

## **Item: 7**

### **Orkney and Shetland Valuation Joint Board: 30 June 2022**

#### **Accounts Commission Findings.**

#### **Report by Clerk to the Board.**

### **1. Purpose of Report**

To receive the findings of the Accounts Commission.

### **2. Recommendations**

The Board is invited to note:

#### **2.1.**

The Accounts Commission findings from the Annual Audit Report 2020/21.

#### **2.2.**

That progress on the improvement actions is the subject of a separate report on the agenda for this meeting.

#### **It is recommended:**

#### **2.3.**

That the Board accept the findings of the Accounts Commission, attached as Appendix 1 to this report.

### **3. Accounts Commission**

#### **3.1.**

The 2020/21 annual audit report and financial statements for the VJB identified issues in relation to governance and decision making of the VJB and as a result a report was presented by the Controller of Audit to the Accounts Commission for Scotland on 13 March 2022. The report referred to concerns reported by the appointed auditor about how the Board managed contracts and pay awards for the Assessor and Depute Assessor.

#### **3.2.**

The first issue related to the Assessor's contract whereby a decision to extend the Assessor's contract was taken at a meeting of the Board that had not been properly convened. This rendered the decision and subsequent actions unlawful. The decision was ratified at a subsequent formal meeting of the Board.

### **3.3.**

Secondly the consultant Depute Assessor's hourly pay rate was increased without being subject to appropriate scrutiny, including an assessment of value for money.

### **3.4.**

The Commission noted with serious concern the conclusion of the Controller that the Board took numerous decisions that were unlawful or not supported by appropriate procedures. Concerns were also noted in relation to the Board's governance, transparency and planning. The Commission noted that some significant matters have been reported in successive external audits rather than through the Board's internal controls and reporting, including internal audit.

### **3.5.**

The Accounts Commission noted the commitment made by the Board to rectify these matters and indeed the steps that it has already taken. This includes ensuring that the Board members and officers fully understand their leadership responsibilities and statutory obligations, as well as having clarity on the support available from the contributing councils. The Commission additionally underlined the need for effective self-evaluation and governance and control frameworks to be in place to ensure that significant matters are identified and addressed as they arise.

### **3.6.**

The Commission emphasises the need for the Board to learn lessons from this matter and to ensure robust decision making. To this effect, comprehensive 'lessons learned' will be undertaken with the Board.

### **3.7.**

It is proposed that the Board accept the findings of the Accounts Commission, attached as Appendix 1 to this report.

## **4. Financial Implications**

There are no financial implication arising directly from this report.

## **5. Governance Aspects**

### **5.1.**

Section 103E of the Local Government (Scotland) Act 1973, Action by local authorities states:

“(1) A local authority receiving a copy of findings shall consider those findings at a meeting of the authority within three months of receiving them or within such longer period as the Commission may specify in writing.

The duty imposed on a local authority by subsection (1) above shall be discharged only by that authority and not by a committee or sub committee or an officer.

(3) Where findings received by a local authority contain recommendations, the authority shall decide -

(a) whether to accept any or all of those recommendations;

(b) what, if any, action to take in response to those recommendations.

A meeting under subsection (1) above shall not be held unless, at least seven clear days before the meeting, there has been published, in a newspaper circulating in the area of the local authority concerned, a notice which -

(a) states the time and place of the meeting;

(b) indicates that the meeting is to be held in order to consider the findings of the Commission and any recommendations in those findings; and

(c) describes the nature of those findings and of any such recommendations.

(5) The local authority shall, as soon as practicable after that meeting -

(a) notify the Commission of any decisions made in pursuance of subsection 3 above; and

(b) publish, in a newspaper circulating in the area of the local authority, a notice containing a summary, approved by the Commission, of any such decisions.

(6) A notice under subsection 5(b) above shall not need to summarise any decision made while the public were excluded from the meeting -

(a) under section 50A (2) of this Act (confidential matters) or in pursuance of a resolution under section 50A (4) of this Act (exempt information); but

(b) in a case where section 50C and 50D of this Act (availability for inspection after meetings of minutes, background papers and other documents) apply in relation to the meeting, shall indicate the documents which, in relation to that meeting, are open for inspection in accordance with those sections.”.

## 5.2.

The content and implications of this report have been reviewed and, at this stage, it is deemed that the Board **DOES NOT** require external legal advice in consideration of the recommendations of this report.

## 6. Contact Officer

Karen Greaves, Clerk to the Board, Email [karen.greaves@orkney.gov.uk](mailto:karen.greaves@orkney.gov.uk)

## 7. Appendix

Appendix 1: Accounts Commission Findings.

Karen Greaves  
Clerk  
Orkney and Shetland Valuation Joint Board  
(By email)

18 March 2022

Dear Karen

**Statutory Report: Orkney and Shetland Valuation Joint Board**

Further to my letter of 4 March, I am writing to advise you that, at its meeting on 10 March, the Accounts Commission agreed to make findings on the Controller of Audit's Statutory Report on Orkney and Shetland Valuation Joint Board. I enclose a copy of the findings.

The Commission intends to publish the findings together with the report on the morning of 22 March 2022. Please note that the findings and the report are embargoed for use by the media until then, and the Commission will not make any comment in response to media enquiries before that.

I would advise you that the Commission is content to relax the statutory obligations on the Board in how it is required to deal with the report. These obligations are attached. Essentially, the Board is required to consider the Commission's findings at a meeting of the Board within three months of receiving them or within such longer period as the Commission may specify in writing. We are comfortable for the Board to consider the most appropriate time to consider the findings, especially given the forthcoming local government elections and the prospect of a new Board. I would be happy to discuss this with you if helpful.

As indicated in our findings, it is important to the Commission that our approach to Statutory Report work is integrated with the annual audit process. Accordingly, we would encourage you to consider how you may wish to involve the audit team in the meeting at which the Board considers the Commission's findings and report.

As we also discussed last week, it is the Commission's practice to seek a meeting to discuss a report and its own conclusions directly with the body concerned. In the case of this report, we would propose a meeting between the Chair of the Commission, William Moyes, and the Convener of the Board. As we discussed in our call, it may be sensible that such a meeting take place with a new Convener following the local government election. We are however content to take your judgement on how you wish to proceed, and the Commission Chair has today written to the current Convener proposing this approach.

Finally, in line with our conversation, I'd advise of my view that it is important that the Board is first to be formally informed of these findings. With this in mind, I am content to leave to your judgement how you would wish to share this with colleagues in contributing councils.

Meantime, I wish you well for coming weeks.

Yours sincerely



**Paul Reilly**  
**Secretary to the Commission**

Encs: Commission findings, Statutory provisions

## **ACCOUNTS COMMISSION**

### **STATUTORY REPORT: ORKNEY AND SHETLAND VALUATION JOINT BOARD**

**MARCH 2022**

#### **FINDINGS**

The Commission accepts the Controller of Audit's report on matters from the 2020/21 audit of Orkney and Shetland Valuation Joint Board. It refers to concerns reported by the appointed auditor about how the Board managed contracts and pay awards for the Assessor and the Depute Assessor, and in related matters concerning financial sustainability, governance, leadership, procurement, and aspects of Best Value.

We note with serious concern the conclusion of the Controller that the Board took numerous decisions that were unlawful or not supported by appropriate procedures. We also share his significant concerns in relation to the Board's governance, transparency and planning.

We acknowledge the commitment made by the Board to rectify these matters and indeed the steps that it has already taken. As it does so, it is vital that Board members and officers fully understand their leadership responsibilities and statutory obligations, as well as having clarity on the support available from the contributing councils, namely Orkney Islands and Shetland Islands councils. We therefore expect the new Board in place following the forthcoming local government elections to draw upon effective training and development to allow them to fulfil such responsibilities.

As well as underlining the need for the Board to learn lessons from this matter, we would also, in line with our role of providing assurance about the use of public money, underline lessons to be learned by other bodies, particularly joint boards. Such lessons centre on the need for robust governance around decision-making. We also note in this case the need to manage risks around workforce planning for staff with specialised skills. Further, it is concerning that significant matters have been reported in successive external annual audits rather than through the Board's internal controls and reporting, including internal audit. We therefore underline the need for effective self-evaluation and governance and control frameworks to be in place to ensure that significant matters are identified and addressed as they arise.

The appointed auditor will report on progress made by the Board, and the Controller can report to the Commission as appropriate.

# SELECTED STATUTORY PROVISIONS FOR REPORTS BY THE CONTROLLER OF AUDIT AND PROCEDURE OF THE ACCOUNTS COMMISSION

## AN AMALGAMATION OF EXCERPTS FROM THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973 AND THE LOCAL GOVERNMENT IN SCOTLAND ACT 2003

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### **S102 1973 Act - Reports by the Controller of Audit**

- (1) The Controller of Audit may, and if so required by the Commission, shall make reports to the Commission with respect to -
    - (a) the accounts of local authorities audited under this part of this Act;
    - (b) any matters arising from the accounts of any of those authorities or from the auditing of those accounts being matters that the Controller considers should be considered by the local authority or brought to the attention of the public;
    - (c) the performance by a local authority of their duties under Part 1 (best value and accountability) and Part 2 (community planning) of the Local Government in Scotland Act 2003.
  - (2) The Controller of Audit shall send a copy of a report made under subsection (1) above to
    - (a) any local authority named in the report; and
    - (b) any other person the Controller thinks fit.
- (2A) A local authority shall, forthwith upon their receiving a copy of a report sent to them under subsection (1) or (2) above, supply a copy of that copy report to each member of the authority and make additional copies available for public inspection.

### **S3 2003 Act - Action by Accounts Commission following report by Controller of Audit**

On a report being made to it by the Controller of Audit under section 102(1) of the Local Government (Scotland) Act 1973 the Accounts Commission may do, in any order, all or any of the following, or none of them -

- (a) direct the Controller of Audit to carry out further investigations;
- (b) hold a hearing;
- (c) state its findings.

### **S4(2)(b) 2003 Act**

Findings which do not follow a hearing shall be treated as the findings of the members of the Commission holding a hearing.

- (3) Findings may include recommendations and the persons to whom those recommendations may be made include the Scottish Ministers.
- (4) The Accounts Commission shall give a copy of findings so made to any member or officer of a local authority who was named in the report upon which proceeded the hearing to which the findings relate.

### **S103E 1973 Act - Action by local authorities**

- (1) A local authority receiving a copy of findings shall consider those findings at a meeting of the authority within three months of receiving them or within such longer period as the Commission may specify in writing.

- (2) The duty imposed on a local authority by subsection (1) above shall be discharged only by that authority and not by a committee or sub committee or an officer.
- (3) Where findings received by a local authority contain recommendations, the authority shall decide -
  - (a) whether to accept any or all of those recommendations;
  - (b) what, if any, action to take in response to those recommendations.
- (4) A meeting under subsection (1) above shall not be held unless, at least seven clear days before the meeting, there has been published, in a newspaper circulating in the area of the local authority concerned, a notice which -
  - (a) states the time and place of the meeting;
  - (b) indicates that the meeting is to be held in order to consider the findings of the Commission and any recommendations in those findings; and
  - (c) describes the nature of those findings and of any such recommendations.
- (5) The local authority shall, as soon as practicable after that meeting -
  - (a) notify the Commission of any decisions made in pursuance of subsection 3 above; and
  - (b) publish, in a newspaper circulating in the area of the local authority, a notice containing a summary, approved by the Commission, of any such decisions.
- (6) A notice under subsection 5(b) above shall not need to summarise any decision made while the public were excluded from the meeting -
  - (a) under section 50A (2) of this Act (confidential matters) or in pursuance of a resolution under section 50A (40) of this Act (exempt information); but
  - (b) in a case where section 50C and 50D of this Act (availability for inspection after meetings of minutes, background papers and other documents) apply in relation to the meeting, shall indicate the documents which, in relation to that meeting, are open for inspection in accordance with those sections.