

From: [Jon Rathjen](#)
To: [Kersti Berge](#)
Subject: FW: [EXT] RE: Approval sought
Date: 11 December 2023 10:37:08

fyi

From: Alan Sutherland [REDACTED]@wics.scot>
Sent: Friday, November 3, 2023 11:13 AM
To: Jon Rathjen <Jon.Rathjen@gov.scot>
Cc: [REDACTED]@wics.scot>
Subject: Re: [EXT] RE: Approval sought

Jon

Thanks for your email. I am sorry that we had to come to you on these matters but appreciate you providing the retrospective approvals.

I have noted your words about novel or contentious expenditures and will ensure that we seek appropriate approval.

All best

Alan

On 3 Nov 2023, at 08:01, Jon.Rathjen@gov.scot wrote:

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Alan,

Thank you for bringing these two expenditures to my attention. As you note seeking retrospective approval is not ideal but I am grateful for the opportunity to comment.

On the Christmas gifts I accept this was an oversight and do not think it is proportionate to try and recover the balance but would highlight that any such gift going forward must be contained within then agreed threshold.

On the training costs, I rather agree that this is a unique training offering and can see why single tender was your approach and as such despite board being aware it would have been appropriate to inform the Scottish Government. As I imply had I been informed I would have agreed with the approach as I think this is not something where open tender would have returned better value given the very specific nature of courses in this field. Due diligence had been carried out and the most suitable product selected and as such, given the board was content with the appropriateness of the nature of the spend, I am content to agree retrospectively the procurement approach.

I see that you recognise the importance of seeking permissions for such expenditures in the future and I would also highlight novel or contentious expenditure is also something to raise regardless of cost threshold.

Jon

Jon Rathjen
Deputy Director
Water Policy & DECC Operations
Scottish Government
Desk phone: [REDACTED]
Blackberry: [REDACTED]

From: [REDACTED] <[REDACTED]@wics.scot> **On Behalf Of** Alan Sutherland

Sent: Thursday, November 2, 2023 6:17 PM

To: Jon Rathjen <Jon.Rathjen@gov.scot>

Cc: [REDACTED] <[REDACTED]@wics.scot>

Subject: Approval sought

Hi Jon

Audit Scotland has recently concluded the substantive work on the audit of our accounts. As we discussed, they have highlighted to me two areas where we should have obtained approval from Scottish Government. The first of these was an oversight on our part. The second reflects a different interpretation of appropriate rules – but, on reflection, we should have alerted you to the expenditure. These oversights are, of course, not ideal and I apologise for turning to you for this retrospective approval.

The first relates to a £100 gift voucher that we made to all staff last Christmas in recognition for their hard work given the efforts in delivering the consulting activities (well over £500K of revenue). This should have had SG approval as it exceeded the £75 gift threshold that we can authorise. The total cost of these vouchers was £2,500 (25 x £100 Amazon gift vouchers).

As you know, WICS puts a lot of investment into the training and development of our staff and as an organisation, we want to ensure that our office has the right skillsets and people to carry out their functions to a high standard. We want staff to feel valued and need to future-proof the office. Following a one-to-one with the Chief Operating Officer (COO) in autumn 2022, our COO sought approval to attend a Harvard Business School Advanced Management Programme. The COO researched a number of universities and this course was her preferred option and met the needs identified. The programme builds on leadership skills and business competencies with a strong focus on team building and collaboration. The total cost of this course \$84,000 (approx. £63,000). The programme fee included tuition, books, case materials, accommodation and most meals for Campus modules. Travel – flights from Scotland to Boston for Harvard x 2 - £5,000. The total costs are comparable to other business schools. An internal approvals process was completed and the course was approved. The Board were aware of the COO's training.

Our procurement policy requires expenditure over £100k to be approved by the Scottish Government, and over £20k if it is a single supplier purchase. We did not seek approval for this purchase since it was below £100k and it wasn't the type of purchase that could be competitively tendered. Audit Scotland believe we should have sought approval. I now seek this retrospective approval from you.

I am, of course sorry for these oversights and will endeavour to ensure that going forward we ensure all necessary Scottish Government approvals are obtained in advance of the expenditure being incurred.

I am happy to provide further information or discuss if helpful.

Alan

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From: [Jon Rathjen](#)
To: [Kersti Berge](#)
Subject: RE: Quick chat
Date: 08 December 2023 16:24:58
Attachments: [image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.gif](#)
[image008.png](#)

No she spoke to DG so is up to speed I think.

Jon

From: [REDACTED]@gov.scot> **On Behalf Of** Kersti Berge

Sent: Friday, December 8, 2023 4:08 PMs

To: Jon Rathjen <Jon.Rathjen@gov.scot>

Subject: FW: Quick chat

Hi Jon,

The meeting has now been set up for 1.30pm on Monday. I have this chain for Kersti as meeting papers, is there anything else she needs?

Response by end today would be great.

Thanks,

[REDACTED]

[REDACTED]

[REDACTED] Kersti Berge | Director of Energy and Climate Change

Directorate for Energy and Climate Change

Email: [REDACTED]@gov.scot Mob: [REDACTED]

[REDACTED]

[REDACTED]: @ScotGovClimate

CCD sig pic



From: Jon Rathjen <Jon.Rathjen@gov.scot>

Sent: Monday, December 4, 2023 1:46 PM

To: DG Net Zero <DGNetZero@gov.scot>; Kersti Berge <Kersti.Berge@gov.scot>

Subject: RE: Quick chat

Noted and agree it is potentially very serious.

Jon

From: Roy Brannen <Roy.Brannen@gov.scot> **On Behalf Of** DG Net Zero

Sent: Monday, December 4, 2023 1:41 PM

To: Jon Rathjen <Jon.Rathjen@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Kersti Berge <Kersti.Berge@gov.scot>

Subject: RE: Quick chat

Thanks Jon. This is concerning. Not only will PAC be interested in the organisation governance but also what sponsorship relationship and oversight is. We will be called to give evidence on S22 when it is published.

Suggest I speak with Carole in first instance.

R

From: Jon Rathjen <Jon.Rathjen@gov.scot>

Sent: Monday, December 4, 2023 10:41 AM

To: DG Net Zero <DGNetZero@gov.scot>; Kersti Berge <Kersti.Berge@gov.scot>

Subject: RE: Quick chat

[REDACTED],
This came to light late last week and details are emerging (a draft S22 has been mooted but not issued) but in short I see the central issue to be around the international consultancy work that WICs carry out. WICs earn a considerable revenue from consulting including in New Zealand with an ongoing contract. To support that work which generates revenue to offset costs otherwise to be borne by the water industry it spends money on travel, accommodation and business development, the issue being this expenditure sits awkwardly in a public body governance framework. I understand some of the expenditure has not been properly recorded or fully evidenced which is clearly unacceptable.

Secondary issues around dilapidation charges on accommodation and a lack of clear business case for high cost staff training both can be resolved.

The CEO of WICs has now written to the AG setting out his apology for failings and assurances about improved accounting systems.

The seriousness for me is that the independent economic regulator for the water industry will be seen to have failed to correctly manage its accounts with reputational damage for the WICs and the wider water industry. The tension being we want Public Bodies to offset costs through revenue but clearly it needs to be done transparently and accounted for properly. From a sponsor perspective we have a body that has a full management board, an audit committee and both formal independent audit and Audit Scotland oversight and it must operate within the accepted financial rules. I think the implication for sponsorship medium term is that we will need to agree an approach to treating business development costs and set them in a suitable framework against the income being generated and we should do that through primary legislation.

Happy to support DG in any conversation with Audit Scotland.

Jon

Jon Rathjen

Deputy Director

Water Policy & DECC Operations

Scottish Government

Desk phone: [REDACTED]

Blackberry: [REDACTED]

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** DG Net Zero

Sent: Monday, December 4, 2023 10:23 AM

To: Kersti Berge <Kersti.Berge@gov.scot>; Jon Rathjen <Jon.Rathjen@gov.scot>

Cc: DG Net Zero <DGNetZero@gov.scot>

Subject: FW: Quick chat

Kersti/Jon

See below, we don't have any background on what this is. Please could you send over some background lines today so we can put to Roy?

Many Thanks

[REDACTED]
[REDACTED] **DG Net Zero**

Monday – Friday Full Time



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From: Carole Grant <CGrant@audit-scotland.gov.uk>

Sent: Monday, December 4, 2023 9:53 AM

To: DG Net Zero <DGNetZero@gov.scot>

Subject: Quick chat

Hi Roy

I hope all is well with you and that you had a nice weekend.

I'm not sure if WICS, or someone in their sponsor team within the Water Policy Division, have let you know that the Auditor General has decided to prepare a section 22 report to draw to the attention of Parliament some of the financial management and governance issues identified by the appointed auditor.

The draft section 22 report hasn't been issued for clearance yet and I was hoping you could find 10 minutes for us to have a chat to discuss what the issues may mean for the sponsor arrangements in place.

If you could let me know any availability over the next few days I will try to make it work from my end.

Thanks

Carole

Carole Grant
Audit Director

(Pronouns are she/her)

Audit Scotland, 4th Floor, South Suite, The Athenaeum Building
8 Nelson Mandela Place, Glasgow G2 1BT

T: [REDACTED] E: cgrant@audit-scotland.gov.uk

www.audit-scotland.gov.uk



From: [Kersti Berge](#)
To: [Jon Rathjen](#)
Subject: RE: S22 timeline
Date: 12 December 2023 12:08:00

thanks

From: Jon Rathjen <Jon.Rathjen@gov.scot>
Sent: 12 December 2023 12:05
To: Kersti Berge <Kersti.Berge@gov.scot>
Subject: Re: S22 timeline
Auditor General and no not seen yet

From: Kersti Berge <Kersti.Berge@gov.scot>
Sent: Tuesday, December 12, 2023 11:54:45 AM
To: Jon Rathjen <Jon.Rathjen@gov.scot>
Subject: RE: S22 timeline

Jon, what does AG stand for in the below? Also, have WICS shared the action plan with you by correspondence? I understood from our call that they were working on it but wanted to check they hadn't sent it.

Thanks

k

From: Jon Rathjen <Jon.Rathjen@gov.scot>
Sent: 11 December 2023 15:39
To: Kersti Berge <Kersti.Berge@gov.scot>; DG Net Zero <DGNetZero@gov.scot>
Subject: S22 timeline

Kersti

- Draft Section 22 report issued on Wednesday 6th December
- Commission response is due close of business on Tuesday 12th December.
- Annual accounts and S22 must be laid by end of Calendar year, **AG** **sugg**esting 19/12 but given that's budget day 20/12 may be better.
- Advice to Cabinet Secretary due before box closure 15/12 but sooner if possible, she is not aware. Would be informed by WICs response.
- CEO has advised WICs board of his intention to retire but not until October next year.

Jon

Jon Rathjen

Deputy Director

Water Policy & DECC Operations

Scottish Government

Desk phone: [REDACTED]

Blackberry: [REDACTED]

From: [REDACTED] on behalf of [Cabinet Secretary for Transport, Net Zero & Just Transition](#)
To: [REDACTED]; [Cabinet Secretary for Transport, Net Zero & Just Transition](#); [Kersti Berge](#)
Cc: [Deputy First Minister and Cabinet Secretary for Finance](#); [DG Net Zero](#); [Jon Rathjen](#); [REDACTED];
[Chief Financial Officer](#); [REDACTED]; [Public Bodies Unit Mailbox](#);
[Catriona Maclean](#); [REDACTED]; [Leanne Dobson](#); [Communications Net Zero & Rural Affairs](#); [REDACTED]
Subject: RE: URGENT – Water Industry Commission for Scotland – Laying of Annual Report and Accounts 2022-23
Date: 20 December 2023 10:47:31

This email is for the official record and confirms a Ministerial Decision. This email must be placed in the official record (eRDM) by your team in line with SG records management policy.

Hi [REDACTED]

The Cab Sec is content for these to be laid.

Can SPADS and the FM be updated in advance of FMQs please.

Ms McAllan would like to discuss this further we will arrange a meeting for the new year.

Thanks

[REDACTED] Cabinet Secretary for Transport, Net Zero and Just Transition - Màiri McAllan MSP | The Scottish Government | Web: www.gov.scot | Mob: [REDACTED] | Email: CabsecTNZJT@gov.scot

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From: [REDACTED]@gov.scot>

Sent: 20 December 2023 09:57

To: Cabinet Secretary for Transport, Net Zero & Just Transition <CabSecTNZJT@gov.scot>; Kersti Berge <Kersti.Berge@gov.scot>

Cc: Deputy First Minister and Cabinet Secretary for Finance <DFMCSF@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Jon Rathjen <Jon.Rathjen@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; Chief Financial Officer <cfo@gov.scot>; [REDACTED]@gov.scot>; Public Bodies Unit Mailbox <PublicBodiesUnitMailbox@gov.scot>; Catriona Maclean <Catriona.Maclean@gov.scot>; [REDACTED]@gov.scot>; Leanne Dobson <Leanne.Dobson@gov.scot>; Communications Net Zero & Rural Affairs <CommunicationsNetZeroandRuralAffairs@gov.scot>;

[REDACTED]@gov.scot>

Subject: RE: URGENT – Water Industry Commission for Scotland – Laying of Annual Report and Accounts 2022-23

Hi [REDACTED]

Thank you for your email.

[REDACTED]

Please let me know if the Cabinet Secretary requires anything further. We have confirmed that we are able to still lay the documents today.

[REDACTED]

From: [REDACTED]@gov.scot> **On Behalf Of** Cabinet Secretary for Transport, Net Zero & Just Transition

Sent: 20 December 2023 09:15

To: [REDACTED]@gov.scot>; Kersti Berge <Kersti.Berge@gov.scot>; Cabinet Secretary for Transport, Net Zero & Just Transition <CabSecTNZJT@gov.scot>

Cc: Deputy First Minister and Cabinet Secretary for Finance <DFMCSF@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Jon Rathjen <Jon.Rathjen@gov.scot>; [REDACTED]

[REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; Chief Financial Officer <cfo@gov.scot>; [REDACTED]@gov.scot>; Public Bodies Unit Mailbox <PublicBodiesUnitMailbox@gov.scot>; Catriona Maclean <Catriona.Maclean@gov.scot>; [REDACTED]

[REDACTED]@gov.scot>; Leanne Dobson <Leanne.Dobson@gov.scot>; Communications Net Zero & Rural Affairs <CommunicationsNetZeroandRuralAffairs@gov.scot>; [REDACTED]@gov.scot>

Subject: RE: URGENT – Water Industry Commission for Scotland – Laying of Annual Report and Accounts 2022-23

This email is for the official record and confirms a Ministerial Decision. This email must be placed in the official record (eRDM) by your team in line with [SG records management policy](#).

Hi [REDACTED],

Ms McAllan has made some comments which I would be grateful if you could respond to.

She is extremely disappointed in these findings which have shocked her on receipt of the papers. The Cab Sec had no awareness of any of these matters – and am surprised they have not been brought to her attention before now.

[REDACTED]

[REDACTED]

[REDACTED]

Thanks

[REDACTED]

[REDACTED] Cabinet Secretary for Transport, Net Zero and Just Transition - Màiri McAllan MSP | The Scottish Government | Web: www.gov.scot | Mob: [REDACTED] | Email: CabsecTNZJT@gov.scot

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From: [REDACTED] [@gov.scot](mailto:[REDACTED]@gov.scot)

Sent: 14 December 2023 12:29

To: Kersti Berge <Kersti.Berge@gov.scot>; Cabinet Secretary for Transport, Net Zero & Just Transition <CabSecTNZJT@gov.scot>

Cc: Deputy First Minister and Cabinet Secretary for Finance <DFMCSF@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Jon Rathjen <Jon.Rathjen@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED]

[REDACTED]@gov.scot>; [REDACTED]@gov.scot>; Chief Financial Officer <cfo@gov.scot>; [REDACTED]@gov.scot>; Public Bodies Unit Mailbox <PublicBodiesUnitMailbox@gov.scot>; Catriona Maclean <Catriona.Maclean@gov.scot>; [REDACTED]@gov.scot>; Leanne Dobson <Leanne.Dobson@gov.scot>; Communications Net Zero & Rural Affairs <CommunicationsNetZeroandRuralAffairs@gov.scot>; [REDACTED]@gov.scot>

Subject: RE: URGENT – Water Industry Commission for Scotland – Laying of Annual Report and Accounts 2022-23

Hi [REDACTED]

As noted below, we have now received the documents from the Auditor General for Scotland. These are attached and include:

1. A letter from the Auditor General requesting that Ministers lay the accounts and S22 report (**1 page**)
2. S22 report (**6 pages**)
3. WICS accounts for 2022-23. (**73 pages**)

The Cabinet Secretary will wish to read the S22 report which highlights the shortcomings. The other two documents are attached for completeness.

We will make the necessary arrangements for laying the accounts.

From: [REDACTED]@gov.scot> **On Behalf Of** Kersti Berge
Sent: 14 December 2023 09:44
To: Cabinet Secretary for Transport, Net Zero & Just Transition <CabSecTNZJT@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Finance <DFMCSF@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Jon Rathjen <Jon.Rathjen@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; Chief Financial Officer <cfo@gov.scot>; [REDACTED]@gov.scot>; Public Bodies Unit Mailbox <PublicBodiesUnitMailbox@gov.scot>; Catriona Maclean <Catriona.Maclean@gov.scot>; [REDACTED]@gov.scot>; Leanne Dobson <Leanne.Dobson@gov.scot>; Communications Net Zero & Rural Affairs <CommunicationsNetZeroandRuralAffairs@gov.scot>; [REDACTED]@gov.scot>
Subject: URGENT – Water Industry Commission for Scotland – Laying of Annual Report and Accounts 2022-23

Hi [REDACTED]

Please find attached an **urgent** submission regarding the laying of the Water Industry Commission's Annual Report and Accounts 2022-23. Please note that, on this occasion, the Auditor General has chosen to issue a report under 22(3) of the Public Finance and Accountability (Scotland) Act 2000 on these accounts which draws Parliament's attention to 'significant weaknesses in the governance and financial management arrangements' of the WICS which has resulted in a

failure to achieve value for money.

We have not received the final documents which need to be laid from the Auditor General yet. We expect to receive these today. [REDACTED] will forward these to you upon receipt.

Thanks,

Kersti

Kersti Berge | **Director** | **Energy & Climate Change** | **Scottish Government**

Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU

E: kersti.berge@gov.scot | M: [REDACTED]

From: [Kersti Berge](#)
To: [DG Net Zero](#)
Cc: [Jon Rathjen](#)
Subject: short note of meeting with WICS chair Monday 11th Dec
Date: 12 December 2023 12:12:00
Attachments: [Note of DGNZ WICS chair meeting - 10-12-2023.docx](#)

Roy, please find attached a short note from the meeting yesterday. Let me know if content in which case I'll send it to you and Donald

Thanks

k

Kersti Berge | **Director** | **Energy & Climate Change** | **Scottish Government**

Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU

E: kersti.berge@gov.scot | M: [REDACTED]

Note of meeting between DG Net Zero, Roy Brannan and WICS Chair, Donald MacRae, Monday 11th December 2023. Director for Energy and Climate Change (Kersti Berge) was in attendance.

DG Net Zero asked for the Chair's reflections and response to the Section 22nd Report.

The WICS chair said he accepted the findings and that he and the Board were putting in place a detailed action plan to address the significant issues raised and would share that with DG Net Zero and the sponsorship team as soon as it was complete.

He said that the CEO had sent the Chair a letter signalling his intention to retire and asked for DG Net Zero's views on that. DG NZ made clear it was for the Chair and the Board to decide the appropriate action in light of the Section 22 Report findings.

DG Net Zero noted further that he was considering commissioning an external review of governance arrangements and framework agreement for WICS and asked for a monthly check in with the WICS Chair on progress against action plan.

It was noted that the WICS Annual Accounts and Section 22 Report must be laid in Parliament this year and that this was likely to be on the 19th or 20th December.

From: [REDACTED] on behalf of [Kersti Berge](#)
To: [Cabinet Secretary for Transport, Net Zero & Just Transition](#)
Cc: [Deputy First Minister and Cabinet Secretary for Finance; DG Net Zero; Jon Rathjen; \[REDACTED\];](#)
[Public Bodies Unit Mailbox; Catriona Maclean; \[REDACTED\]; Chief Financial Officer; \[REDACTED\];](#)
[Leanne Dobson; Communications Net Zero & Rural Affairs; \[REDACTED\]](#)
Subject: URGENT – Water Industry Commission for Scotland – Laying of Annual Report and Accounts 2022-23
Date: 14 December 2023 09:44:20
Attachments: [WICS - Laying of Annual Report and Accounts 2022-23 - December 2023.docx](#)

Hi [REDACTED]

Please find attached an **urgent** submission regarding the laying of the Water Industry Commission's Annual Report and Accounts 2022-23. Please note that, on this occasion, the Auditor General has chosen to issue a report under 22(3) of the Public Finance and Accountability (Scotland) Act 2000 on these accounts which draws Parliament's attention to 'significant weaknesses in the governance and financial management arrangements' of the WICS which has resulted in a failure to achieve value for money.

We have not received the final documents which need to be laid from the Auditor General yet. We expect to receive these today. [REDACTED] will forward these to you upon receipt.

Thanks,
Kersti

Kersti Berge | [Director](#) | [Energy & Climate Change](#) | [Scottish Government](#)

Atlantic Quay | 150 Broomielaw | Glasgow | G2 8LU

E: kersti.berge@gov.scot | M: [REDACTED]

From: **Kersti Berge**
Director DECC
13 December 2023

Cabinet Secretary for Transport, Net Zero and Just Transition

WATER INDUSTRY COMMISSION FOR SCOTLAND: PUBLICATION OF ANNUAL REPORT AND AUDITED ACCOUNTS 2022-23

Priority and Purpose

1. **Urgent** – to inform you that the Auditor General has prepared a report under Section 22(3) of the Public Finance and Accountability (Scotland) Act 2000 and to seek your approval to lay the Water Industry Commission for Scotland's (WICS) 2022-23 Annual Report and Accounts and the Auditor's report before Parliament.

Recommendation

2. Recommends that you:
 - a. Note the actions being taken as a result of the Section 22(3) report; and
 - b. Agree that the WICS' Annual Report and Accounts for 2022-23 together with the Auditor's Report be laid before Parliament on 20th December 2023.

Context and Issues

3. The WICS is required to prepare Accounts annually in accordance with paragraph 14 of Part 1 of Schedule A1 to the Water Industry (Scotland) Act 2002 as amended and send these to the Auditor General. The Auditor General has issued an unqualified opinion of the Accounts on 20 December 2023. However, the Auditor General has also prepared a report under Section 22(3) of the Public Finance and Accountability (Scotland) Act 2000. The Auditor General is expected to send his report and the WICS Annual Report and Audited accounts to us tomorrow. These will be forwarded to you upon receipt. Ministers are required to lay the document before Parliament in accordance with Section 22(5) of the Public Finance and Accountability Act 2000 and before 31 December 2023.
4. The Auditor General's report draws Parliament's attention to 'significant weaknesses in the governance and financial management arrangements' of the WICS which has resulted in a failure to achieve value for money. The Auditor General's report sets out the findings including:
 - a. A lack of approval for items of expenditure including a training course at Harvard Business School (£77,350);
 - b. Widespread issues with expenses reimbursement including lack of itemised receipts;
 - c. Expenditure exceeding approved subsistence rates (including alcohol); and
 - d. Standards of financial management and governance which falls well below that expected of a public body.

Options Considered and Advice

5. The report is exceedingly disappointing particularly for an economic regulator which has ensured the delivery of large savings in Scottish Water's operations and is now generating substantial income from consultancy services overseas. The WICS has accepted all of the findings and recommendations of the Auditor General and agreed to act on them with urgency. Furthermore, it has confirmed a number of immediate actions will be taken including immediate implementation of new policies on approvals of all expenditure including expenses and items that are novel and/or contentious.
6. This is not the first time that issues of this nature have arisen. The Cabinet Secretary will recall the decision to pay the Chief Executive an additional £14,000 in 2021-22 for Annual Leave that was not taken during the Covid years.

Assessment of Options

7. Roy Brannen and I have spoken to Donald McRae, Chair of WICS. Whilst the quality of the work undertaken by the office has been exceptional (and widely admired by regulators of other sectors and overseas), the nature of these failings are extremely serious. WICS has agreed to submit an action plan to the Scottish Government as soon as possible.
8. Following these discussions, Alan Sutherland, Chief Executive who is identified in this report for having partaken in and endorsed the expenditure, has written to the Board to confirm that he intends to retire. The date of retirement is a matter for the Board to agree, although any significant delay will result in further criticism.
9. The report also comments on the level of oversight of the WICS by the Scottish Government. Whilst the governance arrangements were last reviewed in April 2022, these will be reviewed again to ensure that all aspects of the Auditor General's findings are covered. The Water Policy Division has very recently recruited further resource to the sponsorship team. This will help ensure that regular sponsorship meetings are held and that the implementation of the recommendations are monitored.

Bute House Agreement Implications

10. n/a

Financial and Legal Considerations

11. There are no direct financial considerations for the Scottish Government. The WICS accounts show a healthy financial position which reflects the successes in attracting consultancy work of over £1.1m in 2022-23.
12. Once laid, the Scottish Parliament's Accounts Committee will wish to review the position and reassure itself that the recommendations have been implemented. We will provide a further update in due course.

Sensitivities

[Redacted]

[Redacted]

[Redacted]

Quality Assurance

15. This Submission has been approved by Kersti Berge

Conclusions and next Steps

16. The findings of the Auditor General are deeply concerning particularly in respect of an organisation whose function is to ensure value for money in Scottish Water – the 4th largest water company in the UK. The WICS Board has agreed in principle to the Chief Executive's retirement, although the exact date and any conditions are yet to be confirmed.

17. I invite you to:

- a. Note that the S22 report and the WICS Annual Report and Accounts will be forwarded to you upon receipt tomorrow;
- b. That the WICS' Annual Report and Accounts for 2022-23 together with the Auditor's Report be laid before Parliament on 20th December 2023; and
- c. The Lines to Take.

Kersti Berge

Director DECC

13 December 2023

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Deputy First Minister and Cabinet Secretary for Finance				

Officials Copy List

DG Net Zero
Jon Rathjen

Officials Copy List

[Redacted]

CFO

[Redacted]

Public Bodies Unit
Comms Net Zero and Rural Affairs
Catriona MacLean

[Redacted]

Leanne Dobson

From: [REDACTED]
To: [DG Net Zero](#)
Cc: [Kersti Berge](#); [Roy Brannen](#); [Jon Rathjen](#); [REDACTED];
Subject: WICS Annual Accounts and S22 report
Date: 20 December 2023 12:58:40
Attachments: [WICS - briefing - December 2023.docx](#)

Hi Roy

I can confirm that WICS Annual Accounts and S22 report have been laid before Parliament. I have informed the Auditor General's office.

Attached is a one page brief which sets out AGS key findings and actions that have already been taken.

[REDACTED]

DG Net Zero

WATER INDUSTRY COMMISSION FOR SCOTLAND – S22 LETTER FROM AUDIT SCOTLAND.

Key findings of Auditor General for Scotland:

- The Commission incurred two items of expenditure during 2022/23 that required Scottish Government approval. This was only received from the sponsor team retrospectively following audit intervention.
 - This included retrospective approval of expenditure for the Chief Operating Officer's participation in an advanced management course, over a number of months, at Harvard Business School in Boston at a total cost of £77,350.
- The auditor identified widespread issues with the expenses reimbursement process; including claims not supported by itemised receipts, exceeding the approved subsistence rates, and, on occasion, the reimbursement of the purchase of alcohol.
- The financial management and governance issues found at the Commission fall far short of what is expected of a public body. Immediate action is required to address the issues and promote a culture of Best Value across the organisation.

Actions taken

- DG Net Zero, the Director for Energy and Climate Change and the Deputy Director for Water Policy and DECC Operations have met the Chair of the Board to discuss the situation and to highlight the seriousness of the Auditor General's findings
- Deputy Director Water Policy has met Public Bodies Unit to seek assistance on reviewing the Governance arrangements to ensure that these are up to date and include the correct controls; (Governance documents last reviewed in April 2022). The public Bodies Unit will undertake an independent review of WICS governance arrangements
- Board has met the Chief Executive Officer to discuss next steps. The Chief executive will be stepping down with immediate effect.
- An action plan has been submitted by WICS. This is being considered urgently by the sponsor Division and delivery will be monitored by the sponsor Division.
- Sponsorship plan is being drawn up by Water Policy Division to implement regular sponsorship meetings with WICS. These will be monthly initially and bimonthly from a date yet to be agreed. At least a quarter of these meetings will be in person.
- Director for Energy and Climate Change to hold regular meetings with Chair to ensure improvements are delivered.

Lines to Take (work in progress, being agreed by Cabinet Secretary)

1. The Scottish Government is clear that the failings identified by the auditor general are unacceptable.
2. The Chief Executive will step down with immediate effect and and WICS have submitted an action plan to the Scottish Government.

3. The Scottish Government accepts in full the findings of the Auditor General and will play its part in ensuring that all of the recommendations are implemented without exception.

Water Policy Division
19 December 2023

From: [REDACTED]
To: [Kersti Berge](#)
Cc: [Jon Rathjen](#); [Donald MacRae](#)
Subject: WICS's workplan in response to the Audit Scotland report
Date: 18 December 2023 15:49:46
Attachments: [Workplan in response to the Audit Scotland report.pdf](#)

Dear Kersti,

Donald has asked that I send you our workplan in response to the Audit Scotland report. He has added some words to accompany the plan, which are included below.

Best regards,

[REDACTED]

[REDACTED]

Dear Kersti,

Here is the work plan for the Water Industry Commission for Scotland (WICS). This plan was produced in response to the recent Audit Scotland report, the findings of which the Board fully accept and respect. I trust that the targeted actions and timelines in this plan demonstrate the Board's commitment to rectifying the issues identified.

I am dedicated to the plan's successful implementation and will ensure that WICS aligns with the high standards and expectations placed on public bodies in Scotland.

Best regards,

Donald MacRae

Chair of the Water Industry Commission for Scotland

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WICS's Work plan to respond to the Audit Scotland report

Governance / controls

Complete

Action	What are we committing to	Stage	Why	When	Progress
Reinstating the Approvals Panel (WICS Directors)	Ensuring that all potential expenditure that requires approval or is novel or contentious has unanimous agreement by a quorum of Directors	<input checked="" type="checkbox"/>	Acts as a control that prevents expenditure from occurring without the requisite budget or approvals in place	26/01/24	Complete
Expand membership and visibility of the Approvals Panel	The Chair attends fortnightly Approvals Panel meetings until June 24	<input type="checkbox"/>	Provides greater board oversight of the expenditures approved within the office	15/01/24	
	Add minutes of Approvals Panel meetings to the WICS board pack for information	<input type="checkbox"/>			
Further clarification on Approval Form requirements	Revise Approval Form templates and staff guidance, including linking them to annual budgeting and corporate planning processes	<input type="checkbox"/>	Ensures focus on business needs and lowest cost solution and identifies any novel or contentious expenditures	28/03/24	
Training	Training of all staff on WICS' financial rules and expectations	<input type="checkbox"/>	Ensures that staff understand the approval process and have the necessary knowledge to fill in approval forms	22/03/24	
	Leadership team attending a Value For Money training course by the Civil Service College	<input type="checkbox"/>			

Policies and procedures

Complete

Action	What are we committing to	Stage	Why	When	Progress
Strengthening the expenses policy	Reimbursing alcohol only on pre-approved events	<input type="checkbox"/>	Alignment with expectations of public bodies in Scotland and strengthen a culture of best value	26/01/24	
	Guidance on non-compliant expenses (e.g. personal reimbursement if not approved)	<input type="checkbox"/>			
	Creating a separate Events and Hospitality policy	<input type="checkbox"/>			
	Creating a separate Business Development policy	<input type="checkbox"/>			
	Restrictions on flexible tickets or any other non-standard ticket	<input type="checkbox"/>			
Enhancing compliance with key elements of the existing expenses policy	Mandating itemised receipts	<input type="checkbox"/>	Alignment with expectations of public bodies in Scotland and to strengthen a culture of best value	26/01/24	
	Guidance on hotel providers and expenditure limits	<input type="checkbox"/>			
	Preference for rail travel where possible, but flights remain permissible	<input type="checkbox"/>			
	Requiring the use of WICS's SG approved travel provider unless greater value is achieved elsewhere	<input type="checkbox"/>			
Approval of the new expense policy	Board and Audit and Risk Committee approval of the revised policies	<input type="checkbox"/>	As above	23/02/24	
Seek advice on taxable benefits	Seek advice on taxable benefits to staff	<input checked="" type="checkbox"/>	As above	28/03/24	
	Attribute taxable benefits to relevant staff	<input type="checkbox"/>			
Training on expense policies and procedures	Training on existing policies	<input type="checkbox"/>	Ensures that staff understand their respective roles and have the necessary knowledge to adhere to the policies.	01/03/24	
	Organisation-wide training on revised policies, systems and respective roles and responsibilities	<input type="checkbox"/>			

Reporting

Complete

Action	What are we committing to	Stage	Why	When	Progress
Progress reporting against the action plan	Concise and regular reporting to the Board monthly until actions are complete	<input type="checkbox"/>	Ensures that the board are holding the executive to account for delivery	19/01/24	
	Completing an Internal Audit review on the management response to the issues identified by Audit Scotland	<input type="checkbox"/>	Provides an independent expert view of progress	29/03/24	
Revise reporting to management	Revision to management reporting to include potential expenditure non-compliance	<input type="checkbox"/>	Provides an early warning signal on non-compliance while raising awareness	29/02/24	
Revise reporting to ARC	Revise compliance reporting to include expenditure outwith limits and non-itemised or lost receipts	<input checked="" type="checkbox"/>	Adds additional layers of control to safeguard against non-compliance	29/03/24	
	Concise fortnightly reporting to the Chair of the ARC on expenditure non-compliance	<input type="checkbox"/>			

Other

Complete

Action	What are we committing to	Stage	Why	When	Progress
Moray house lease	Test with Stirling council the dilapidations provision and revise if needed	<input type="checkbox"/>	Ensures clarity over the dilapidations liability and provisioning	23/02/24	
	Review the sub-lease of Moray House to understand WICS's position on recovering dilapidations	<input type="checkbox"/>	Provides an independent, expert view of the progress made		

From: [Alan Sutherland](#)
To: [Jon Rathjen](#)
Subject: Fwd: [EXT] External audit - Section 22 report for clearance
Date: 06 December 2023 14:47:23
Attachments: [image001.png](#)
[image002.png](#)
[WICS_s22_DRAFT for clearance.docx](#)
Sensitivity: Confidential

Begin forwarded message:

From: [REDACTED]@audit-scotland.gov.uk>
Date: 6 December 2023 at 10:38:48 GMT
To: Alan Sutherland [REDACTED]@wics.scot>, Donald MacRae [REDACTED]@wics.scot>, Robin McGill [REDACTED]@wics.scot>
Cc: [REDACTED]@audit-scotland.gov.uk>
Subject: [EXT] External audit - Section 22 report for clearance

CAUTION: This email originated from outside the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Morning Alan, Donald and Robin,
Please find attached the draft Section 22 report from the Auditor General for Scotland on the 2022/23 audit of the Water Industry Commission for Scotland. I would be grateful if you could review the document to confirm the factual accuracy of the contents and send back any comments you have by close of business on Tuesday next week (12th December), to enable the Commission's 2022/23 Annual Report and Accounts to be laid at the Scottish Parliament on Tuesday 19th December.

I would also ask you to share it with your sponsor division to ensure they are aware of the issues being reported by the AGS within the report.

Regards,

[REDACTED]

(Pronouns are he/him)

Audit Scotland, 4th Floor, South Suite, The Athenaeum Building
8 Nelson Mandela Place, Glasgow, G2 1BT

T: [REDACTED]@audit-scotland.gov.uk

www.audit-scotland.gov.uk

Please note that my current working pattern is 8:45am-5pm Monday to Friday

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From: [Alan Sutherland](#)
To: [Jon Rathjen](#)
Subject: Fwd: [EXT] RE:
Date: 04 December 2023 15:56:14

FYI

A

Begin forwarded message:

From: [REDACTED]@audit-scotland.gov.uk>
Date: 4 December 2023 at 15:16:44 GMT
To: Alan Sutherland [REDACTED]@wics.scot>
Subject: [EXT] RE:

CAUTION: This email originated from outside the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Afternoon Alan,

Just to advise that the Auditor General for Scotland has noted your comments in your letter of 1st December but has confirmed that he will be proceeding with his parliamentary reporting on the Commission's 2022/23 audit.

There has been a slight revision to the clearance timetable for the Section 22 report as the AGS has now advised that the draft will be issued by close of business on Wednesday (rather than today). Apologies for the delay in this being sent out. Due to the later issue of the S22 report we have also extended the timescale for the Commission response to close of business on Tuesday 12th December.

I will send a separate e-mail to advise the Chair of the Board and Chair of the ARC of the revised timetable.

Regards,

From: Alan Sutherland [REDACTED]@wics.scot>

Sent: Friday, December 1, 2023 4:52 PM

To: Stephen Boyle <sboyle@audit-scotland.gov.uk>

Cc: [REDACTED]@audit-scotland.gov.uk>; BSS - Requests <bssrequests@audit-scotland.gov.uk>

Subject:

Dear Stephen, [REDACTED]
Please find attached a letter.

Best wishes

Alan

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