In performing our work we have applied the concept of materiality, which is explained below.

Our application of materiality

36. Materiality is an expression of the relative significance of a matter in the context of the financial statements as a whole. A matter

is material if its omission or misstatement would reasonably influence the decisions of an addressee of the auditor's report. The assessment of what is material is a matter of professional judgement over both the amount and the nature of the misstatement. We review our assessment of materiality throughout the audit.

- 37. Performance materiality is the working level of materiality used throughout the audit. We use performance materiality to determine the nature, timing and extent of audit procedures carried out. We perform audit procedures on all transactions, or groups of transactions, and balances that exceed our performance materiality. This means that we perform a greater level of testing on the areas deemed to be at significant risk of material misstatement.
- 38. Performance materiality is set at a value less than overall materiality for the financial statements as a whole to reduce to an appropriately low level the probability that the aggregate of the uncorrected and undetected misstatements exceed overall materiality.
- 39. Our initial assessment of materiality for the financial statements was £2.700million. On receipt of the 2020/21 draft accounts, we reassessed materiality and kept it at £2.700million. We consider that our updated assessment has remained appropriate throughout our audit.

	Materiality £million
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Overall materiality: Our initial assessment is based on approximately 1.7% of SCTS' expenditure in 2020/21. Achieving a breakeven position through the application of parliamentary funding is a key target for SCTS and one of the principal considerations for the users of the accounts when assessing financial performance.	2.700
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Performance materiality: using our professional judgement we have calculated performance materiality at approximately 65% of overall materiality.	1.755
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- 40. We noted within our External Audit Plan that we would report to the Board all audit differences in excess of 5% of the overall materiality figure, as well as differences below that threshold which, in our view, warranted reporting on qualitative grounds. We also report on disclosure matters that we identify when assessing the overall presentation of the annual accounts.

Audit differences

- 41. We identified no material adjustments to the unaudited annual accounts. We identified some disclosure and presentational adjustments during our audit, which have been reflected in the final set of accounts. There were no

unadjusted differences to the unaudited annual accounts.

staff report; and a parliamentary accountability report.

Other matters identified during our audit

42. During the course of our audit we noted the following:

Other information in the annual report and accounts

43. "Other information" in the annual report and accounts comprises any information other than the financial statements and our independent auditor's report. We do not express any form of assurance conclusion on the "other information" except as specifically stated below.

The performance report

44. The performance report provides information on the entity, its main objectives and strategies and the principal risks that it faces. It comprises an overview of the organisation and a detailed summary of how the entity measures performance.
45. We have concluded that the performance report has been prepared in accordance with directions from Scottish Ministers and is consistent with the financial statements.

The accountability report

46. The accountability report is required in order to meet key parliamentary accountability requirements and comprises three sections: a corporate governance report (including the governance statement), a remuneration and

Governance statement

47. We reviewed the draft governance statement as part of our audit work and consider the coverage of the governance statement to be in line with our expectations.
48. Internal Audit provides a report on an annual basis which includes an independent opinion over the risk management, control and governance arrangements to support the governance statement. The 2020/21 report provided an opinion of reasonable assurance. This has been appropriately reflected in the Governance Statement.
49. We have concluded that the governance statement has been prepared in accordance directions from Scottish Ministers and is consistent with the financial statements.

Remuneration and staff report

50. We have concluded that the audited part of the remuneration and staff report has been prepared in accordance with directions from Scottish Ministers and is consistent with the financial statements.

Regularity

51. We have planned and performed our audit recognising that non-compliance with statute or regulations may materially impact on the annual report and accounts. We did not identify any instances of irregular activity.

52. In our opinion in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

Fraud and suspected fraud

53. We have previously discussed the risk of fraud with management. We have not been made aware of any incidents in the period, not have any incidents come to our attention as a result of our audit testing.
54. Our work as auditors is not intended to identify any instances of fraud of a non-material nature and should not be relied upon for this purpose. In the event that the directors wish to obtain enhanced assurance with regard to the effectiveness of internal control in preventing and detecting fraud we should be happy to provide additional services.

Non-compliance with laws and regulations

55. As part of our standard audit testing we have reviewed the laws and regulations impacting the business. There are no indications from this work of any significant incidences of non-compliance or material breaches of laws and regulations stopping the business from continuing as a going concern or that would necessitate a provision or contingent liability.

Accounting systems and internal control

56. As part of our work we considered internal controls relevant to the preparation of the financial statements such that we were able to design appropriate audit procedures. Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we report these to the SCTS. These matters are limited to those which we have concluded are of sufficient importance to merit being reported.
57. We are pleased to report we have not identified any significant system weaknesses.

Follow up of prior year recommendations

58. We followed up on progress in implementing actions raised in the prior year as they relate to the audit of the financial statements. Full details of our findings are included in Appendix 2.

Qualitative aspects of accounting practices and financial reporting

59. During the course of our audit, we considered the qualitative aspects of the financial reporting process, including items that have a

significant impact on the relevance, reliability, comparability, understandability and materiality of the information provided by the financial statements. Our audit conclusions on these qualitative aspects are as follows:

Qualitative aspect considered	Audit conclusion
The appropriateness of the accounting policies used.	The accounting policies, which are disclosed in the annual accounts, are consistent with the requirements of the FReM.
The timing of the transactions and the period in which they are recorded.	We did not identify any concerns over the timing of transactions or the period in which they were recognised.
The appropriateness of the accounting estimates and judgements used.	<p>We are satisfied with the appropriateness of the accounting estimates and judgements used in the preparation of the annual accounts.</p> <p>Significant estimates were made in relation to the valuation of land and buildings, and liabilities related to the dilapidations provision. These estimates were informed by advice from qualified, independent experts.</p> <p>We evaluated the competence, objectivity and capability of management experts in line with the requirements of ISA (UK) 500 and concluded that use of these experts was appropriate.</p>
The appropriateness of the going concern assumption	We reviewed the financial forecasts for 2021/22. Our understanding of the legislative framework and activities undertaken provides us with sufficient assurance that the SCTS will continue to operate for at least 12 months from the signing date.
The potential effect on the financial statements of any uncertainties, including significant risks and related disclosures that are required.	We did not identify any uncertainties, including any significant risk or required disclosures, which are not already included in the annual accounts.

Qualitative aspect considered	Audit conclusion
<p>The extent to which the financial statements have been affected by unusual transactions during the period and the extent that these transactions are separately disclosed.</p>	<p>From the testing performed, we identified no significant unusual transactions in the period.</p>
<p>Apparent misstatements in the annual report or material inconsistencies with the financial statements.</p>	<p>The annual report contains no material misstatements or inconsistencies with the financial statements.</p>
<p>Any significant financial statement disclosures to bring to your attention.</p>	<p>There are no significant annual accounts disclosures that we consider should be brought to your attention. All the disclosures required by relevant legislation and applicable accounting standards have been made appropriately.</p>
<p>Disagreement over any accounting treatment or financial statements disclosure.</p>	<p>While disclosure and presentational adjustments were made during the audit there was no material disagreement during the course of the audit over any accounting treatment or disclosure.</p>
<p>Difficulties encountered in the audit.</p>	<p>There were no significant difficulties encountered during the audit.</p>

Financial sustainability

Financial sustainability looks forward to the medium and longer term to consider whether the Board is planning effectively to continue to deliver its services and the way in which they should be delivered.

Auditor judgement



A key priority for SCTS is to address the court case backlog caused by the COVID-19 pandemic, response, and use the opportunities presented by this response, to develop a more efficient, resilient, and user-focussed justice system. As a key partner in the Scottish Government's Recover, Renew and Transform programme of work, SCTS has received additional funding in 2021/22 to enable them to increase court case capacity from September 2021. Current modelling suggests this increased capacity will enable SCTS to address the court case backlog by 2025.

Medium term operational planning to support this increased capacity and business as usual activity is currently ongoing, including workforce planning and plans to address the maintenance backlog. Further work is required to reflect this activity in the medium-term financial strategy.

Significant audit risk

60. Our audit plan identified a significant risk in relation to financial sustainability under our wider scope responsibilities:

Financial sustainability

COVID-19 has continued to have a significant impact on both the income and expenditure of SCTS and, as reported in 2019/20, work is still ongoing to quantify the potential impact on medium- and long-term financial plans. SCTS is expecting to deliver a balanced budget in 2020/21 but this has only been achievable through additional government funding of £9.9million and reductions in some operational costs as a consequence of the lockdown.

Court activity was halted for three months during 2020/21 resulting in a significant backlog across all aspects of SCTS' operations and there is uncertainty over whether this will increase further. SCTS contingency arrangements to manage court activity have been working well and new ways of operating are likely to become a more permanent feature of future service delivery, impacting on the operating model for SCTS.

SCTS' ability to address the backlog of cases and remain financially sustainable is dependent on additional financial support and will further impact their projected level of income and financial position over the medium term. Management continue to liaise with Scottish Government to ensure SCTS can respond to these operational challenges in a sustainable way.

Noted in the 2020/21 External Audit Plan

61. Our work and conclusions on SCTS' budget, financial strategy and management of the court case backlog is set out below. This notes a significant focus on addressing the court case backlog by increasing court capacity. Scottish Government has committed to funding in 2021/22 and continues to liaise with justice bodies to ensure the justice system can respond to these capacity challenges in a financially sustainable way.

Short term financial planning

62. SCTS presented the 2021/22 Business Plan and budget to the Board in March 2021. (inclusive of non-cash charges of £25.600million and a capital allocation of £8.000million). This is an increase of £6.700million compared to the 2019/20 budget (£122.600million). This uplift reflects pay and inflationary pressures, acceleration of service digitisation, increased judicial
63. The Scottish Government's budget for SCTS has been set at £129.300million for 2021/22

- pensions and COVID-19 safe environment provisions.
64. The 2021/22 Business Plan outlines projected revenue expenditure of £180.224million. This will be funded by the Scottish Government grant funding (£95.713million) and fees, fines and other operating income (£46.248million). It is assumed that the remaining £38.263million will be supported by in year funding allocations from the Scottish Government.
65. The majority of the forecasted in-year funding will support the continuation of remote jury trials and ongoing reforms within the Tribunals service. The Scottish Government has committed in-year funding of £5million in respect of civil fees and fines in anticipation of continued pressure on fees and fines income due to the COVID-19 pandemic.
66. The Board approved the budget in March 2021 and appropriately incorporated the additional financial challenges caused by the COVID-19 pandemic.

Capital Budget

67. The 2021/22 Business Plan outlines budgeted capital expenditure of £13.038million. This includes £5.038million of anticipated in year funding from the Scottish Government in respect of the new case management system for the Social Security Chamber (£3.1million) and investment in remote Jury Trials capacity (£1.8million).
68. The majority of the capital budget will be spent on developing and strengthening the digital infrastructure (£8.842million). The remainder will mostly be invested in SCTS and addressing the maintenance backlog (£3.926million)

Recover, Renew and Transform

69. With national lockdown announced on 23 March 2020, most of Scotland's criminal justice system was brought to a sudden halt.
70. Closed courts reopened on 1 June 2020 in line with Scottish Government guidance, albeit at reduced capacity to allow for social distancing. Criminal courts focused on the most serious trials with the majority of activity within Sheriff Court and Justice of the Peace Court adjourned.
71. There is now a significant backlog of cases that could not be brought to trial in 2020/21. Cases are taking longer to go to trial and the number of individuals on remand has increased.
72. Recognising the need for a collaborative approach across the justice sector, the Justice Board for Scotland has led and overseen the strategic response to the pandemic.
73. The newly established Criminal Justice Board has been tasked with leading the systems "Recover, Renew and Transform" programme of work, published by the Scottish Government in March 2021. This is a justice

collaboration that aims to enable the system to not only operate at pre-pandemic levels, but to prepare for future transformation.

74. The programme recognises that the criminal justice system must focus on the following between 2021 and 2025;
- Recover – returning to pre-pandemic capacity and address backlogs across the system;
 - Renew – prioritise the resolution of cases at the earliest opportunity and embed new ways of working; and
 - Transform – changing outcomes for those affected by the criminal justice system.
75. The immediate priority is recovery and addressing the backlog of court cases. Scottish Government has committed £50million of funding in 2021/22 to manage the consequences of increasing court case capacity. This includes wider costs across the justice system including prisons, community justice and legal aid.
76. The overarching aim ambition for the programme comes from the recognition that creating additional court capacity will not be sufficient. The programme aims to build a justice system that is effective, transparent, collaborative, safe, resilient, preventative and user focused.

Addressing the court case backlog

77. Civil and tribunal business has continued throughout the pandemic following the introduction of various processes

to allow business to be conducted electronically. These are running at pre-pandemic levels with a low level of backlog.

78. Lockdown restrictions have had a much higher impact on criminal business. Jury trials are now being held remotely with business running at pre-pandemic levels; however this has not been the case throughout 2020/21
79. Given the standard timelines for resolving court cases, there is always a low level of scheduled backlog within the system. In March 2020, prior to lockdown restrictions commencing, SCTS had the following number of cases in the system, which is deemed to be a typical level of backlog;
- High Court trials – 390
 - Sheriff Court solemn trials – 500
 - Sheriff summary criminal cases – 14,000
80. By March 2021, the forecast backlog had risen to;
- High Court trials – 770
 - Sheriff Court solemn trials – 2700
 - Sheriff summary criminal cases – 35,000
81. The additional funding allocated under the Recover, Renew and Transform programme will allow SCTS to establish additional criminal courts to increase capacity within the system.
82. Current plans propose introducing the following additional courts from September 2021, providing it is safe to do so;

- 4 High Courts
- 2 solemn Sheriff Courts
- Up to 10 summary Sheriff Courts

83. Current modelling suggests that this additional capacity will allow SCTS to address the summary trial backlog by 2024 and solemn case backlog by 2025.

Medium-term financial strategy

84. In 2019 the Executive and ARC approved the five-year financial strategy which covered the period 2019-2024. This outlined an increasing financial gap over the five years to 2024 and considered high level savings plans in response.
85. Under the Recover, Renew and Transform programme, SCTS have modelled the cost and operational impact of increasing capacity in the medium term. Scottish Government recognise that the additional capacity will have funding consequences over the period to 2025 but have only communicated funding commitments for 2021/22.
86. As a result, SCTS have not reviewed or updated their financial strategy. Medium term operational planning is ongoing across the organisation and we encourage management to review medium term financial plans to reflect the impact of this.

Action Plan point 2

Workforce planning

87. SCTS employ over 1,800 staff, with staff costs accounting for 45% of its revenue expenditure budget in 2021/22. The People Strategy outlines SCTS' vision of the workforce for the five-year period from 2018 to 2023. This is supported by workforce planning spreadsheets within each business area.
88. The SCTS workforce has had to adapt in response to the pandemic and lockdown restrictions, with up to 40% of staff transitioned to working remotely. A significant proportion of SCTS' work still requires staff to be on site though and maintaining their safety has remained a key priority.
89. Significant effort has gone into a programme of change to develop a new people system, streamlining processes and introducing innovations that will support people management and reduce staff input. SCTS plan to implement workflow and process improvements during 2021 and new recruitment module by March 2022. In the meantime, with plans to increase court case capacity at all stages of the process, there is an urgent need to recruit additional staff for 2021/22 using existing systems.
90. A new Recruitment and Resourcing Strategy for 2020-2023 has been published, aimed at streamlining recruitment processes and addressing the challenges of meeting future business need. Finance and HR continue to engage regularly to reflect the cost of the increased

staff compliment and impact on financial plans.

91. A skilled, adaptable and motivated workforce is essential in supporting SCTS address the court case backlog and deliver the Scottish Government's Recover, Renew, Transform programme (para 69). Development of robust workforce plans to manage increased compliment, identify skills required and implement succession planning processes and tools remains ongoing and will continue to be an area of focus in our 2021/22 audit.

Estates management

92. SCTS' estate comprises 71 buildings made up of courts, vulnerable witness suites, tribunals and offices. The vision, strategic priorities and objectives for the estate are outlined in the Estates Strategy 2016-2026.
93. We highlighted in 2019/20 that SCTS continues to operate with significant levels of backlog maintenance which is essential to the continued operation of the large court estate. SCTS recognise this as key priority and monitor annual spend as a key performance indicator.
94. Target spend on backlog maintenance for 2020/21 was set at £5.07million. SCTS were unable to initially budget for this in full, however they were able to redirect resources to maintenance projects as the year progressed.

In total SCTS invested £6.862million in 2020/21.

95. Recognising the growing financial burden of addressing backlog maintenance across the estate, SCTS have prepared a business case for future investment which will be submitted to Scottish Government in 2021/22.
96. The business case considers three detailed options for the estate refresh:
- Refurbishment of existing estate to maintain a 30-year lifespan and reduce maintenance costs over the next 30 years;
 - As above, plus partial reconfiguration to allow for increased operational demands;
 - As above, plus full reconfiguration and carbon neutral works to bring the estate towards compliance with Scottish Government targets.
97. The third option is the SCTS preferred route as it is deemed to deliver the greatest quantum of benefits whilst protecting against the reputational risk of a public sector body failing to achieve the Scottish Government target of net zero carbon by 2045.
98. All three options require significant investment and the appraisal of these is ongoing. SCTS are continuing to address backlog maintenance on an annual basis in the interim. This will continue to be an area of focus in our 2021/22 audit.

Financial management

Financial management is concerned with financial capacity, sound budgetary processes and whether the control environment and internal controls are operating effectively.

Auditor judgement



The SCTS met the overall budgetary requirement for the Department Expenditure Limit (DEL) in 2020/21 reporting an underspend of £8.516million, of which £6.429million relates to non-cash depreciation.

In year funding movements totalled £31.8million of which £8.4million covered the exceptional loss of fees and fines income as a result of the pandemic and £7.5million was provided to set up remote jury centres. Scottish Government approved SCTS commencing additional capital projects in year to utilise revenue underspends.

Significant work has gone into building the technical capacity within the finance team and established an appropriate team structure. However the team is facing challenges in attracting appropriate, skilled recruits and is currently operating with 16 vacancies.

Financial performance

99. All central government bodies have to work within the resource limits and cash requirements of the Scottish Government.
100. SCTS achieved a saving against its Departmental Expenditure Limit (DEL) of £8.421 million which represents an overall underspend of 5.5%. Of this, £6.429 million relates to an underspend against non-cash depreciation following the delay to implementing IFRS 16. The remaining £1.992million underspend resulted from an increased level of civil fee income. The overspend against capital DEL has been met by revenue underspends, as approved by Scottish Government.
101. The DEL outturn has increased by £12.223million compared to 2019/20. This is driven by significant spend on the jury restart project and a decline in civil and retained fees income due to the impact of the COVID-19 pandemic.

Performance against SBR budget

	Budget	Actual outturn	Variance
	£m	£m	£m
Capital DEL	16.365	19.914	(3.549)
Revenue DEL	137.719	125.654	12.065
Auditors Remuneration	0	0.095	(0.095)
Capital Annual Managed Expenditure (AME)	0	0.006	(0.006)
Revenue AME	0.306	0.150	0.156
Total	154.39	145.819	8.571

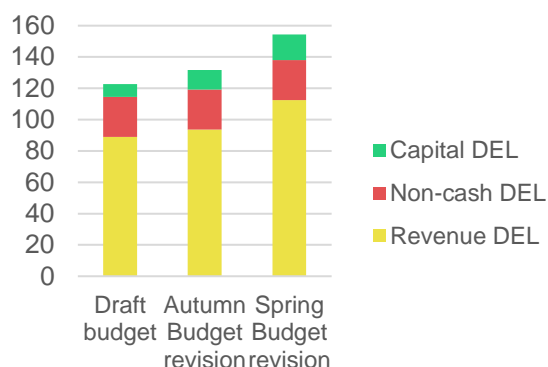
Revenue monitoring

102. The 2020/21 business plan established a revenue expenditure budget of £145.671 million. This was funded by Scottish Government grants of £88.815 million and fees, fines and other income of £45.829 million. The remaining £11.027 million was planned to be met

through in year funding from the Scottish Government.

103. The in-year funding movements totalled £31.800 million of which £0.300 million related to additional non-cash AME allocation.

Exhibit 5: In year budget variations (£millions)



104. The most significant elements of in year funding movements relate to the following;
- Additional funding to cover exceptional loss of fees and fines income (£8.4million);
 - Additional funding to set up external jury centres to allow jury trials to take place while COVID-19 restrictions are in place (£7.5million);
 - Transfer from Communities and Local Government to cover costs incurred by SCTS for the operation of the First-tier Tribunal Housing and Property Chamber (£3.2million); and
 - Reprioritisation of capital to meet additional costs (£3.1million).

105. The in-year funding exceeded budgeted levels following additional allocations in relation to

the COVID-19 pandemic and SCTS delivered underspends against both the cash and non-cash elements of DEL.

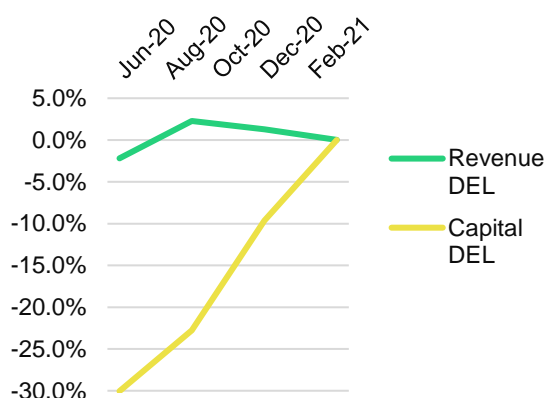
Capital monitoring

106. SCTS received an initial capital DEL allocation of £8.0million for 2020/21. This increased by over 100% to £16.4million following additional allocation through the Autumn and Spring Budget Revisions. The additional funding was allocated to support SCTS' significant digital transformation required in response to the COVID-19 pandemic.
107. In addition, Scottish Government approved SCTS commencing additional capital projects to utilise revenue underspends. These related to digital infrastructure, software and cyber security (£1.7million), building works (£1.3million) and electric fleet cars (£0.4million).
108. SCTS incurred capital spend of £19.914million against allocated budget of £16.365million. This results in an overspend of £3.549million which has been offset against revenue underspends and a capital receipt of £0.520million.
109. The majority of capital spend was on Digital Infrastructure & Development (£12.273million). The remaining spend relates to buildings and maintenance work (£4.837million), jury restart projects (£2.452million) and electric vehicles (£0.352million).

Budget monitoring

110. We reviewed the budget monitoring arrangements in 2020/21. The SCTS Board receive financial monitoring reports at each meeting which include a year-end forecast.
111. Revenue DEL forecast figures were consistently within 2.5% of the year end actuals. Capital DEL forecast figures were within 30% of year end actuals. We noted the most significant movement was between forecast capital expenditure of £15.379million in September which moved to £17.995million in December. This movement is aligned to the agreement with the Scottish Government to bring forward additional capital projects to utilise revenue underspends.

Exhibit 6: Forecast figures compared to year end actuals.



112. The AME budget was underspent by £0.150million in 2020/21. AME is generally more unpredictable than DEL expenditure and the outturn in year predominately relates to the movements in the dilapidation provision.

Management have continued to monitor the position against AME throughout the year as part of their financial monitoring reports.

Financial capacity

113. As part of our consideration of financial management we considered the capacity within the finance team including;
- The organisational structure and influence of the most senior finance professional; and
 - The quality and finance capability of the operational finance function.
114. SCTS' most senior financial officer is the Chief Finance Officer. As previously reported, whilst the CFO is a core member of the Executive Team and regularly attends the Audit and Risk Committee, there is no representative from finance on the Board and this may impact on the status of finance when making strategic decisions.
115. In 2018/19 we reported concerns regarding the financial capacity in the team and the number of atypical control weaknesses arising as a result. In 2019/20 we noted that a number of improvements had been made but further work was required to ensure this was sustainable and robust.

116. In November 2020 the Executive Team approved a business case to implement a new structure within the finance team and create five posts as part of this structure. Recruitment activity is underway

and the key changes in the finance team structure are;

- Creation of a new Financial Accounting Team responsible for annual accounts, capital accounting and technical matters; and
- Separation of Financial Governance and Systems into two teams to enable more focus on controls, fraud and financial risk management.

117. SCTS continue to invest in staff to improve technical capacity and professional competency. In addition to the nine fully qualified staff, 16 are currently undergoing professional financial training and an individual has been allocated responsibility of developing and maintaining an approach to financial training and development.

118. Whilst work has gone into building the technical competency of the team and creating the necessary team structure to support efficient operation, SCTS, in a competitive market place, continues to face challenges in recruiting and retaining appropriate staff.

119. At the time of writing, there were 16 vacancies within the team, nine of which relate to new work assigned to Finance. Operating with this level of vacancy will inevitably place additional pressure on existing staff, either through the need to cover additional work, involvement in recruitment or training of new staff. Successful recruitment of

these vacancies is key to minimising this impact.

120. In addition to the delays in recruitment activity caused by COVID-19, management have faced challenges in attracting appropriate recruits with the required technical background and has necessitated the use of contractors. Skills shortages in accountancy and finance continue to be a challenge across the recruitment market, with high competition driving increased salaries. In addition, there is a greater desire across the workforce for flexible or hybrid working options following this extensive period of remote working.

121. We encourage SCTS to reflect on additional actions that could be taken to attract suitably skilled individuals and support the successful recruitment for these vacant posts.

Systems of internal control

122. We have evaluated the Board's key financial systems and internal financial controls to determine whether they are adequate to prevent material misstatements in the annual accounts. Our approach has included documenting the key internal financial controls and performing walkthroughs to confirm that they are operating as intended.

123. We did not identify any material weaknesses in SCTS' accounting and internal control systems. However, we note that further action is required to address the audit recommendations raised in

prior year to further strengthen the control environment. See Appendix 2 for detail.

124. In late March 2020 SCTS moved to remote working where possible in response to COVID-19. Management recognised the increased risk of fraud or control weaknesses as a result and has increased the monitoring of compliance as a result. No significant control weaknesses have been identified in relation to the new working arrangements.

Prevention and detection of fraud and irregularity

125. Our audit was planned to provide a reasonable expectation of detecting material misstatements in the financial statements resulting from fraud and irregularity. We found the board's arrangements for the prevention and detection of fraud and other irregularities to be adequate and appropriate.
126. SCTS has a Fraud Policy in place which reflects the current arrangements in place and is subject to review on an annual basis. Regular updates on Frauds, Theft and Losses are presented to the Audit and Risk Committee at each meeting.
127. Audit Scotland published a report "*COVID-19 Emerging Fraud Risks*" in July 2020. The report identified that the COVID-19 pandemic has brought significant challenges across the Scottish public sector as bodies seek to deliver services for individuals,

communities and businesses in an extremely difficult time.

128. The report identifies five areas of expected increased risk due to COVID-19 pandemic which are directly relevant to SCTS; governance risk, procurement risk, payroll, IT and cyber crime and health and wellbeing risk.
129. In response, SCTS provided a summary position in regards to these identified risk areas and we are satisfied that arrangements in place are adequate.

Risk of fraud and corruption in the procurement function

130. Audit Scotland highlighted fraud and corruption in respect of the procurement function as a matter of particular focus in the public sector. We completed a high-level review of SCTS' procurement policies and processes in 2019/20 and did not identify any reportable issues. We have revisited this assessment in as part of our 2020/21 audit and are satisfied that the risk of fraud and corruption in the procurement function remains as low.

National Fraud Initiative (NFI)

131. The NFI is a counter-fraud exercise co-ordinated by Audit Scotland, working together with a range of Scottish public bodies to identify fraud and error.
132. The most receive NFI exercise commenced in January 2021, with matches to be investigated by 30 September 2021.

133. To date, results of the NFI investigation have not yet identified any frauds, errors or other such observations and work to complete this exercise remains ongoing.

Governance and transparency

Governance and transparency is concerned with the adequacy of governance arrangements, leadership and decision making, and transparent reporting of financial and performance information.

Auditor judgement



Governance arrangements at SCTS are deemed to be appropriate and have continued to operate effectively throughout the period. The COVID-19 pandemic has presented unprecedented challenges to the operation and governance of SCTS. However, we are satisfied that appropriate action has been taken to mitigate the impact of these challenges on SCTS' governance arrangements.

Our assessment has been informed by a review of the corporate governance arrangements in place and the information provided to the Board and Committees.

There is scope to improve the transparency of decision making by publishing Board and Committee papers on the SCTS website.

Governance and transparency

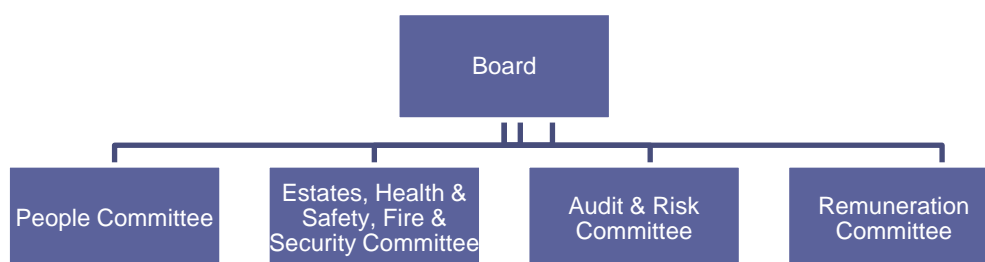
Governance arrangements

134. The SCTS Board, which has a judicial majority, is responsible for establishing the overall strategic direction and fulfilling the legislative powers of the organisation.
135. The Board continues to operate under the chairmanship of the

Lord President of the Court of Session and the Chief Executive is the only member of the Executive Team who is a regular attendee of the Board.

136. We have previously highlighted that the Board may benefit from attendance from the wider Executive Team on a regular basis.

Exhibit 8: Governance structures at SCTS



New appointments

137. The Board, which has a judicial majority, consists of the Lord President of the Court of Session and 13 other members; seven selected from the judiciary and six non-judicial members.
138. The following changes in the governance arrangements have occurred during the period:
- Dr Sophie Flemig appointed 1 May 2020 as a non-judicial member;
 - Sheriff Jillian Martin-Brown appointed 1 September 2020 as a judicial member;
 - Sheriff Olga Paspornikov appointed 1 September 2020 as a judicial member;

- The Rt. Hon. Lord Woolman appointed 1 August 2020 by virtue of holding the office of President of the Scottish Tribunals;
- The Rt. Hon. Lady Smith, Sheriff Aisha Anwar and Sheriff Grant McCulloch left the Board.

139. At the end of 2019-20, 13 of the 14 Board positions were filled with the final position filled from May 2020.
140. All new Board members attended an induction session prior to their first Board meeting. This session included an introduction to the SCTS Board, an overview of operations and finances, an introduction to the judicial office

and a summary of ongoing development and innovation work.

141. In addition, members were directed towards a number of useful documents including Board Standing Orders and Code of Conduct, the latest Corporate and Business Plans, the 2019-20 Annual Report and Accounts, current management and Board members' biographical notes and key Board and Committee papers presented in 2020/21.
142. We reviewed the induction process and concluded that it provides those charged with governance with the information and platform to do so effectively. The content and extent of induction provided is in line with best practice as outlined within the Scottish Government's 'On Board: a Guide for member of statutory boards'.

Responding to the COVID-19 pandemic

143. The COVID-19 pandemic has presented unprecedented challenges to the operation, financial management and governance of organisations, including public sector bodies. Core areas of service delivery have been suspended or substantially reduced, systems and processes have been amended to support remote working, and arrangements for governance and decision making have been adapted.
144. With national lockdown announced on 23 March 2020, all Headquarters departments moved

to working remotely and have continued to do so throughout the period. Most court buildings have been opened since June 2020, with all premises modified for physical distancing to ensure cases requiring in-person hearings could continue.

145. The Board and Audit and Risk Committee have continued to meet throughout 2020/21, with each meeting taking place virtually and papers being circulated electronically. The first meeting of the People Committee (May 2020) and Estates Committee (June 2020) did not take place given the immediate focus on the COVID-19 pandemic. Virtual meetings were established for these committees thereafter.
146. SCTS established a Strategic Incident Management Team (SIM) in February 2020 to manage the organisations overall response in line with the Business Continuity Management Strategy. Core membership of the SIM comprises of the Executive Team and key operational managers, with additional members appointed to the SIM as required to allow for a quick response to specific or specialised issues as they arise.
147. At the national level, SCTS has closely worked with other justice agencies and third sector groups through the Justice Board for Scotland, the Criminal Justice Board and the Justice Board's COVID-19 Sub-Group. These groups have worked together to maintain a shared understanding of organisational activities and challenges, support timely communication, and ensure

alignment with Government guidance and policy on the national response.

Oversight, scrutiny and challenge

148. The Board received a paper from the Chief Executive at every meeting providing an update on SCTS' response and recovery planning in relation to the COVID-19 pandemic, with the aim of providing assurance that SCTS' response arrangements remained effective, appropriate and co-ordinated.
149. The paper included an update on major events since the last meeting and an overview of the strategic response, operational activities and the impact on staffing, finances and service delivery. Discussion at Board meetings focussed on key points of interest, with the Board providing strategic direction as appropriate.
150. In addition, the Board continued to receive and consider all standing agenda items during 2020/21 including Finance Reports, quarterly Performance Reports and Committee updates.
151. We are satisfied that the Board received sufficient and appropriate information throughout the period to support effective and timely scrutiny and challenge. With oversight of SCTS' response and recovery activity sitting with the SIM, the Board was able to focus on key risks or areas of interest, scrutinising actions taken to date and ensuring appropriate decisions are made.

Risk management

152. In line with previous years, the Corporate Risk Register has been reviewed by the Audit and Risk Committee at each quarterly meeting and by the Board on a six-monthly basis.
153. As presented to the Audit and Risk Committee in November 2020, SCTS updated the Corporate Risk Register to reflect the impact of COVID-19. COVID-19 has impacted all operational areas and the strategic direction of SCTS. Management therefore deemed it more appropriate to reflect on the impact of COVID-19 on the eight previously identified corporate risks, rather than identify and monitor it as a separate risk.
154. The annual SCTS Board and Committees' Risk Workshop was held in February 2021. Members reviewed the Corporate Risk Register and considered the key challenges, achievements, opportunities and threats faced over the past year and in the coming period.
155. Members were in agreement that the Corporate Risk Register continued to broadly reflect the key risks faced by SCTS. Some changes were suggested to the risk descriptions and reporting format to ensure the risk register remained informative and reflected the current environment. Risk scores and targets were updated following the workshop and approved by the Audit and Risk Committee in April 2021.
156. From attendance at Audit and Risk Committees, we are satisfied

that SCTS has continued to carefully monitor the emergence of new risks and the impact of COVID-19 on existing risks.

Review of effectiveness

157. Robust governance arrangements are key to ensuring effective scrutiny, challenge and oversight is provided, enabling public bodies to continue managing their business appropriately during the global pandemic.
158. Recognising the importance of this, the Audit and Risk Committee directed internal audit to undertake a review of SCTS' COVID-19 response in October 2020. Coverage included consideration of the governance arrangements in place to underpin SCTS' strategic and operational response.
159. The report provided a substantial assurance opinion, with no identified recommendations. Internal Audit concluded that the SCTS' response was exemplary, with clearly defined Business Continuity Management underpinned by effective governance arrangements that enabled the organisation to respond quickly to the COVID-19 pandemic.
160. Audit Scotland published the "*Covid-19: Guide for audit and risk committees*" in August 2020. This outlined the short-term challenges facing public sector bodies in the response phase to the pandemic and the key areas that audit and risk committees with need to focus on, such as internal control and assurance, financial management and reporting,

governance and risk management.

161. The report was considered by the Audit and Risk Committee in November 2020 and used to inform the scope of internal audit's COVID-19 response review. As previously noted, internal audit provided substantial assurance over the governance arrangements in place.

Openness & Transparency

162. We highlighted in previous reports the importance of openness and transparency in ensuring the public have access to understandable, relevant and timely information about how public sector organisations take decisions and utilise resources. A key risk identified by Audit Scotland in their 2018/19 planning guidance is that public bodies do not keep pace with public expectations over transparency.
163. We have reported since 2016/17 that SCTS publish Board and Committee minutes on their website but no other papers and minutes are published. In addition, we have reported that registers of interests are not available other than through the financial statements.
164. While we accept that some items require to be discussed in private, in our opinion SCTS should keep this area under review with the aim of moving towards best practice.

Internal Audit

165. An effective internal audit service is an important element of SCTS' governance arrangements and supports the system of internal

control. The SCTS internal audit service is provided by the Scottish Government Internal Audit Directorate. The service operates in line with Public Sector Internal Audit Standards.

166. During our audit we considered the work of internal audit wherever possible to avoid duplication of effort and make the most efficient use of SCTS' audit resource.

Value for money

Value for money is concerned with using resources effectively and continually improving services. In this section we report on our audit work as it relates to the Board's reporting of its performance.

Auditor judgement



An established and appropriate performance management framework is in place at SCTS with appropriate performance reporting to the Board. Performance has deteriorated compared with prior year, however this is partially explained by the significant impact of the pandemic on court waiting times.

SCTS was innovative in its response to the pandemic, increasing the use of digital services to allow court activity to continue throughout lockdown restrictions. The Executive Team intend to undertake a lessons learned exercise in 2021/22 to support continuous improvement.

Performance management framework

167. SCTS developed a corporate plan in 2019/20 that covers the three year period from 2020-2023. The Corporate Plan outlined 7 strategic priorities:

Exhibit 10: Strategic priorities at SCTS

A well supported judiciary
Satisfied service users
Skilled and motivated people
Sustainable buildings and business
Digital services
Efficiency and best value
Purposeful collaboration

168. SCTS monitors performance in two ways:

- progress against key performance indicators created with reference to the strategic priorities in the Corporate Plan; and
- progress against the annual outcomes which are driven by the business plan which is published on an annual basis. This is aligned to the overall strategic objectives but is focused at a more operational level for the current year.

169. The Board receives a quarterly report which outlines performance against the key performance indicators. This report is the key mechanism the Board uses to ensure they are

meeting the strategic objectives of the SCTS.

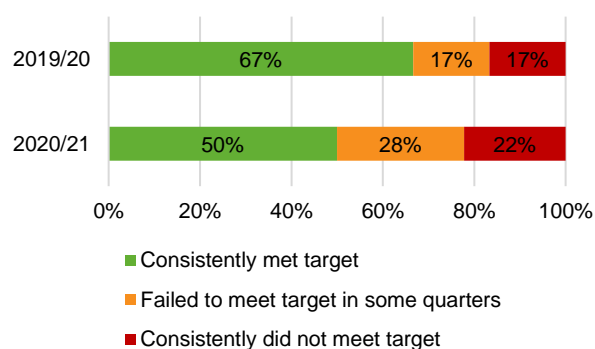
Performance against corporate plan

170. In 2020/21 the SCTS created 18 Key Performance Indicators which were designed to measure success against the corporate plan. Indicators and targets are consistent with those set for 2019/20.

171. The SCTS reports its performance in 2020/21 in the Annual Report and Accounts and publishes an annual scorecard on their website. The performance is reported as:

- consistently met target across the year;
- met the target across the majority of the year; or
- consistently failed to meet target across the year.

Exhibit 11: Performance against target in 2020/21



Source: SCTS Board Scorecard 2020/21

172. Our analysis at Exhibit 11 shows a decline in performance compared to the prior year. Only 50% of targets were consistently met throughout

2020/21 and SCTS failed to meet 22% of targets across the year.

173. We have noted that only one out of the four areas of underperformance were consistent with the prior year as outlined below.
174. The proportion of summary trials adjourned with no evidence led has consistently been an area where the target has not been met. In the majority of cases this is due to either the prosecution or defence not being ready for the trial diet or witnesses not turning up on the day. Whilst these factors are not within the control of SCTS this performance metric has been maintained as it provides a wider indication of “churn” in the system. Whilst COVID-19 has necessitated the cancellation of a number of trials, which would have impacted this performance indicator, failure to meet this target is indicative of the need for longer-term reform.

175. The three other areas of underperformance related to waiting times for Sheriff summary trials, JP summary trials and court business waiting times. This is to be expected given the significant impact the COVID-19 pandemic has had on SCTS’ ability to progress court business. Plans to address the court case backlog have been outlined at paragraphs 74-80.
176. SCTS are due to review KPIs and targets to ensure they remain appropriate. Given the changing business environment and methods of operation, SCTS look to ensure that KPIs and targets align with the Recover, Renew and Transform programme.
177. As part of our 2021/22 audit, we will evaluate the appropriateness of updates to KPIs and consider whether there is anything that can be done to further support performance management.

KPI target not met	SCTS commentary	Issue in prior year
Sheriff Summary criminal waiting periods of under 17 weeks.	The Sheriff Court Summary waiting period stood at 19.8 weeks at the end of the year. Figures are likely to improve with the full resumption of summary trial business from in April 2021 but performance against current targets will remain challenging whilst ongoing physical distancing measures remain in place.	No
JP Summary criminal waiting periods of under 17 weeks.	The Justice of the Peace Court Summary waiting period stood 19.9 weeks in Q4, for the same reasons as given in indicator 6a, above. Justice of the Peace business resumed fully on 7 June.	No

<p>Summary trials adjourned with no evidence led of less than 30%.</p>	<p>COVID-19 has necessitated the cancellation of a large number of trial diets throughout the year, in order to restrict business to that which was safe to conduct. Q1 saw some 91% of trials adjourned without evidence being led - reflecting the impact of the full lockdown where only the most essential business was heard. This can be contrasted with Q3 where the figure was 40% - still in the red threshold, but returning closer to recent levels. This figure will improve during 2021-22 provided operations remain open.</p>	<p>Yes</p>
<p>Court business waiting times</p>	<p>As a consequence of COVID several indicators have reported red for the majority of the year - e.g. in quarter 4 the average period between the date when a case was first cited to a preliminary hearing and the conclusion of the trial in the High Court. In Sheriff and Jury cases - the average period between the date of the first diet and the conclusion of the trial. In OPG the percentage of guardianship orders registered within 5 workings days.</p>	<p>No</p>

Performance against business plan

178. The 2020/21 Business Plan sets out 28 desired outcomes, of which 23 were fully completed within the financial year, with the remaining 5 deemed partially delivered and deferred into 2021/22. SCTS has taken action to ensure that the outstanding actions from 2020/21 are re-profiled into the 2021/22 business plan actions.

Impact of COVID-19 on service delivery

179. COVID-19 has had a significant impact on operations and service delivery throughout 2020/21. With national lockdown announced on 23 March 2020, the majority of court buildings closed in line with Scottish Government guidance, with only essential court and tribunal business proceeding. Courts reopened on 1 June 2020, however the requirement for physical distancing made it

extremely difficult to conduct jury trials within the existing court estate.

180. SCTS was innovative in their response, increasing the use of digital services to support continued operations. The introduction of videoconferencing within the Supreme Court and Court of Session allowed the court to conduct hearings online and operate at business-as-usual levels.

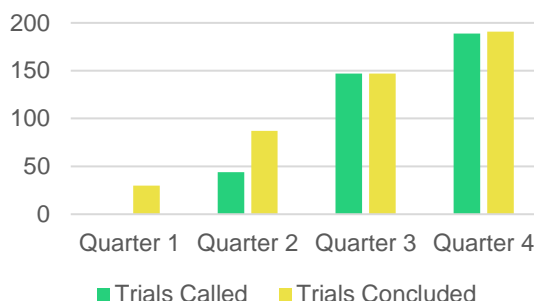
181. This approach was not suitable for criminal court cases where physical attendance is important. The need for social distancing reduced the feasible footfall within court buildings, and given the nature of the estate, it was not possible to sufficiently adapt the buildings.

182. High Court jury trials restarted in July 2020. Initially SCTS trialed using technology to enable the jury to view the trial from a second court room, to allow for social distancing. This trial was successful and paved the way for

creating jury centres where the jurors could view the trial from a separate building.

183. In August 2020, the Lord Justice General announced the creation of High Court jury centres in the East and West of Scotland based in cinema complexes and the first live trials using the remote jury centre model began in September 2020. This investment was supported by £5.5million of Scottish Government funding.
184. As illustrated in exhibit 12, during the third quarter of the year, remote trials were introduced in both Edinburgh and Glasgow and consequently, the number of High Courts trials called increased by 234% and the number of trials concluded increased by 69% in comparison to the previous quarter. Similar trends were noted from SCTS published monthly management information, from December 2020, when remote trials were introduced as the method of service delivery in Sheriff Court trials.
185. SCTS have recognised that these alterations to traditional methods of service delivery during the COVID-19 pandemic have allowed both the High Court and Sheriff Courts to return to operation at pre-COVID trial capacity. The contracts in place to support the use of remote jury centres have been extended to 31 March 2022.

Exhibit 12: High Court Trials Called and Concluded by quarter in 2020/21



Source: SCTS Monthly Management Information

Continuous Improvement

186. The justice system has traditionally relied on face-to-face interactions and paper based processes. The changes implemented in 2020/21 as a result of the pandemic have therefore been significant.
187. SCTS have recognised though that this presents an opportunity to develop a more flexible, user-focused, efficient and resilient system. They will continue to work with justice partners as part of the Recover, Renew and Transform programme to achieve this.
188. The Executive Team have committed to undertaking a lessons learned review of SCTS' response to the COVID-19 pandemic. This aims to identify ways in which the organisation can enhance its response to future disruptions, identify which business practices have been successful and improve overall resilience.

189. The key activities that will be reflected on as part of this exercise are;

- A formal evaluation of Remote Jury Centres;
- The Lord President's virtual conference on how civil court business in Scotland might be conducted after the COVID-19 pandemic;
- A review, led by Directors and including senior managers, of team and individual communications; future working practices; and
- Staff Survey Results 2020

190. This exercise is at very early stages and is expected to be completed in 2021/22. Survey and interview activity will take place and SCTS will work with both the Scottish Government and partner organisations to share lessons learned across the justice system.

191. We will continue to monitor the progress of SCTS lessons learned exercise during our 2021/22 audit.

Appendices



Appendix 1: Respective responsibilities of the Board and the Auditor

Responsibility for the preparation of the annual report and accounts

It is the responsibility of SCTS and the Chief Executive, as Accountable Officer, to prepare financial statements in accordance with the Public Finance and Accountability (Scotland) Act 2000.

In preparing the annual report and accounts, SCTS and the Chief Executive, as Accountable Officer, are required to:

- apply on a consistent basis the accounting policies and standards approved by Scottish Ministers;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have not been followed where the effect of the departure is material;
- prepare the accounts on a going concern basis unless it is inappropriate to presume that SCTS will continue to operate; and
- ensure the regularity of expenditure and income.

The Accountable Officer is also responsible for:

- keeping proper accounting records which are up to date; and
- taking reasonable steps for the prevention and detection of fraud and other irregularities.

Auditor responsibilities

We audit the annual report and accounts and give an opinion on whether:

- they give a true and fair view in accordance with the Public Finance and Accountability (Scotland) Act 2000 and directions made thereunder by the Scottish Ministers of the state of SCTS' affairs as at 31 March 2021 and of its net expenditure for the year then ended;
- they have been properly prepared in accordance with IFRSs as adopted by the European Union, as interpreted and adapted by the 2020/21 FReM;
- they have been prepared in accordance with the requirements of the Public Finance and Accountability (Scotland) Act 2000 and directions made thereunder by the Scottish Ministers;
- the use of the going concern basis of accounting in the preparation of the financial statements is not appropriate or the board has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about its ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue;
- in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers;
- the auditable part of the Remuneration and Staff Report has been properly prepared in accordance with the Public Finance and Accountability (Scotland) Act 2000 and directions made thereunder by the Scottish Ministers; and
- the information given in the Performance Report is consistent with the financial statements and has been prepared in accordance with the Public Finance and Accountability (Scotland) Act 2000 and directions made thereunder by the Scottish Ministers; and
- the information given in the Governance Statement is consistent with the financial statements and has been prepared in accordance with the Public Finance and Accountability (Scotland) Act 2000 and directions made thereunder by the Scottish Ministers.

We are also required to report, if in our opinion:

- adequate accounting records have not been kept; or
- the financial statements and the part of the Remuneration and Staff Report to be audited are not in agreement with accounting records; or
- we have not received all the information and explanations we require for our audit; or
- there has been a failure to achieve a prescribed financial objective.

Wider scope of audit

The special accountabilities that attach to the conduct of public business, and the use of public money, mean that public sector audits must be planned and undertaken from a wider perspective than in the private sector. This means providing assurance, not only on the financial statements, but providing audit judgements and conclusions on the appropriateness, effectiveness and impact of corporate governance and performance management arrangements and financial sustainability.

The Code of Audit Practice frames a significant part of our wider scope responsibilities in terms of four audit dimensions: financial sustainability; financial management; governance and transparency; and value for money.

Independence

International Standard on Auditing (UK) 260 "Communication with those charged with governance" requires us to communicate on a timely basis all facts and matters that may have a bearing on our independence.

Non-audit services

SCTS has purchased non-audit services from Azets in 2020/21 with an expected fee of £9,200. We have been engaged by SCTS to support the preparation and development of the financial model and business case for specific elements of the estates strategy (not a financial model for SCTS overall). Responsibility for the development and approval of any financial model and business case rests entirely with management and the final business case will be much wider in scope than the work we carry out. In addition, we provided advisory services to SCTS on VAT matters. The work was undertaken by a separate team from the audit team and the audit team had no involvement in this work.

Confirmation of independence

We confirm that we have complied with the FRC's Ethical Standards. In our professional judgement, the audit process is independent and our objectivity has not been compromised in any way. In particular there are and have been no relationships between Azets and SCTS, its Board members and senior management that may reasonably be thought to bear on our objectivity and independence.

Appendix 2: Action Plan

Our action plan details the weaknesses and opportunities for improvement that we have identified during our audit.

Of the four recommendations included in our 2019/20 annual audit report, one is ongoing and three are deemed complete, as described below.

Action plan grading structure

The recommendations are rated to help SCTS assess the significance of the issues and prioritise the actions required.

The rating structure is summarised as follows:

Grade	Explanation
Grade 5	Very high risk exposure - Major concerns requiring immediate attention.
Grade 4	High risk exposure - Material observations requiring management attention.
Grade 3	Moderate risk exposure - Significant observations requiring management attention.
Grade 2	Limited risk exposure - Minor observations requiring management attention
Grade 1	Efficiency / housekeeping point.

Current year action plan

Action plan point	Issue & recommendation	Management comments
1. Manual journals	<p>Issue</p> <p>The Manual Journal Policy states that journals should always be created by a separate individual, but allows for one individual to subsequently approve, upload and post the journal in some circumstances.</p> <p>With manual journals created outwith the finance system, there are no systematic controls in place to prevent an individual from creating, approving and posting a journal, or to detect where this has occurred (e.g. system exception reporting).</p> <p>Risk</p> <p>Given the lack of connectivity between finance and SCTS systems, there is a requirement for a high number of manual journals. There is an increased risk of fraudulent or erroneous journals being posted due to a lack of enforced segregation of duties between those creating and approving journals.</p> <p>Recommendation</p> <p>SCTS should explore a system solution to minimise the number of manual journals required, given their increased inherent risk of fraud and error.</p>	<p>The reduction of manual journals will be achieved by the introduction of interfaces with key SCTS business systems such as COPII and ICMS. Such interfaces have been identified to the SG Shared services team which is responsible for the implementation of a new ERP to replace SEAS.</p> <p>In the meantime, Finance will continue to ensure that journals are accurately posted (i.e. no material misstatement through fraud or error) through compensatory controls such as daily and monthly reconciliations, the reconciliation assurance process performance reviews undertaken by experienced Finance Business Partners and budget holders (throughout the month) together with the monthly detailed management accounting exercise incorporating analytical review</p> <p>Responsible officer: Director of Finance & Procurement</p> <p>Implementation date: Currently 2023 – date to be finalised by SG Shared Services transformation team.</p>
Rating		
Grade 3		
Paragraph Ref		
16		

Action plan point	Issue & recommendation	Management comments
<p data-bbox="220 409 464 477">2. Medium term financial strategy</p> <p data-bbox="220 544 304 577">Rating</p> <p data-bbox="220 667 331 701">Grade 2</p> <p data-bbox="220 790 416 824">Paragraph Ref</p> <p data-bbox="220 891 256 925">86</p>	<p data-bbox="555 383 635 416">Issue</p> <p data-bbox="555 439 935 689">Whilst medium term operational planning is ongoing across the organisation, SCTS have not revised their medium term financial strategy to reflect the impact of this.</p> <p data-bbox="555 712 624 745">Risk</p> <p data-bbox="555 768 927 880">Failure to deliver operational plans in a financially sustainable way.</p> <p data-bbox="555 902 804 936">Recommendation</p> <p data-bbox="555 958 919 1137">Management should review their medium term financial plan to reflect the impact of operational planning across the organisation.</p>	<p data-bbox="1010 383 1374 667">Recommendation accepted. This will be undertaken in line with the corporate planning work within SCTS and informed by the outcome of the recently launched 5 year spending review.</p> <p data-bbox="1010 689 1318 801">Responsible officer: Director of Finance and Procurement</p> <p data-bbox="1010 824 1374 891">Implementation date: 31st March 2022</p>

Follow up of prior year recommendations

Manual journals – segregation of duties

Initial rating	Issue & recommendation	Management comments
Grade 2	<p>Issue</p> <p>A number of users have access to both post and authorise manual journals. SCTS' financial regulations state that journals should be authorised by a second individual.</p> <p>Risk</p> <p>There is an increased risk of fraudulent or erroneous journals being posted if they are not subject to appropriate review and authorisation.</p> <p>Recommendation</p> <p>Management should ensure appropriate controls are in place to detect where a journal has been posted and authorised by the same individual, such as exception reporting.</p>	<p>Since taking on responsibilities for its own ledger SCTS has introduced greater levels of segregation than was previously the case,</p> <p>Because of a lack of connectivity between SEAS and SCTS systems e.g. COPII & ICMS, there is a requirement for a high number of manual journals. Also, because of restricted numbers of qualified staff in the transaction team, there has been an over-reliance on a few key individuals to process manual journals.</p> <p>We will identify the types of manual journal, review the processes and ensure adequate segregation of duties including exception reporting where necessary.</p> <p>Responsible officer: Director of Finance & Procurement</p> <p>Implementation date: 31st December 2020</p>
Current status	Update	
Complete	<p>SCTS have prepared a Manual Journal Policy to clarify the necessary approval and segregation of duties for different journal types. This does allow for the same individual to approve, upload and post a journal providing the nature of the journal is in line with the scheme of delegation and the individual is executive officer level or above.</p>	

Corporate balance with the Scottish Government

Initial rating	Issue & recommendation	Management comments
Grade 2	<p>Issue</p> <p>Within the corporate balance with the Scottish Government payable, there is a balance of £173k where the party to which this should be remitted is unknown.</p> <p>Risk</p> <p>SCTS is unable to correctly remit this income in a timely manner and the Scottish Government payable will remain overstated until appropriate action is taken. Whilst this balance is not material, there is a risk that it may increase year on year.</p> <p>Recommendation</p> <p>Management should investigate this balance in a timely manner and identified that party to which this is payable.</p>	<p>This balance relates to confiscation interest and third party funds held by SCTS.</p> <p>Current configuration of COPII does not generate adequate reports to identify the allocation of these funds.</p> <p>Work is required by MIAT, DSU and FPU to identify and resolve these system deficiencies.</p> <p>Scarcity of knowledgeable and informed FPU staff will defer completion of this action before the year end.</p> <p>Responsible officer: Director of Finance & Procurement</p> <p>Implementation date: 31st March 2021</p>
Current status	Update	
Complete	<p>Management has undertaken significant work to review this balance and amend procedures to ensure the allocation of funds is based on robust and sufficient information from the relevant systems. Work is ongoing to embed these procedures but we are satisfied that sufficient investigation has been completed.</p>	

Commitment under operating leases

Initial rating	Issue & recommendation	Management comments
Grade 3	<p>Issue</p> <p>Discrepancies were identified between the information used to calculate commitments under operating leases (as provided by Avison Young) and the information within the original lease agreements.</p> <p>Risk</p> <p>Commitments under operating leases were adjusted by £1.103million over the course of the audit. Whilst we are satisfied that the disclosure is not materially misstated, there is a risk of future error if information held on leases is not subject to regular review.</p> <p>Recommendation</p> <p>Management should review all information held on leases during 2020/21 to ensure accuracy.</p>	<p>In preparation for IFRS16, FPU identified that a full review of the leases was required.</p> <p>FPU has been working with PSU to identify the actions required but this has been deferred due to COVID-19 priorities.</p> <p>During 2020-21 FPU and PSU will work jointly to undertake a full review of operating leases to ensure compliance with IFRS16</p> <p>Responsible officer: CFO</p> <p>Implementation date: 31st March 2021</p>
Current status	Update	
Complete	<p>A high level review of leases was undertaken in November 2020 with Avison Young as part of the AME budget return. This was supplemented by a further review at year end. No issues identified through testing.</p>	

Business continuity

Initial rating	Issue & recommendation	Management comments
Grade 2	<p>Issue</p> <p>No business continuity or disaster recover exercise was performed within the last 12 months.</p> <p>Risk</p> <p>There is a risk that expected benefits of the system with regards to business continuity are not realised.</p> <p>Recommendation</p> <p>We recommend that there should be a Business Continuity exercise performed for the ICMS platform on an annual basis that is documented and reported to the Audit and Risk Committee.</p>	<p>Accepted - a Business Continuity exercise will be performed and reported to the Audit & Risk Committee</p> <p>Responsible officer: ICMS Project Manager</p> <p>Implementation date: 31st March 2020</p>

Current status	Update
Ongoing	<p>A review of Disaster Recovery provision and testing took place in 2020. Due to the prioritisation of COVID-19 response requirements, and change of supplier for ICMS development and support, the test itself will now be rescheduled for 2021.</p> <p>The ICMS DR test dry run is scheduled for July, with the full DR test scheduled for August. The future frequency and scope of these exercises will be determined by CDi policy, which is based on system criticality.</p>



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