

The Accounts Commission for Scotland

Agenda

Meeting on Thursday 12 March 2015
in the offices of Audit Scotland, 18 George Street, Edinburgh

The meeting will begin at 10.15am

1. **Apologies for absence.**
2. **Declarations of interest.**
3. **Decisions on taking business in private:** The Commission will consider whether to take items 11 to 14 in private.
4. **Minutes of meeting of 12 February 2015.**
5. **Minutes of meeting of Financial Audit and Assurance Committee of 26 February 2015.**
6. **Minutes of meeting of Performance Audit Committee of 26 February 2015.**
7. **Update report by the Secretary to the Accounts Commission:** The Commission will consider a report by the Secretary to the Commission on significant recent activity in relation to local government.
8. **Update report by the Controller of Audit:** The Commission will consider a verbal report by the Controller of Audit providing an update on his recent activity.
9. **Opencast coal mining restoration:** The Commission will consider a report by the Director of Performance Audit and Best Value.
10. **Review of annual audits:** The Commission will consider a report by the Controller of Audit and Director of Performance Audit and Best Value.

The following items are proposed to be considered in private:

11. **Audit Scotland matters: Best companies survey:** The Commission will consider a verbal report from the Chief Operating Officer, Audit Scotland.
12. **Public Audit in Scotland:** The Commission will consider a report by the Secretary to the Commission.
13. **Audit Scotland Corporate Plan:** The Commission will consider a report by the Chief Operating Officer, Audit Scotland.
14. **Commission business matters:** The Commission will discuss matters of interest.

The following papers are enclosed for this meeting:

Agenda Item	Paper number
Agenda Item 4: Minutes of meeting of the Commission of 12 February 2015	AC.2015.3.1
Agenda Item 5: Minutes of meeting of Financial Audit and Assurance Committee of 26 February 2015	AC.2015.3.2
Agenda Item 6: Minutes of meeting of Performance Audit Committee of 26 February 2015	AC.2015.3.3
Agenda Item 7: Report by Secretary to the Commission	AC.2015.3.4
Agenda Item 9: Report by Director of Performance Audit and Best Value	AC.2015.3.5
Agenda Item 10: Report by Controller of Audit and Director of Performance Audit and Best Value	AC.2015.3.6
Agenda Item 12: Report by Secretary to the Commission	AC.2015.3.7
Agenda Item 13: Report by Chief Operating Officer	AC.2015.3.8

ACCOUNTS COMMISSION

MEETING 12 MARCH 2015

MINUTES OF PREVIOUS MEETING

Minutes of the meeting of the Accounts Commission
held in the offices of Audit Scotland at
18 George Street, Edinburgh, on
Thursday, 12 February 2015, at 10.15am

PRESENT: Douglas Sinclair (Chair)
Ronnie Hinds (Deputy Chair)
Alan Campbell
Sandy Cumming
Colin Duncan
Tim McKay
Christine May
Stephen Moore
Colin Peebles
Graham Sharp
Pauline Weetman

IN ATTENDANCE: Paul Reilly, Secretary to the Commission
Fraser McKinlay, Controller of Audit and Director of Performance Audit
and Best Value (PABV)
Russell Frith, Assistant Auditor General [Items 8 & 13]
Cathy MacGregor, Project Manager, PABV [Item 10]
Gordon Smail, Senior Manager, PABV [Item 10]
Angela Cullen, Assistant Director, PABV [Items 11 & 12]
Gillian Battison, Audit Manager, PABV [Item 11]
Gemma Diamond, Senior Manager, PABV [Item 11]
Graeme Greenhill, Senior Manager, PABV [Item 12]
Andra Laird, Project Manager, PABV [Item 12]
Diane McGiffen, Chief Operating Officer [Item 14]

Item No Subject

1. Apologies for absence
2. Declarations of interest
3. Decisions on taking business in private
4. Minutes of meeting of 15 January 2015
5. Update report by the Secretary to the Commission
6. Update report by the Controller of Audit
7. Local government benchmarking framework: National benchmarking overview report
8. Smith Commission update
9. Commission committee business
10. Draft report – Local government overview [in private]
11. Performance audit: draft report – Borrowing and treasury management [in private]
12. For information: performance audit: draft report – Superfast broadband for Scotland – a progress report
13. Audit fees and funding arrangements [in private]
14. Audit Scotland matters:
 - (a) Edinburgh office relocation
 - (b) Best Companies survey
15. Commission extranet site [in private]
16. Commission business matters [in private]

1. Apologies for absence

It was noted that apologies for absence had been received from Linda Pollock.

2. Declarations of interest

The following declarations of interest were made:

- Sandy Cumming, in item 12, as a former Chief Executive of Highlands and Islands Enterprise.
- Ronnie Hinds, in item 5, as the Chair of the Local Government Boundary Commission for Scotland; in item 7, as the former chair of the Local Government Benchmarking Framework board; and in item 11, as a former Chief Executive of Fife Council.
- Christine May, in items 7 and 10, as Vice-Chair of Fife Cultural Trust.

3. Decisions on taking business in private

It was agreed that items 10 to 16 should be taken in private as they contained draft reports and confidential issues.

4. Minutes of meeting of 15 January 2015

The minutes of the meeting of 15 January 2015 were submitted and approved as a correct record.

5. Update report by the Secretary to the Accounts Commission

The Commission considered a report by the Secretary to the Commission providing an update on significant recent activity relating to local government and issues of relevance or interest across the wider public sector.

During discussion the Commission:

- noted advice from the Secretary:
 - That there were three upcoming meetings with audited bodies following publication of statutory reports, namely Orkney community planning partnership (23 February), South Ayrshire Council (3 March) and West Lothian community planning partnership (10 March).
 - In relation to paragraph 20 (Community Empowerment (Scotland) Bill), that amendments in stage 2 of the consideration of the bill were now being tabled, upon which he would keep the Commission updated.
 - In relation to paragraph 60 (Standards Commission), that the hearing into seven Aberdeen City Council councillors had begun in Aberdeen on 11 February.
 - In relation to paragraph 65 (National Audit Office report *Conflicts of interest*), agreed that members be provided with an email copy of the report.

Action: Secretary to the Commission
 - In relation to paragraph 67 (National Audit Office – draft Code of Audit Practice), agreed that further information on the Code be provided.

Action: Assistant Auditor General and Director of Performance Audit and Best Value
 - In relation to paragraph 32 (Scottish Parliament Finance Committee – The Community Charge Debt (Scotland) Bill at Stage 1), agreed that further reports on progress of the bill be made to the Commission as appropriate.

Action: Secretary to the Commission

Thereafter the Commission agreed to note the report.

6. Update report by the Controller of Audit

The Controller of Audit provided a verbal update on his recent activity including meetings and discussions with stakeholders.

7. Local government benchmarking framework: National benchmarking overview report

The Commission considered a report by the Secretary to the Commission advising of the publication of the Local Government Benchmarking Framework: Overview Report 2013/14

During consideration, the Commission agreed:

- To express to the project board the Commission's support for those areas of further development as set out in page 56 of the report, particularly in relation to the development of indicators in customer satisfaction and social services.
- To seek clarity from the board on timescales in this regard.
- To meet with the project board to this end.

Action: Secretary to the Commission

- To engage with COSLA and SOLACE to establish how they take forward actions arising from the indicators.
- That the Director of Performance Audit and Best Value, in his role as an observer on the project board of the framework, articulate the above points.

Action: Director of Performance Audit and Best Value

- To note the report.
- To note that Audit Scotland would consider further the implications of the report on its audit work.

8. Smith Commission update

The Commission considered a report by the Assistant Auditor General providing an update on the potential implications of the Smith Commission proposals on audit work.

The Commission agreed:

- To note the report.
- To note advice from the Assistant Auditor General that he would keep the Commission apprised of further developments, including resource implications for Audit Scotland.

9. Commission committee business

The Commission considered a report by the Secretary to the Commission outlining the remits for the Commission's two committees and illustrating the committee chairs' views on taking forward the responsibilities of the committees.

During consideration, the Commission agreed:

- To endorse the views of the two committee chairs on the roles of the committees.
- That any member with further comments could raise these directly with the appropriate committee chair.

Thereafter the Commission agreed to note the report.

10. Draft report – Local government overview [in private]

The Commission agreed that this item be held in private to allow it to discuss and approve a draft report.

The Commission considered a report by the Director of Performance Audit and Best Value introducing the Commission's draft annual overview report *An overview of local government in Scotland 2015* and next steps.

Following discussion, the Commission agreed:

- To articulate to the Scottish Government the Commission's view that better featuring ALEOs in public sector employment statistics would be a desirable step.

Action: Secretary to the Commission

- To approve the draft report subject to the audit team considering points raised in discussion in conjunction with the sponsors of the report, Sandy Cumming and Colin Duncan, and the Chair and Deputy Chair.
- To approve the publication and promotion arrangements for the report.

Actions: Director of Performance Audit and Best Value

11. Performance audit: draft report – Borrowing and treasury management [in private]

The Commission agreed that this item be held in private to allow it to consider a draft performance audit report.

The Commission considered a report by the Director of Performance Audit and Best Value seeking approval of and suggesting ways of promoting the draft performance audit report *Borrowing and treasury management*.

Following discussion, the Commission agreed:

- To approve the draft report subject to the audit team considering points raised in discussion in conjunction with the sponsors of the report, Graham Sharp and Pauline Weetman.
- To approve the publication and promotion arrangements for the report.
- That future work on council debt be undertaken, the timing of which be considered in the context of the future performance audit programme.

Actions: Director of Performance Audit and Best Value

12. For information: performance audit: draft report – Superfast broadband for Scotland – a progress report [in private]

The Commission agreed that this item be held in private to allow it to consider a draft performance audit report.

The Commission considered a draft report by the Director of Performance Audit and Best Value providing the Commission for its information the Auditor General's performance audit report *Superfast broadband for Scotland: a progress report*.

Following discussion, the Commission agreed to note the report.

13. Audit fees and funding arrangements [in private]

The Commission agreed that this item be held in private in order that it could consider issues around fees and funding.

The Commission considered a presentation by the Assistant Auditor General on audit fees and funding arrangements.

Following discussion, the Commission agreed its view to inform further work in this regard by the Assistant Auditor General.

14. Audit Scotland matters [in private]

The Commission agreed that this item be held in private in order to discuss confidential issues around Audit Scotland business.

(a) Edinburgh office relocation

The Commission considered a presentation by the Chief Operating Officer of Audit Scotland covering plans to relocate the two Edinburgh offices into one at a new site.

The Commission noted the position for its interest,

(b) Best Companies survey

The Commission agreed to defer to its next meeting a discussion on the results of Audit Scotland's Best Companies survey.

15. Commission extranet site [in private]

The Commission agreed that this item be held in private in order to allow discussion on business management.

The Commission agreed to defer to its next meeting a presentation by the Information Services Manager, Audit Scotland, on the Commission members' extranet site.

14. Commission business matters [in private]

The Commission agreed that the Chair's update on Commission business matters be held in private to allow it to discuss issues of a confidential nature relating to the operations of the Commission.

The Chair briefed the Commission on matters of interest.

ACCOUNTS COMMISSION

MEETING 12 MARCH 2015

**MINUTES OF MEETING OF FINANCIAL AUDIT AND ASSURANCE COMMITTEE OF 26
FEBRUARY 2015**

Minutes of meeting of the Financial Audit and Assurance Committee of the Accounts Commission held in the offices of Audit Scotland, 18 George Street, Edinburgh on Thursday, 26 February 2015, at 10.00am.

PRESENT: Douglas Sinclair (Chair)
Colin Duncan
Tim McKay
Linda Pollock
Pauline Weetman

IN ATTENDANCE: Fraser McKinlay, Controller of Audit and Director of Performance Audit and Best Value (PABV)
Fiona Kordiak, Director of Audit Services [Items 4 and 7]
Gillian Woolman, Assistant Director, Audit Services [Item 5]
Russell Frith, Assistant Auditor General [Items 6, 8 and 9]
Joanna Stevenson, Audit Manager, Audit Strategy [Item 6]
David McConnell, Assistant Director, Audit Services [Item 7]
Owen Smith, Senior Manager, Audit Strategy [Item 8]
John Gilchrist, Manager, Audit Strategy [Item 9]
Angela Canning, Assistant Director, PABV
Peter Worsdale, Audit Manager, PABV

1. Apologies for absence
2. Declarations of interest
3. Draft minutes of meeting of 27 November 2014
4. Current audit issues in councils
5. Intelligence Report: Scottish Public Services Ombudsman, Commissioner for Ethical Standards in public Life in Scotland; Standards Commission; and Information Commissioner
6. Review of 2013/14 local government annual audit reports
7. Review of impact of 2013/14 audit: Audit Services Group
8. Review of impact of 2013/14 audit: firms
9. Review of Audit Scotland corporate quality framework
10. Any other business

1. Apologies

Apologies were noted from Graham Sharp. The Committee agreed that Douglas Sinclair would stand in as chair.

2. Declarations of interest

Tim McKay declared an interest in item 4 as former Chair of Lothian Pension Trustees.

3. Minutes of meeting of 27 November 2014

The minutes of the meeting of 27 November 2014 were approved.

Arising therefrom, the Committee:

- In relation to item 4, second bullet point, (legacy liabilities) to note that the Director of PABV would report to the Commission in March 2015.
- In relation to item 5 (council budgets), first bullet point, to note that the Director of PABV would report an overview of budget shortfalls across councils to the Commission in March 2015.
- In relation to item 5 (individual councils), third bullet point, to note that the Director of PABV would submit a Best Value report to the Commission on East Dunbartonshire in April or May 2015.
- In relation to item 7 (Local Government Pension Scheme), second bullet, to note advice from the Director of Performance Audit and Best Value that the Chair had yet to write to pension fund trustees and local authorities highlighting the headline messages arising from the audits.

4. Current audit issues in councils

The Committee considered a report by the Director of Audit Services outlining emerging issues, recurring themes and individual issues of interest in Scottish councils, focusing on issues relevant to the annual audit.

During discussion it was agreed:

- To note that the Commission's views on the format of the paper are sought, and should be shared with Graham Sharp, who would be undertaking further discussions with the Director in this regard.
- To note that audit planning guidance for the 2014/15 audit includes work on preparedness for health and social care integration.
- In relation to paragraph 11, the term "management restructure" be used if more appropriate rather than "transformation" in future such reporting.
- In relation to Appendix 1, that totals be added for each column of the table.

Action: Director of Audit Services

- In relation to paragraph 9 it was agreed that further information be provided on the resources involved in Fife Council's financial management system.

Action: Director of Audit Services

- In relation to paragraph 10 to note that the report on funding gaps would be provided to the Commission in March 2015

- In relation to paragraph 12 it was noted that the Director will monitor the shared Head of Finance arrangement in Shetland and Aberdeen city councils. The councils concerned are reviewing the effectiveness of the arrangement in autumn 2015. A report will be made to the Committee once this has been undertaken.

Action: Director of Audit Services

5. Intelligence Report: Scottish Public Services Ombudsman, Commissioner for Ethical Standards in Public Life in Scotland; Standards Commission; and Information Commissioner

The Committee considered a report by the Secretary to the Accounts Commission providing an update for intelligence emerging from the work of the [Scottish Public Sector Ombudsman \(SPSO\)](#), [Commissioner for Ethical Standards in Public Life in Scotland](#); [Standards Commission for Scotland](#) and [Scottish Information Commissioner](#). The report complemented the *Current Audit Issues in Councils* report in providing Committee members with a comprehensive picture of intelligence covering issues of concern in councils and highlighting intelligence covering the fourth quarter of 2014.

During discussion the Committee agreed:

- That MSP issues investigated by the Standards Commissioner be included in future reports to allow a ready comparison across sectors.
- That it would be useful for comparisons to be made also on the previous year (rather than previous period).
- In relation to paragraph 23 that the Commission be updated on the latest position regarding the application of FOI.
- That thought be given to making future such reports more concise.

Action: Secretary to the Commission

6. Review of 2013/14 local government annual audit reports

The Committee considered an update report by the Assistant Auditor General providing the Committee with a follow-up review of audit risks identified from the 2013/14 audit planning process and reported in council annual audit reports.

During discussion the Committee agreed:

- That the report be issued to the firms as a courtesy.
 - *Action: Assistant Auditor General*
- In relation to paragraph 23 the Committee noted that risks in councils regarding health and social care integration would be further explored in the forthcoming performance audit on progress in this regard.

Thereafter the Committee agreed to note the key messages and observations from this review of annual audit reports.

7. Review of impact of 2013/14 audit: Audit Services Group

The Committee considered a report by the Director of Audit Services providing a record and sharing examples of where Audit Services Group staff have made an impact in the course of their audit work.

During discussion the Committee agreed:

- That for future reports, In relation to the tables from paragraph 9, the value of the second column be considered – this summarises actions rather than outcomes, and is not used in the impact review for firms, Item 8.
- That for future reports, case studies be considered for a more in-depth look into impact.

Action: Director of Audit Services

Thereafter the Committee agreed to note the report.

8. Review of impact of 2013/14 audit: firms

The Committee considered a report by the Assistant Auditor General outlining the types, prevalence and significance of risks and recommendations being reported by private firm auditors mapped across the four Audit Scotland impact categories.

During discussion the Committee agreed:

- That thought be given to how to track whether recommendations are implemented

Action: Assistant Auditor General

- To note that the revised Code of Audit Practice will be available over mid-summer and the Committees' views on this will be invited.

Thereafter the Committee agreed to note the key messages and observations in the report

9. Review of Audit Scotland corporate quality framework

The Committee considered a report by the Assistant Auditor General inviting comment on what features it would value in the revised Quality Framework document.

During discussion the Committee agreed:

- That the role of the Commission and the Auditor General be incorporated into the framework, for example the Commission members' role as project sponsors
- That accessibility of publications and public reporting feature in the report
- In relation to paragraph 36, that consideration be given to amending the wording in the impact dimensions to 'Governance and Continual Improvement'.

10. Any other business

The Committee noted that there was no other business to be considered.

ACCOUNTS COMMISSION

MEETING 12 MARCH 2015

MINUTE OF MEETING OF PERFORMANCE AUDIT COMMITTEE OF 26 FEBRUARY 2015

Minutes of meeting of the Performance Audit Committee of the Accounts Commission held in the offices of Audit Scotland, 18 George Street, Edinburgh on Thursday, 26 February 2015, at 2pm.

PRESENT: Douglas Sinclair (Chair)
Alan Campbell
Sandy Cumming
Stephen Moore
Colin Peebles

IN ATTENDANCE: Fraser McKinlay, Director of Performance Audit and Best Value (PABV)
Angela Canning, Assistant Director, PABV
Claire Sweeney, Senior Manager, PABV [Item 5]
Andra Laird, Audit Manager, PABV [Item 6]
Peter Worsdale, Audit Manager, PABV

<u>Item no.</u>	<u>Subject</u>
1.	Apologies for absence
2.	Declarations of interest
3.	Minutes of meeting of 27 November 2014
4.	Update on Performance Audit programme and <i>How Councils Work</i> series
5.	Update: plans for performance audit work on health and social care integration
6.	Performance audit: impact report – <i>Managing early departures in the Scottish public sector</i>
7.	Any other business

1. Apologies for absence

Apologies were noted from Ronnie Hinds and Christine May

2. Declarations of interest

Sandy Cumming declared an interest as a rural college board member in relation to agenda item 6.

3. Minutes of meeting of 27 November 2014

The minutes of the meeting of 27 November 2014 were approved as a correct record.

4. Update on Performance audit programme and *How Councils Work* series

The Committee considered a report by the Director of PABV providing an update on progress with performance audits and related impact reports and the *How Councils Work* series.

During discussion, the Committee:

- Noted that the planned 2015/16 publication on roles and responsibilities should also include roles on boards
- Agreed that the audit entitled 'social care' be known as 'social work services' to reflect the statutory responsibilities of councils in this regard.

Actions: Director of Performance Audit and Best Value

Thereafter, the Committee noted the report.

5. Update: plans for performance audit work on health and social care integration

The Committee considered a report by the Director of PABV and considered proposals for future performance audit work in relation to the integration of health and social care services.

Following discussion, the Committee agreed:

- That it receive a further report later in 2015 on the preparedness of councils for health and social care integration.
- That guidance be given to auditors to emphasise that health and social care integration has a wide scope beyond delayed discharges for example.

*Actions: Directors of Performance Audit and Best Value
and Audit Services*

6. Performance audit: impact report – *Managing early departures in the Scottish public sector*

The Committee considered a report by the Director of PABV providing an update on the impact of the joint report by the Accounts Commission and the Auditor General on *Managing Early Departures in the Scottish Public Sector*, published in May 2013.

Thereafter, the Committee noted the report.

7. Any other business

The Chair advised that there was no other business for the Committee to consider.

ACCOUNTS COMMISSION

MEETING 12 MARCH 2015

REPORT BY SECRETARY TO THE ACCOUNTS COMMISSION

UPDATE REPORT

Introduction

1. The purpose of this report is to provide a regular update to the Commission on significant recent activity relating to local government, as well as issues of relevance or interest across the wider public sector.
2. The regular Controller of Audit report to the Commission which updates the Commission on his activity complements this report. The Commission's Financial Audit and Assurance Committee also receives a more detailed update on issues relating to local government. Further, detailed news in relation to media coverage of recently published reports and local government activity is provided in the media summaries produced by Audit Scotland's Communications Team following publication or at the appropriate time.
3. The information featured is also available on the Accounts Commission member portal. Hyperlinks are provided in the electronic version of this report for ease of reference.

Commission business

Impact of recent reports

4. [An overview of local government in Scotland 2015](#) was published on 5 March 2015. The report has attracted substantial media coverage. It featured on the front page and inside the Herald and the [Guardian](#) referred to it as part of a wider investigation into local government debt levels across the UK. There was also good broadcast coverage, with lead or second items on BBC Scotland radio and TV bulletins and BBC Online. There was wide reaction including Scottish Labour (attacking the Scottish Government for underfunding local government); Scottish Government stating that the local government settlement was a good one; and a positive welcome from CoSLA.
5. As reported to previous meetings of the Accounts Commission, the [School Education](#) report, published on 19 June 2014, continues to attract significant interest from both the media and policy stakeholders in local government and the policy area. The School Education audit team is continuing its programme of stakeholder engagement and support to maximise its impact. Most recently, on 11 February, an elected member seminar at South Ayrshire Council was held. The majority of members attended and engaged actively in the event. Feedback from the Director of Education reported that it had been very well received and had been particularly helpful as regards strengthening the scrutiny role of members. Further seminars are planned at Angus, Argyll and Bute, Orkney and Midlothian councils. During February 2015, the report generated 828 downloads. As previously indicated a report reviewing the completed engagement programme will be presented to a future meeting later in the year.

6. An interview published on 24 February in *Holyrood* magazine with Andrew Burns, Leader of City of Edinburgh Council, refers to the Commission's report on Best Value audit of the Council, published on 4 December 2014. Councillor Burns states that "the situation is really quite stark for us... It is not anywhere close to the levels of savings that English local authorities are having to find, for example. I'm grateful for that but to take £22 million out of a billion pound budget is a challenge.. It is difficult, there's no point in denying that there will be an impact on some service areas [but] we've taken a political decision to prioritise certain areas and that squeezes out problems elsewhere."

Other Commission business

7. On 23 February 2015, Commission members met with representatives of Orkney Community Planning Partnership (CPP) to discuss the Commission's report on Orkney CPP published on 19 November 2014.
8. As indicated in my report to the Commission's January meeting, members of the Commission met representatives of South Ayrshire Council on 3 March 2015 to discuss the recent report of the [Best Value audit](#) of the council, published on 18 December 2014.
9. On 9 March 2015, the Chair and Commission members will meet with representatives of the West Lothian Community Planning Partnership Board to discuss the report on the [West Lothian CPP](#) published on 23 October 2015.
10. At a meeting between the Scottish Parliament Committee Conveners and the First Minister held on 18 February 2015, Paul Martin MSP (Convener, Public Audit Committee) asked the First Minister the following question: "*you will be aware that the number of public services that are delivered by the third sector, charities and so-called arm's length companies has increased significantly over the past number of years. Those organisations do not come under the audit framework of the Auditor General for Scotland. Is that something that you and the Scottish Government are looking at?*". In her written response to Paul Martin MSP, it is anticipated that the First Minister will set out the Commission's responsibilities in this regard and state that she is aware that the Commission has commenced work in this regard (as decided at the Commission's January meeting).
11. The Accounts Commission and Audit Scotland have been included in the Scottish Government's consultation on proposed draft [Climate Change \(Reporting on Climate Change Duties\) \(Scotland\) Order 2015](#), and have been issued with details. This is because both bodies are listed as major public bodies in relation to the proposals. The defining criteria for inclusion as major public bodies relate to number of employees, expenditure, influence and carbon footprint. With regard to the Accounts Commission specifically, only the 'influence' criterion would be applicable, but it would nevertheless be appropriate for a response to be submitted by the Commission. To this end, I will share the terms of the response with the Commission. The consultation runs from 20 February to 29 May 2015. More information on the consultation is available at the Scottish Government [website](#).
12. On 4 March, the Chair and the Auditor General gave evidence to the Scottish Parliament's Finance Committee on preventative spending.

Auditor General for Scotland:

13. A report on [The Government's purchase of Glasgow Prestwick Airport](#) was published on 24 February 2015. The report generated strong print and broadcast coverage. It was also subject of lengthy questioning of the Auditor General by the Public Audit Committee. Since publication the report generated 569 downloads and 23 listens to the podcast.
14. On 26 February 2015, the [Superfast broadband for Scotland](#) was published. Media interest to date has been lighter than anticipated, with no significant media enquiries. The majority of the mainstream press coverage followed a Press Association copy top line that much of the Highlands will receive lower speeds than the rest of Scotland. Specialist technical news websites have covered the report extensively, and included some analysis on the findings. Since publication, the report has received 637 downloads and 13 podcast listens.

Issues affecting local government

Scottish Government:

15. As I reported to the Commission's January meeting, Marco Biagi MSP, Local Government Minister, has been undertaking a series of introductory meetings with all councils. The following meetings took place during January and February 2015. No further meetings have been scheduled at this time:
 - West Dunbartonshire Council – 28 January
 - Perth and Kinross Council – 10 February
 - Moray Council – 11 February
 - Aberdeen City – 16 February (Alex Neil MSP and Angela Constance MSP also attended this meeting.)
 - Aberdeenshire Council – 16 February
 - Angus Council – 17 February
 - Dundee Council – 17 February
16. On 20 February 2015, the Scottish Government announced the appointment of members to the [Commission on Local Tax Reform](#) which will consider fairer systems of local taxation. Eleven representatives of political parties and the finance, law and advice sectors will examine alternatives to the council tax to fund local government services. The Commission will be chaired jointly by Marco Biagi MSP, Local Government Minister and Councillor David O'Neill, President of COSLA. The first meeting of the Commission was held on 23 February 2015 and it will report to the Scottish Government and COSLA in the Autumn.
17. In an announcement by Deputy First Minister and Finance Secretary John Swinney on 24 February 2015, it was confirmed that all 32 councils had agreed to freeze in their council tax payments for the eighth consecutive year. More details of the announcement are available at the Scottish Government's [website](#).
18. On 27 February 2015 First Minister Nicola Sturgeon marked her first 100 days in the role. Details of the statement by the First Minister marking this milestone can read at the Scottish Government's [website](#).

19. Figures for emergency department weekly activity and waiting times in Scotland were published for the first time on 3 March 2015. The weekly publication of these figures had been announced by the Chief Statistician on 17 February 2015. The new statistics cover total attendances and waiting times for the 32 Emergency Departments in Scotland. The figures, which cover week ending 22 February 2015, indicate that 86.1 per cent of attendances to Emergency Departments were seen and subsequently admitted, transferred or discharged within 4 hours. More information is available at the Scottish Government's [website](#).

Scottish Parliament

Chamber Proceedings:

20. A number of major issues, such as the continuing issue of Police Scotland "stop and search strategy" tactics, the NHS and energy, have dominated First Minister's Questions over the last few weeks. Some of these are summarised below
21. On 19 February 2015, Kezia Dugdale MSP led for the opposition on childcare, highlighting a report suggesting that Scottish local authorities were not performing as well as in England on capacity and criticising the time taken to fulfil pledges. The First Minister stressed that progress was being made but recognised that more work needed to be done, particularly in relation to ensuring access. She compared the hours provided with the situation under Labour, suggesting that childcare had not been a priority for Labour in Budget discussions with John Swinney, although this was disputed by Kezia Dugdale.
22. Calls from parents at St Joseph's Primary in Milngavie, which is facing amalgamation, to remove the school from council-control were raised by Ruth Davidson, who went on to state the need for a "parent power law" on such matters. The First Minister said she was happy to discuss the issue with parents but suggested the policy was not popular. She went on to stress the need to close the attainment gap and maintain teacher numbers.
23. Cara Hilton MSP (Labour) called for politicians to unite to secure the future of Longannet Power Station, the First Minister advised that she had written in this regard to the Prime Minister. She went on to stress the importance of the power station and the need for a response from the UK Government.
24. Alison Johnstone MSP (Green) queried whether requests to restore the ownership of Parliament House in Edinburgh from the Scottish Government to City of Edinburgh Council would be considered. The First Minister said she believed this was not a fault of the Scottish Government and that the question may need to be redirected to the Council. She said she would ask Local Government Minister Marco Biagi to examine the issue.
25. The issue of stop-and-search was raised by Willie Rennie MSP (Liberal Democrat), who expressed concerns at the conduct of senior police officers. The First Minister highlighted that a meeting was taking place in Parliament later in the day with the Chief Constable and said she supported the release of data to allow scrutiny. Willie Rennie suggested trust in police had been "shattered", with the First Minister recognising information had been "unsatisfactory", but stressing she had total trust in the police.
26. The First Minister stated the Scottish Government had no plans to delay the implementation of the new Advanced Higher in response to a question from Iain Gray MSP (Labour). On calls made by unions for a delay, the First Minister said the level of

change for Advanced Highers was less than that for Highers and noted support that was available.

27. At First Minister Questions of 26 February 2015, Kezia Dugdale MSP raised several directly-quoted concerns from NHS staff about lack of resources and treatment times, including Dr Martin McKechnie from the Royal College of Emergency Medicine. Nicola Sturgeon acknowledged that *“of course more could be done”* but insisted that resources were being provided and Labour was *“doing a disservice”* to NHS staff in raising concerns. The First Minister also compared NHS statistics from Labour’s record in office, insisting that acute beds had fallen in that time and were gradually increasing now.
28. Allegations that Scottish Government officials along with Police Scotland had deliberately delayed the publication of PhD research on stop and search statistics were raised by Alison McInnes MSP (Liberal Democrat). The First Minister denied there had been collusion and insisted that such email exchanges with academics were a normal occurrence where research had been funded by the Scottish Government. In response to Elaine Murray MSP (Labour), the First Minister said she continued to have confidence in the Chief Constable, Sir Stephen House.
29. Jim Eadie MSP (SNP) asked about education good practice and the Scottish Attainment Challenge. Iain Gray MSP asked a follow-up on the slow pace of recruitment of local attainment advisers and Mary Scanlon expressed concern that there was a lack of robust assessment of the impact of the spending, quoting Audit Scotland.
30. Jenny Marra MSP (Labour) asked about waiting times for young people accessing mental health services, referring to the specific situation in Tayside. They agreed that waits were unacceptable but insisted that NHS Tayside had hired nine staff to deal with shortfalls and 50% of boards were meeting 18 week treatment target. As a supplementary, Jim Hume MSP (Liberal Democrat) raised a concern that GPs were simply not referring patients due to concerns about unavailability of mental health therapies.

Parliamentary Committee News:

Local Government and Regeneration Committee:

31. At its meeting of 18 February 2015, the Committee continued its scrutiny of the [Air Weapons and Licensing \(Scotland\) Bill](#) at Stage 1. The Committee again considered the [Bill](#) on 25 February 2015. Also at this meeting, the Committee considered Non-Domestic Rate (Scotland) Order 2015 (SSI 2015/47). It agreed not to make any recommendation to the Parliament on this instrument.
32. On 4 March 2015, the Committee began its consideration of the [Community Empowerment \(Scotland\) Bill](#) at Stage 2. It also considered integrated health and social care complaints procedures, specifically, its approach to its examination of the implications for complaints procedure post integration of these services. The Committee also considered a number of negative instruments, namely:
 - Non-Domestic Rates (Levying) (Scotland) Amendment Regulations 2015 (SSI 2015/49);
 - Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2015 (SSI 2015/50);

- Valuation Timetable (Scotland) Amendment Order 2015 (SSI 2015/51); and
- The Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 (SSI 2015/60).

Public Audit Committee:

33. At its 25 February 2015 meeting, the Committee considered evidence on three Section 23¹ reports by the Auditor General for Scotland (AGS), namely:

- [The Scottish Government's purchase of Glasgow Prestwick Airport](#): The Committee took evidence on the Auditor General for Scotland (AGS) report, from Caroline Gardner, AGS; Brian Howarth, Assistant Director, Graeme Greenhill, Senior Manager, and Ursula Lodge, Audit Manager, Audit Scotland. The Committee considered its approach to the report and agreed to seek oral evidence from Transport Scotland at a future meeting.
- [Accident and Emergency - performance update](#): The Committee considered a response from the Scottish Government to its report entitled, [Accident and Emergency - performance update](#). The Committee agreed to request an update on the Committee's report recommendations in the next Scottish Government progress report in May 2015.
- [NHS in Scotland 2013/14](#): The Committee considered a [written submission](#) from the Scottish Government on the Auditor General for Scotland report. It agreed to note the submission.

34. Also at this meeting, the Committee considered and agreed its approach to its future work programme.

Infrastructure and Capital Investment Committee:

35. The main business of the Committee's meeting of 18 February 2015 was to consider an update on the Forth Road Replacement Crossing from the project team.

Finance Committee:

36. At its meeting of 18 February 2015, the Committee continued its consideration of the Air Weapons and Licensing (Scotland) Bill Financial Memorandum. On 25 February 2015, the Committee considered and agreed the terms of the proposed contingent liability. It also considered evidence from John Swinney, Cabinet Secretary for Finance, Constitution and Economy, and senior Scottish Government officials on Land and Buildings Transaction Tax (Sub-sale Development Relief and Multiple Dwellings Relief) (Scotland) Order 2015, and the Land and Buildings Transaction Tax (Tax Rates and Tax Bands) (Scotland) Order 2015. Following discussion, the Committee agreed to the motions raised by the Cabinet Secretary in relation to these items.

37. Also at this meeting, the Committee took evidence on the National Health Service Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015, the Teachers' Pensions Scheme (Consequential Provisions) (Scotland) Regulations 2015, the Police Pensions (Consequential Provisions) (Scotland) Regulations 2015, and the Firefighters' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 from John Swinney, Cabinet Secretary and senior Scottish Government officials.

¹ The Auditor General for Scotland (AGS) reports to the Public Audit Committee under Section 23 of the Public Finance and Accountability Act on economy, efficiency and effectiveness of public sector bodies (excluding local government).

Following discussion, the Committee agreed a number of motions raised by the Cabinet Secretary relating to these issues. The Committee also considered and agreed a draft report Further Fiscal Devolution and considered and agreed its work programme.

38. At its 4 March 2015 meeting, the Committee took evidence on preventative spending from Douglas Sinclair, Chair, Accounts Commission and Caroline Gardner, Auditor General for Scotland. It also heard evidence on devolved taxes implementation. In addition, the Committee took evidence from John Swinney, Cabinet Secretary and Scottish Government officials on the following:
- Scottish Landfill Tax (Qualifying Material) Order 2015 (SSI 2014/45),
 - Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2015
 - Revenue Scotland and Tax Powers Act (Postponement of Tax Pending a Review or Appeal) Regulation 2015
 - Revenue Scotland and Tax Powers Act (Interest on Unpaid Tax and Interest rates in General) Regulation 2015
 - Revenue Scotland and Tax Powers Act (Record Keeping) Regulation 2015,
 - Revenue Scotland and Tax Powers Act (Reimbursement Arrangements) Regulation 2015,
 - Scottish Tax Tribunals (Voting and Offences etc.) Regulations 2015, and
 - Proceeds of Crime Act 2002 (Disclosure of Information to and by Lord Advocate and Scottish Ministers) Amendment Order 2015.
39. On 18 February 2015, the Committee published its [*5th Report, 2015 \(Session 4\): Report on Air Weapons and Licensing \(Scotland\) Bill*](#). The Committee received 14 responses to its call for evidence.

Devolution (Further Powers) Committee:

40. The main business of the Committee's meeting of 19 February 2015 evidence on Welfare Clauses. On 26 February 2015, the Committee agreed a motion by John Swinney, Cabinet Secretary for Finance, Constitution and Economy that the Committee recommends that the Scotland Act 1998 (Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.) Order 2015 [draft] be approved. Also at this meeting, the Committee took evidence on borrowing powers and agreed a draft two reports on the sections 30 and 63 Order on votes for 16-17 year olds and the electoral management of the Scottish Independence Referendum. At its meeting of 5 March, the Committee will hear evidence on the Crown Estate provisions and will consider its working arrangements with other committees on the proposals for further devolution

Justice Sub-Committee on Policing:

41. At its meeting of 19 February 2015, the Sub-Committee took evidence on Stop and search from Chief Constable Sir Stephen House, Deputy Chief Constable Rose Fitzpatrick, and Assistant Chief Constable Wayne Mawson, Police Scotland; Calum Steele, General Secretary, Scottish Police Federation; and Vic Emery, Chair, Scottish Police Authority. On 5 February 2015, the Sub-Committee will take evidence on Armed police from representatives of the Scottish Police Authority, Police Scotland; and

Derek Penman, HM Inspector of Constabulary in Scotland. It will also consider its work programme.

Bills – Progress Updates:

42. The [Community Empowerment \(Scotland\) Bill](#) was introduced by the John Swinney MSP, Cabinet Secretary, on 11 June 2014. Stage 1 consideration is was completed by 3 February 2015 and Stage 2 consideration is underway. The Local Government and Regeneration Committee is the lead committee.
43. In stage 2, 70 amendments will now be considered by the Local Government and Regeneration Committee, grouped as follows:
 - National outcomes: consultation, procedure and reporting
 - Functions to which national outcomes relate and duty of bodies exercising those functions
 - National outcomes: inequalities resulting from socio-economic disadvantage
 - Duty to carry out community planning: general
 - Relationship between national outcomes and local outcomes
 - Effectiveness of community planning in involving communities, tackling inequality etc.
 - Extent of duty on community planning partners to contribute resources
 - Community planning: status of guidance
 - Establishment of corporate bodies etc.
 - Community engagement standards
44. 57 amendments will be considered by the Rural Affairs, Climate Change and Environment Committee, grouped as follows:
 - Nature of land in which community interest may be registered under Part 2 of 2003 Local Government in Scotland Act: separate tenements
 - Ways in which community bodies and crofting community bodies may be constituted
 - Salmon fishings and mineral rights: public notice of certain applications under Part 2 of 2003 Act
 - Period for indicating approval under section 38 of 2003 Act
 - Minor amendments in relation to Parts 2 and 3 of 2003 Act (including procedure for certain regulations)
 - Late applications for registration under Part 2 of 2003 Act
 - Duration and renewal of registration under Part 2 of 2003 Act
 - Appeals to Lands Tribunals as respects valuations of land under Part 2 of 2003 Act
45. The [Community Charge Debt \(Scotland\) Bill](#) was introduced by John Swinney MSP, Deputy First Minister, on 3 December 2014. The lead committee is the Finance Committee. The Bill was passed at Stage 3 on 19 February 2015.
46. Consideration of the [Criminal Justice \(Scotland\) Bill](#) at Stage 2 is continuing – a completion date has not yet been scheduled. Stage 1 consideration was completed on 27 February 2014. The lead committee is the Justice Committee.
47. Consideration of the Government Bill, [Air Weapons and Licensing \(Scotland\) Bill](#) (introduced 14 May 2014) continues. The Local Government and Regeneration Committee is lead committee. Stage 1 consideration is due to be completed by 3 April 2015.

48. The [Welfare Funds \(Scotland\) Bill](#) was introduced on 10 June 2014. The lead committee is the Welfare Reform Committee. The Bill was passed at Stage 3 on 4 March 2015.
49. The [Budget \(Scotland\) \(No.4\) Bill](#) was passed Stage 3 on 4 February 2015.

Smith Commission - Updates:

50. At present, the Smith Commission's proposals are currently being considered within the Scottish and UK Parliaments, principally through the [Devolution \(Further Powers\) Committee](#) and [Scottish Affairs Committee](#) respectively.

COSLA, Improvement Service etc.:

51. As previously reported, the [COSLA 2015 conference](#) will take place on 12 and 13 March 2015 at Crieff Hydro Hotel. The conference which is entitled [Local Governance: Setting the Agenda](#), will explore the key challenges facing Local Government and how best meet these challenges by being proactive in setting the agenda. The 2015 event will also examine how councils and their partners can build on the work of the Commission on Strengthening Local Democracy and the Smith Commission to face future demographic and economic changes.

Current activity and news in local government:

Individual councils:

52. The following paragraphs highlight current activity and news occurring in local government over the previous month as well as developing issues. The items are drawn from a range of sources including news articles, websites and media summaries. Some of the more significant issues are highlighted in the following sections.
53. On 13 February 2015, the Herald reported that councils had reached agreement with the Scottish Government to maintain teacher numbers at their present levels.
54. On 4 March 2015, Aberdeen City Council formally confirmed its resignation from COSLA and to join a new block of four local authorities, called the Scottish Local Government Partnership. The council cites what it views as the poor deal in funding allocations it receives from the Scottish government. Aberdeen City Council will join with Glasgow, Renfrewshire and South Lanarkshire – all Labour-led administrations. Jenny Laing, leader of Aberdeen City Council, will act as convener of the new body. More details are available at [BBC Online](#).
55. Issues surrounding Argyll and Bute Council continue to generate correspondence and media interest. I advised in my previous report about the interest generated around the Council's decision to reject a community buy out bid for the former outdoor education centre at Castle Toward. An Audit Scotland response to media inquiries commented that: *"We continue to closely monitor events in Argyll and Bute. The Accounts Commission has asked for a report from the Controller of Audit by the end of this year with a specific focus on roles and relationships (including between members and officers), scrutiny, and political management arrangements. Work on this is already under way. Our teams are regularly onsite in Argyll and Bute and we continue to liaise closely with colleagues in other inspectorates. We have looked at the Council's decision on Castle Toward and we don't intend to carry out any further audit work in*

relation to this, although our interest in the processes around decision making more widely at the council continues.”

56. Dame Sue Bruce, chief executive of Edinburgh City Council, announced on 5 March that she is to retire from local government service. She plans to leave her post when she turns 60 in October.

Scrutiny, inspection, regulatory and related bodies

Scottish Police Authority (SPA):

57. An additional special board meeting was held on 13 February 2015 in Glasgow to seek clarification of recent issues surrounding the past and future use of the stop and search tactic in Scotland. The purpose of the meeting was to address two key issues:
- Scrutiny of the performance of Police Scotland in relation to non-statutory stop and search of children under 12; and
 - An initial examination of the options, alternatives and implications of ending the use of non-statutory stop and search as a whole.
58. Chief Constable Sir Stephen House, and Deputy Chief Constable Rose Fitzpatrick were questioned on the accuracy of the information released by Police Scotland to the media and reported widely, the reasons for not fulfilling the commitment to end such searches, and the anticipated timescale when Police Scotland will meet this commitment. More information on the meeting is available at the SPA [website](#).

Her Majesty's inspectorate of Constabulary of Scotland (HMICS):

59. On 11 February 2015, it was announced that the fieldwork phase of the joint review by HMICS and Care Inspectorate of Multi Agency Public Protection Arrangements, (MAPPA) would take place between April and June 2015. MAPPA enables police, local authorities, the prison service and health boards to jointly assess and manage the way risks posed by registered sex offenders while in custody, after release from a custodial sentence or on a community-based court disposal. A joint report of the review findings, along with any recommendations, will be published in the Autumn. More details are available on HMICS [website](#).

Scottish Public Sector Ombudsman (SPSO):

60. The [SPSO News – February](#) was published on 18 February 2015. The February newsletter summarises January 2014 case numbers, outlines investigations reports, recent SPSO news and highlights emerging issues, including in this month's edition, a summary of an investigation report into a complaint relating to planning enforcement against South Ayrshire Council. More information on the SPSO's work, including detailed Investigations and decision reports, is available on the [Our findings](#) webpage. More detailed intelligence from the SPSO is considered routinely by the Financial Audit and Assurance Committee.

Commissioner for Ethical Standards in Public Life in Scotland:

61. Since the previous meeting of the Commission, no decisions on complaints relating to councillors were published by the [Commissioner](#). In cases where the Commissioner concludes that the Code had been contravened the complainant is referred to the Standards Commission for Scotland for further investigation. More detailed intelligence

from the Commissioner is considered routinely by the Financial Audit and Assurance Committee.

Standards Commission for Scotland:

62. Over the period 12 February 2015 to 3 March 2015, the [Standards Commission](#) held two hearings to investigate a complaint (referred from the [Commissioner](#)) against [Councillor George Black](#), West Dunbartonshire Council which took place on 17 and 18 February 2015. A previous complaint against Councillor Black had been upheld in June 2014 and a sanction of suspension had been applied. and a complaint against eight councillors from Aberdeen City Council, namely: [Councillors Barney Crockett, Neil Cooney, Fraser Forsyth, Ross Grant, Jenny Laing, Ross Thomson and Willie Young](#), which began on 11 February 2015. As of 4 March 2015, the decisions of the hearing panels had not yet been published.
63. The Commission will hold future hearings to consider complaints against [Councillor Corrie McChord](#), Stirling Council, (24 March 2015) and [Councillor Andy Doig](#), Renfrewshire Council (to be announced).

Other UK Audit Bodies

National Audit Office:

64. On 13 February 2015, the NAO published [Inspection: A comparative study](#). The report presents the findings of a review of inspectorates in the home affairs and justice sector. It acknowledges the vital role played by inspectorates but identifies inconsistency in the extent to which they are independent of government and in their reporting arrangements, which can limit their impact. More details are available on NAO's [website](#).
65. [The role of prescribed persons](#) was published on 27 February 2015. It concludes that the wider government needs to do more to understand the experience of whistleblowers and to act where whistleblowers suffer detriment. Particular efforts should be directed to reducing the gap between the actions of prescribed persons and whistleblowers' expectations. Prescribed persons, as defined under the Public Interest Disclosure Act 1998, are independent bodies or individuals that can be approached by whistleblowers where an approach to their employers would not be appropriate. Prescribed persons usually have an authoritative relationship with a whistleblower's organisation and may be regulatory or legislative bodies, central government departments, arm's length bodies or charities and include all Members of Parliament. More details can be found on NAO's [website](#).
66. Also published on 27 February 2015, a guide entitled [Financial services: regulation, redress and advice overview 2014](#) provides an accessible overview of the financial services regulation, redress and advice bodies, utilising NAO's published work. More details of the guide are available at the NAO [website](#). It covers:
 - the responsibilities five financial services regulation, redress and advice bodies and how they spend their money;
 - Interaction and cooperation between the bodies;
 - recent findings and future challenges for the bodies; and
 - case studies on the impact of payment protection insurance mis-selling on the Financial Ombudsman Service and the financial crisis on the Financial Services Compensation Scheme

Westminster

Public Accounts Committee:

67. On 6 February 2014, the Committee published [Tax avoidance: the role of large accountancy firms \(follow-up\)](#) as part of its ongoing inquiry. The critical report commented that large accountancy firms advise multinational companies on complex strategies and contrived structures which do not reflect the substance of their businesses and are instead designed to avoid tax. Following publication of leaked documents detailing some of the tax advice it has given to its multinational clients, the Committee took further evidence from PriceWaterhouseCoopers (PwC). It concluded that the widespread promotion of such schemes by PwC to numerous clients, based on artificially diverting profits to Luxembourg through intra-company loans, constituted the promotion of large-scale tax avoidance. It further concluded that Government needs to take a more active role in regulating the tax industry. In particular, HM Revenue & Customs (HMRC) needs to be more proactive and robust in challenging the advice being given by accountancy firms to clients, ensuring that tax liabilities reflect the locale of where companies conduct their business, and introducing a new code of conduct for all tax advisers. More information is available on the Committee's [website](#).
68. On 25 February 2015, [Universal Credit: progress update](#) was published. The report noted that despite the significant investment (£700 million) in Department for Work & Pensions in Universal Credit since the programme began in 2010, little progress has been achieved on the front line. Fewer than 18,000 people had claimed it by October 2014, although the Department expects this to rise significantly by February 2016. The report recommends that the Department sets out clearly what it has really gained from its spending so far, including from the piloting of the programme, and from the investment in live service IT systems. More information is available on the Committee's [website](#).
69. [Planning for the Better Care Fund](#) was published on 26 February 2015. The report presents the findings on its investigation of the Better Care Fund intended to transform local health and social care services by pooling resources. However, it finds that with the redesign of the Fund after April 2014, the priority has shifted from improving local services through integration to protecting NHS resources. The Committee concluded that NHS spending was judged a higher priority than supporting adult social care. The report recommends that in future spending discussions, departments and the Treasury must define unambiguously service and savings requirements, and ensure they are clearly, consistently and transparently presented to all parties. More information is available on the Committee's [website](#).

Information and Intelligence

70. A consultation on the CIPFA/SOLACE Framework *Delivering Good Governance in Local Government* was launched on 12 February 2015, concluding on 16 March 2015. The aim of the consultation is to ascertain how it has been working in practice, to update the Framework and develop revised guidance in 2015. Further details of the consultation including the consultation documents can be found at the CIPFA [website](#). While the Commission will not be responding to the consultation directly, it has an interest in the matter and will maintain a watching brief.
71. On 3 March 2015, Fiscal Affairs Scotland published its report [Local government funding challenges](#). The report comments that demand for services are growing at time

while constraints on council budgets continue. It suggests this may lead to increased pressure on the provision of non-statutory services such as leisure.

Conclusion

72. The Commission is invited to consider and note this report.

Paul Reilly
Secretary to the Accounts Commission
5 March 2015

ACCOUNTS COMMISSION

MEETING 12 MARCH 2015

COVER REPORT BY SECRETARY TO THE ACCOUNTS COMMISSION

OPENCAST COALMINING RESTORATION

Introduction

1. This report introduces a briefing paper by the Director of Performance Audit and Best Value on issues for councils around site restoration.

Background

2. The Financial Audit and Assurance Committee, in monitoring current issues arising in councils, has had an interest in issues for councils arising from the liquidation of Scottish Coal Company Ltd and Aardvark TMC during 2013 both of whom operated opencast coal mines in Scotland.
3. At its meeting on 26 September 2013, the Committee noted that there were particular issues in this regard affecting East Ayrshire Council. Subsequently, the Director of Performance Audit and Best Value has met the Chief Executive of the Council to discuss the matter. He has also, on the Committee's behalf and in conjunction with the Director of Audit Services, sought to establish, through the annual audit process, the extent of the issue in other Scottish councils.
4. The outcome of this work is the subject of the attached briefing. The briefing's focus is on any financial implications for councils and, in particular, action taken by East Ayrshire Council. It also highlights a set of broader issues for councils associated with site restoration following other activities such as renewable energy developments, quarries and landfill sites. It is proposed to gather further evidence on the scale and significance of these wider developments and then report back to the Commission.

Conclusion

5. It is recommended that the Commission:
 - (a) note the attached briefing.
 - (b) note that the Director will report further to the Commission on wider developments arising from his work.

Paul Reilly
Secretary to the Accounts Commission
4 March 2015

Opencast coal mining

A briefing for the Accounts Commission

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. We help the Auditor General for Scotland and the Accounts Commission check that organisations spending public money use it properly, efficiently and effectively.

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Introduction

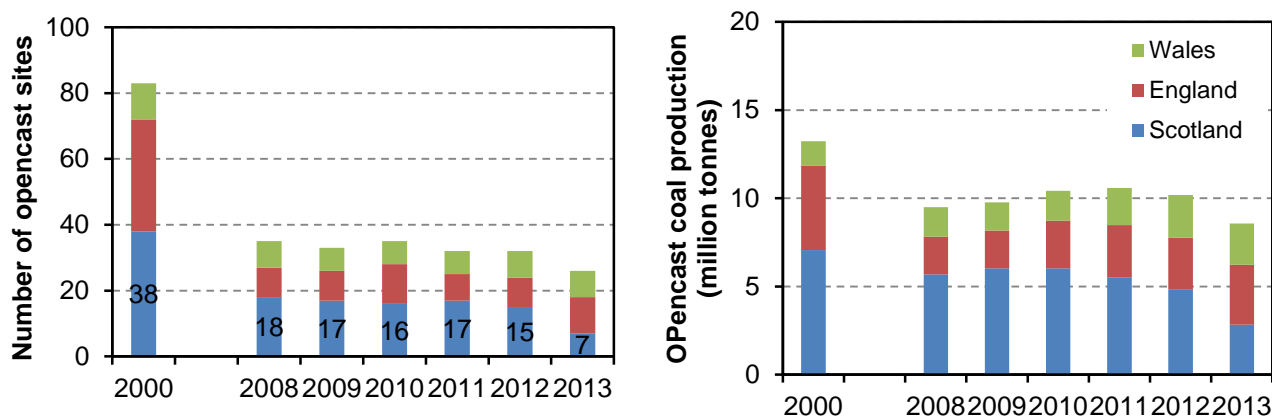
1. This briefing summarises auditors' findings from the 2013/14 audit of councils that were affected by the liquidation of Scottish Coal Company Ltd and Aardvark TMC during 2013 both of whom operated opencast coal mines in Scotland. The report's focus is on any financial implications for councils and, in particular, the action taken East Ayrshire Council. It also highlights a set of broader issues for councils associated with site restoration following other activities such as renewable energy developments, quarries and landfill sites. It is proposed to gather further evidence on the scale and significance of these wider developments and then report back to the Commission.

Opencast coal mining in Scotland

2. At the end of 2013, Scotland had seven opencast coal mines (out of a total of 26 across Great Britain).¹ In 2013, Scottish opencast sites produced one-third of the Great Britain total of 8.58 million tonnes of coal (Exhibit 1). This contrasted with 2012 when 15 Scottish opencast sites contributed almost half (47 per cent) of total British coal production of 10.18 million tonnes.

Exhibit 1

Number of opencast coal sites and total production of coal (million tonnes) across England, Scotland and Wales (2000 and 2008-13)



Source: Coal Authority

¹ This included three dormant sites.

-
3. During 2013, two major operators of opencast coal mines in Scotland (Scottish Coal Company Ltd and Aardvark TMC Ltd, which was owned by ATH Resources plc) went into liquidation. Key factors influencing the economic viability of the opencast coal industry at that time were a decline in the international price of coal and a rise in the cost of transporting coal by rail. At the time of their liquidation, Scottish Coal and Aardvark owned sites in six local authority areas: Dumfries and Galloway, East Ayrshire, Fife, Midlothian, North Lanarkshire and South Lanarkshire.
 4. Following the liquidation of Scottish Coal and Aardvark, the liquidators, KPMG, petitioned the Court of Session to abandon certain opencast sites and relinquish responsibility for restoring them and meeting the requirements of environmental licences associated with the sites. These licences related to the protection of water quality and habitats and species. Two councils (East Ayrshire and South Lanarkshire) and the Scottish Environment Protection Agency and Scottish Natural Heritage challenged the petition. On 11 July 2013, the Court of Session found in favour of the petitioners, KPMG. The decision was appealed and, on 12 December 2013, the court concluded that KPMG could not abandon the sites or any of the environmental licences associated with them.
 5. Since the liquidation of Scottish Coal and Aardvark, seven Scottish opencast sites (in Dumfries and Galloway, East Ayrshire, Fife and South Lanarkshire) have been acquired by Hargreaves Services who are either conducting mining or restoration works at the sites.

Findings from local authority annual audit reports for 2013/14

6. Auditors from five of the six councils affected by the demise of Scottish Coal and Aardvark commented in their annual audit reports for 2013/14 on opencast coal mining and the possible financial implications for the council (Exhibit 2). There was no reference to any implications of the liquidation of Scottish Coal Company Ltd and Aardvark TMC in the annual audit report of South Lanarkshire Council for 2013/14.
7. The auditor of East Ayrshire Council made extensive comment on the action taken by the council during 2013/14. This reflects the scale of:
 - the impact on the East Ayrshire Council - opencast coal mines in the council area had accounted for 54 per cent of all Scottish and 25 per cent of all British coal production in 2012 (the year before the liquidation of Scottish Coal and Aardvark). 348 people were made redundant from opencast sites in the East Ayrshire Council area
 - the council's response to the liquidation of Scottish Coal and Aardvark which included:
 - appointing a dedicated coal team led by the depute chief executive
 - commissioning an independent investigation into the reasons for the failings chaired by the former chief planner of the Scottish Government
 - holding officers to account for the failings through the disciplinary process. This process resulted in the dismissal of the Head of Planning and Economic Development and the demotion of the Minerals Officer

-
- taking immediate action to plan and implement improvements in its arrangements for managing open cast mine activities and other similar projects in the future
 - negotiating the call-in of financial guarantees over the open cast sites
 - increasing resources in the planning service to support the new arrangements
 - improving monitoring and reporting arrangements covering open cast mine operations.

8. The relevant extract from the East Ayrshire Council 2013/14 annual audit report is reproduced in full in [Appendix 1](#). East Ayrshire Council's auditor concluded that while the failings identified by the independent review were significant, the council had acted promptly and robustly in the aftermath of the liquidation of the two opencast coal mining operators.²

² The independent review and East Ayrshire Council's response to it were published on 20 January 2014 and is available at <http://www.east-ayrshire.gov.uk/Resources/PDF/C/Coal-Independent-Review-of-the-Regulation-of-Opencast-Coal-Operations-in-East-Ayrshire---Redacted-report-by-the-Independent-Review-Team.pdf>

Exhibit 2

Summary of auditors' findings relating to the financial implications opencast coal mining

Council	Summary of auditors' report
Dumfries and Galloway	<ul style="list-style-type: none">The auditor's report notes that at the end of 2013/14, the council received £8.2 million from a restoration bond associated with the Glenmuckloch opencast site. Following the liquidation of Aardvark TMC, the bond holders agreed to release bond monies to the Council for the restoration. This fund will be used during 2014/15. There is no expectation that the Council will contribute to the restoration works.
East Ayrshire	<ul style="list-style-type: none">The auditor's report notes that the estimated total notional cost of restoring opencast mines in the East Ayrshire council area was £161 million. The report notes that council considers that it has no legal obligation to carry out restoration work on the vacant mines but will continue to fulfil its statutory responsibilities in respect of any health and safety or contamination issues which might arise. There are 24 bonds in place to address restoration work which total £28.7 million. The report notes that it is unclear to what extent all of the bonds will be honoured. To date, twelve bonds have been called formally and following negotiations six have been settled. The council is in discussion with the bond providers for the remaining twelve bonds.
Fife	<ul style="list-style-type: none">The auditor's report notes that the management of the council has assessed that it is liable to restore the opencast sites in its area up to the value of the bonds that it has in place. The management of the council considers that there is no residual risk to the council.
Midlothian	<ul style="list-style-type: none">The auditor's report notes that around 85 per cent of the restoration at the Newbigging/Shewington site (formerly operated by Scottish Coal Company Ltd.) was complete. An estimated £0.9 million of works remained outstanding. This could be partly financed by bonds totalling £0.15 million. The new site operator has carried out further restoration works and the works remaining outstanding is estimated at £0.65 million. There is no indication that this liability will fall to the council.
North Lanarkshire	<ul style="list-style-type: none">The auditor's report notes that the council was conducting a review of all mineral developments in the area and has currently identified one opencast site where the operator has gone out of business and the site has been left unrestored. The Damside site should have been restored in full by 2003 but restoration works, which were advanced, were suspended. An enforcement notice requiring the completion of restoration

works was issued in 2013. Since then the council has been in discussion with a potential purchaser for the site. The council do not consider there to be significant risk from this site given the scale of the restoration works required, the likelihood of future pollution events and the presence of a willing developer.

Implications and further action

9. The liquidation of Scottish Coal Ltd and Aardvark TMC Ltd has had major implications for certain councils. There is no suggestion that individual councils are liable for the full cost of restoring opencast mining sites. The question of how full restoration will be achieved and paid for remains for a number of sites and this will be monitored by auditors during the 2014/15 audit.
10. The situation exposed by the liquidation of Scottish Coal Ltd and Aardvark TMC Ltd for the opencast coal industry and councils has wider implications for other activities where restoration is required after operations have ended. These include renewable energy developments, quarries and landfill sites. It emphasises the importance of councils ensuring that operators have adequate financial resources in place to enable full restoration of sites, both at the time of the start of operation and as operations develop.
11. Alongside, further work on opencast mining restoration we will liaise with auditors and relevant national bodies to gather evidence about the scale and significance of these wider implications for councils.

Appendix 1

Extract from the East Ayrshire Council's 2013/14 annual audit report

A number of local authority areas were impacted by the liquidation of the Scottish Coal Company Limited and Aardvark TMC Limited in April 2013. We reported last year that this has a number of serious implications for the council and its communities, including the impact on the landscape, the environment and the economy within East Ayrshire as well as any potential financial consequences for the council.

In May 2013, the East Ayrshire Council's cabinet approved a number of recommendations in response to emerging developments, which have been taken forward, since that time, by the Coal Team, an officer team led by the Depute Chief Executive. In September 2013 the Council received an update on progress, as part of a 'Steps to Recovery' paper. This reported the aim of these steps, to minimise the consequences of the liquidation of the operators, and to maximise the potential for restoration of the sites through development opportunities and well managed opencast coal mining.

Independent review

In addition to the work carried out by the officer team, in June 2013, the Council approved the terms of reference for an independent review into the processes and procedures regarding the management, implementation, monitoring and review of the planning processes in relation to opencast coal operations. This included a review of the circumstances that resulted in the failure by the coal operators to restore their opencast coal sites on an ongoing basis in accordance with the restoration plans approved as part of the planning consent. The independent review team was lead by the former Chief Planner of the Scottish Government.

In January 2014 the report of the independent review was presented to a meeting of the Council. Following legal advice, a redacted version of the report was made public at that time.

The report refers to some positive findings which include the support of the local communities for opencast mining in the area, due to the jobs created by the industry. It comments that "if the policies at the local level, reflected in the East Ayrshire Open Cast Subject Plan (EAOCSP) had been applied they would have provided a robust framework for decision making and ensuring progressive restoration."

The report then goes onto say that "these are far outweighed by major and persistent failings in procedure and practice". These include:

- staff resources were not commensurate with the regulatory challenges of the industry
- monitoring progress on sites was wholly inadequate, and failed to identify failures to comply with the terms of planning permissions and legal agreements
- there was a failure to appoint independent assessors, paid for by the operators, required by the East Ayrshire Open Cast Subject Plan

- lack of progress with restoration of existing sites was not highlighted when considering planning applications to extend sites
- the process for calculating and monitoring restoration guarantee bonds was wholly deficient and defective
- local forums did not provide effective challenge to the operators practices
- neither elected members nor senior management were provided with any accurate or authoritative assessment of the scale of the problem or the funding required to address it
- the lack of awareness within the senior management team of the environmental damage being caused and the financial implications of the operators actions was difficult to understand or explain. “There is no evidence to suggest that these issues were raised with the Director of Neighbourhood Services or the Chief Executive.”

It concludes that the “failings are many and varied but at their core lie significant and ongoing individual, management and communication failings, particularly within the planning service.”

The Chief Executive presented, to the same meeting, a comprehensive report setting out the council’s response to the key findings and the recommendations included the report.

The Council agreed that the Head of Human Resources would lead a formal disciplinary investigation into each instance of failure to fulfil statutory or professional responsibilities in respect of matters identified in the review report. As part of this process an Assessment Panel of five Members concluded unanimously that there is no case to answer on the part of the Chief Executive.

The Head of Human Resources investigation is now concluded and ongoing disciplinary proceedings reflect the recommendations of this investigation. These proceedings led to the dismissal of the Head of Planning & Economic Development in July 2014 and demotion of the Minerals Officer in August 2014.

Financial implications

In January 2014 it was reported that independent mining engineers’ estimated the total notional cost of restoration for East Ayrshire’s mines as £161 million. The council has no intention that it will bear this cost or any sum of this nature. The council’s view, supported by legal advice, is that it has no legal obligation to carry out restoration work on the vacant mines. The council successfully appealed a Court of Session Judicial Review which enabled the liquidator of the two coal companies to disclaim/abandon their ownership and responsibility for the sites which remain unsold.

Whilst the council view’s is that it accepts no legal responsibility for restoration, it reports that it continues to fulfil its statutory responsibilities in respect of any health and safety or contamination issues which might arise. The costs of fulfilling these responsibilities is not known. Development opportunities and alternative restoration solutions for the sites are being actively pursued by the council. The current situation is that there are six operational opencast mine sites, employing 404 employees, in the area. As well as the operational sites, the liquidators have reached agreement

regarding the sale of four sites. Proposals are being developed with the council for the restoration of these sites.

The total value of the 24 bonds in place to address restoration work totals £28.656 million. However, it is unclear to what extent all of the bonds will be honoured. To date twelve bonds have been called formally and following negotiations six have been settled. The council is in discussion with the bond providers for the remaining twelve bonds. The income from these bonds is reflected in the financial statements, as appropriate. The council intends to commence a tendering process (up to the value of the bonds received) to invite organisations to carry out restoration work. The application of the bond monies is to be kept under review by the council.

In May 2014 the council's Cabinet approved improved arrangements for setting up and monitoring of financial guarantees for such projects. It is reported that these arrangements reflect the emerging issues discussed as part of the Scottish Government's Consultation on Opencast Coal Restoration; Effective Regulation, triggered by the national issues arising from the liquidation of the operators.

Improvements made

A number of progress reports describing actions taken since the independent review have been discussed by the Council. The latest June 2014 report reflects on the scale of the ongoing tasks, and details its priorities to focus activity on "operational opencast coal sites, which addressed the employment of a local workforce and compliant operations, and the calling of bonds which would help facilitate the restoration of both operational and non-operational sites."

The June report describes progress made in implementing a strengthened Compliance Monitoring Framework for planning applications /consents , for independent compliance assessment of active sites and for regular reporting of activity to the Planning Committee. The framework covers surface mines, quarries, landfill sites, onshore wind farms, electrical infrastructure projects, and other similar projects. To support these arrangements and to respond to an increase in planning applications, three additional planning officers have been employed. The Coal Team and its officers will also be integrated into the Planning and Economic Development Service by October 2014.

Audit conclusions

The liquidation of the two opencast coal mining operators has had an impact on a number of Scottish councils since April 2013. Due to the scale of coal extraction interests in East Ayrshire it has had a significant impact on the council's priorities and activities since April 2013. The independent review refers to "major and persistent failings in procedure and practice," in the council's open cast mining operations. These failings meant that the council was unaware of the scale of the issues that would crystallise for the community and the council until the liquidation of the operators occurred.

Whilst it does not reduce the significance of the failings, since the council identified the issues arising, it has provided a prompt and robust response through:

- appointment of the Coal Team led by the Depute Chief Executive
- an independent investigation on the reasons for the failings
- holding officers to account for the failings through the disciplinary process
- taking immediate action to plan and implement improvements in its arrangements for managing open cast mine activities and other similar projects in the future
- negotiating the call in of financial guarantees over the open cast sites
- increasing resources in the planning service to support the new arrangements
- improving monitoring and reporting arrangements covering open cast mine operations
- working to ensure future proofing in respect of similar activities by the provision of appropriate financial guarantees and monitoring for not only opencast coal sites but for all activities which may have a similar impact.

The complexity and uniqueness of the current situation means that it is not possible to give a definitive view on the likely outcome for the council. The future of a number of sites is still to be resolved. Any impact on the council's finances will have a consequent impact on the level of resources available for other council services. We will continue to monitor developments and the financial implications of this issue.

ACCOUNTS COMMISSION

MEETING 12 MARCH 2015

REPORT BY THE CONTROLLER OF AUDIT & DIRECTOR OF PERFORMANCE AUDIT AND BEST VALUE

REVIEW OF THE LOCAL GOVERNMENT ANNUAL AUDIT REPORTS 2013/14

Purpose

1. This paper summarises the outcome of the review of the 2013/14 annual audit reports for councils and related local authority bodies.

Background

2. Under the Code of Audit Practice approved by the Accounts Commission and the Auditor General, auditors are required at the conclusion of the annual audit to issue a report summarising the significant matters arising from the year's audit. In local government, these reports are addressed to the members of the audited body and the Controller of Audit and are submitted by 31 October each year. The reports are public reports and are available on Audit Scotland's website.
3. The reports are reviewed by my staff to:
 - identify high-level issues and themes for inclusion in the Commission's annual local government overview report
 - identify specific issues that the Controller may wish to report to the Commission under his statutory reporting powers¹. In short, these provide for reports about any matters arising from the accounts of local authorities, or the auditing of those accounts; and, in certain specific situations, involving illegality or loss.
4. In practice, significant issues arising from the audits will be known to my staff in advance of the annual audit reports. However, when such matters are included in the annual audit report, that can be the starting point for statutory reporting.

Matters arising from the review of the 2013/14 annual audit reports

5. General themes arising from the review were reflected in the draft local government overview report, which the Commission considered in February 2015 and published on 5 March 2015.
6. Common themes in annual audit reports included:
 - Audit opinions – none of the accounts was qualified, including the 32 councils, eleven pension funds and 33 other small boards and partnerships. For the first time in 2013/14, there was also a full audit of 125 registered charities' accounts, where a council or some council members are the sole trustees. All accounts were submitted and audited on time.
 - Financial position – significant funding gaps being reported (but councils use different definitions and timeframes) and the continued need to make substantial savings. Uncertainties continue about the financial consequences of welfare reform.
 - Governance and financial management – the need to ensure that scrutiny and governance arrangements are effective, particularly given some further changes in senior management teams and structures, and greater emphasis on partnership working

¹ Sections 102(1) and 102(3) of the Local Government (Scotland) Act 1973

through community planning partnerships and the new health and social care partnerships.

- Service performance and delivery – the need to make better use of local data and to work with service users and communities to develop options to improve services and help save money.

7. There were issues in five councils that I considered particularly closely:

- East Ayrshire Council – the financial implications for the council of restoration costs of open-cast mining, where the operators went into liquidation in 2013 and an independent report found significant failings in procedure and practice. A briefing report on this is on today's agenda.
- East Dunbartonshire Council – there are weaknesses in financial controls and in the council's processes for preparing an annual governance statement. These issues are now being considered as part of the Best Value audit which is currently underway.
- Glasgow City Council – a break down in the system of internal control (ie. notification of when assets become operational) led to double counting assets and therefore significant adjustments in the 2013/14 audited accounts. The council has taken action, including staff training, to prevent this from happening again.
- Midlothian Council – the financial impact of having to demolish newly-built houses where CO2 gas levels were high and council tenants had to be supported to find other homes. I am continuing to monitor the impact of this closely.
- Stirling Council – further audit work was required on the governance arrangements in relation to the council's application for, and delivery of, an Armed Forces Day event.

Links to other reports that the Commission receives

8. In addition to the annual local government overview report, the Commission receives a range of other reports throughout the year which reflect emerging issues, themes and risks arising from annual audit activity. These include reports on:

- the shared risk assessment process
- current issues in local government, including reports for the Commission's Financial Audit and Assurance Committee (FAAC)
- the impact of local audit work, reported to the FAAC
- the transparency and quality of audit activity.

9. I will be reporting imminently to the Commission on the outcome of this year's shared risk assessment process and the proposed Best Value audit activity for the forthcoming year.

10. The recent report for the FAAC on transparency and quality highlighted the main risks identified in the 2013/14 annual audit reports, including:

- Financial statements - the main ones being quality of working papers and draft financial statements and the how property, plant and equipment assets are classified
- Business risks – the main one being workforce management in the context of staff reductions. Also compliance with new LASAAC regulations, capital project slippage, the need to improve budgeting and health and social care integration
- Governance – including weak governance procedures and the need to improve governance arrangements in their charitable trusts. Also a need to improve transparency of external reporting
- Performance – the main two being the quality and timeliness of performance reporting and missing performance targets.

Conclusion

11. The Committee is asked to note the outcome of the review of annual audit reports for local government bodies.

Fraser McKinlay

Controller of Audit and Director of Performance Audit and Best Value

4 March 2015