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Angela Constance MSP
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16 January 2009

Dear Convener

SCOTTISH COMMISSION FOR PUBLIC AUDIT'S REPORT ON THE REVIEW OF THE GOVERNANCE OF AUDIT SCOTLAND

I refer to the publication of your report. We welcomed the SCPA's decision to take evidence on Audit Scotland's governance arrangements, following our approach to you in May last year. The Audit Scotland Board has now considered your report in detail, and I attach our response to it.

We welcome much of what the SCPA has said in the report and hope that you will find our responses constructive and helpful. We look forward to working with the SCPA to improve the transparency of our governance arrangements so that we can together further build confidence that Audit Scotland's arrangements will continue to support effective and efficient public audit.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Baillie', with a long horizontal stroke extending to the right.

John Baillie
Chair of Audit Scotland

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SCOTTISH COMMISSION FOR PUBLIC AUDIT (SCPA): REPORT ON THE REVIEW OF THE GOVERNANCE OF AUDIT SCOTLAND

AUDIT SCOTLAND'S RESPONSE

In May 2008, we wrote to the SCPA with our view that the time was right to reflect on whether the corporate governance arrangements for Audit Scotland could be further improved. We were very pleased that the SCPA engaged with us in this process and launched its thorough inquiry into our governance arrangements. We appreciate that SCPA members found time to take evidence from a range of sources and have now published a very helpful report on issues that are very important to us.

The Audit Scotland Board has now considered the SCPA report fully and we have set out below our response to the relevant recommendations.

1. The Auditor General for Scotland

The SCPA makes a number of recommendations in relation to the post of Auditor General for Scotland. The Audit Scotland Board recognises that it is of course for the Scottish Parliament to arrange for the appointment and remuneration of the Auditor General for Scotland, but we have a degree of interest in these matters because the Auditor General is the accountable officer and chief executive for Audit Scotland.

Term of appointment

We welcome the recommendation made in the SCPA report that, in future, the Auditor General for Scotland should be appointed on a single, non-renewable term of eight years.

Conflicts of interest and future employment

We agree with the SCPA that it is important to try to maximise the potential pool of applicants for the Auditor General role, and that any restrictions should be considered carefully to ensure that they are not counter-productive.

The Audit Scotland Board also welcomes clarification on points of principle affecting potential conflicts of interest in relation to the employment of future holders of the post. We believe it is important that the guidance strikes an appropriate balance between clearly preserving the independence and integrity of the role, without unduly restricting the opportunities for postholders to continue to make an appropriate contribution to public life in a private or voluntary capacity while in post, and subsequently.

Salary and conditions

We welcome the recommendations made in the report on the salary and conditions of the post of auditor general.

Other issues

The SCPA's report comments on the arrangements necessary were an auditor general temporarily incapacitated. The Audit Scotland Board considers that the existing provision, which enables the Auditor General to authorise any person to exercise his or her functions, is sufficient and therefore further legislation does not appear necessary.

The Board would be happy to share with the SCPA the current arrangements that would be implemented under a scheme of delegation in the event of the incapacity of the auditor general.

2. The Public Audit Structure

We welcome the views expressed by the SCPA that it is essential to retain the functions and processes of the Accounts Commission. We also endorse the view of the Cabinet Secretary, in his comments to the SCPA on 8 December 2008, that the Accounts Commission's separate status and independence reflects the elected status of local government and the Scottish Government's particular interest in ensuring standards of public services throughout Scotland.

We support the SCPA's view that there is a need for greater transparency and public understanding about the Scottish arrangements for public audit. We see this as central to our work as the board of Audit Scotland, and would welcome the opportunity to discuss with the SCPA how we could work together to engender greater transparency and public understanding about public audit, in a way that complements and does not compromise our existing remits. It seems to us that this is a shared agenda on which we could work productively together, so we would like to present the SCPA with proposals in this area, through our discussions on our joint protocol.

3. The Audit Scotland Board

The Board welcomes the SCPA's clear statements about the differences between our respective roles. We also recognise the need to work effectively to support each other's respective roles and welcome the opportunity offered by the SCPA to revisit some of our working arrangements through revising our joint protocol.

Our initial letter to the SCPA in May 2008 highlights our willingness to engage with the SCPA on significant matters relating to Audit Scotland's governance. We look forward to working with the SCPA to promote even greater understanding and clarity about the governance arrangements that we have in place.

We note the SCPA's comments on the size and composition of the Board. We see advantages in the current arrangements, which provide for effective stakeholder representation while delivering a majority of non-executive members of the board. However, we will consider with the Accounts Commission the implications of reducing stakeholder representation on the Audit Scotland Board by moving to a position of having three non-executive members who have no connection with either Audit Scotland or the Accounts Commission. We do not believe that any change here requires legislation.

We have reflected on whether the Auditor General should be a full member of the Audit Scotland Board and we believe that this is essential. The Public Finance and Accountability (Scotland) Act 2000 provides that the body corporate Audit Scotland shall consist of the Auditor General and the Chairman of the Accounts Commission and three others. Having the Auditor General as a full member of the Board is not only a legal requirement, but is essential for proper functioning of the audit process.

We believe that, in line with normal procedures, the appointment of non-executive members should be a matter for the Chair and the board. However, we also clearly recognise the importance of wider stakeholder confidence in the appointment process. We would welcome some consideration of whether the Office of the Commissioner for Public Appointments in Scotland (OCPAS) could be empowered to support the Audit Scotland Board in making appointments. In order to build further confidence in board membership, we would also be keen to discuss how the Chair of the Board might, following a robust recruitment process preferably involving the Office of the Commissioner for Public Appointments in Scotland (OCPAS), seek the approval or endorsement of intended appointments with the SCPA for their interest.

We agree that we should continue with the practice of appointing board members for a fixed term, with the option of one renewal of the term of office.

We believe that the current arrangements for appointing the chair of Audit Scotland help us ensure that there is a good balance on the board between the interests of the Accounts Commission and the interests of the Auditor General who are the only commissioners of Audit Scotland's work. We would welcome discussion with the Scottish Government on how this dimension of the work of the Chair of the Accounts Commission could be appropriately reflected in the recruitment process for that role.

We would welcome the opportunity to take feedback from the SCPA on our board evaluation procedures before we publish them.

4. The role of the SCPA

We welcome the continuation of the current arrangements whereby the SCPA appoints our external auditors. We feel that this ensures independence and transparency and should build confidence in our overall governance arrangements.

We welcome the proposals that legislation should provide for any statements of the Auditor General (and of staff when acting on his/her behalf) to have absolute privilege.

We are pleased that the SCPA has welcomed our offer to engage in discussion on how our joint protocol might be developed. The discussions that we have had in the course of this inquiry will help inform the development of that protocol.