



MINUTES OF THE MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE

**TUESDAY 14 MARCH 2017
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor K McLeod (Convener)
Councillor J Caldwell
Councillor A Forrest
Councillor J Goodfellow (Items 1 – 8)
Councillor F McAllister
Councillor J Williamson

Council Officials Present:

Mr A McCrorie, Depute Chief Executive – Resources and People Services
Mrs M Patterson, Depute Chief Executive – Partnerships and Community Services
Mr J Lamond, Head of Council Resources
Mr R Montgomery, Head of Infrastructure
Mr D Proudfoot, Head of Development
Mr T Shearer, Head of Communities & Partnerships
Mr P Vestri, Service Manager – Corporate Policy
Mr J Cunningham, Service Manager - Benefits
Mr I Dalgleish, Service Manager - Transport
Ms S Fortune, Service Manager – Business Finance
Ms L McLean, Service Manager – Strategic Asset & Capital Plan Mgmt
Ms M Garden, Internal Audit Manager
Mr S Allan, Senior Auditor
Mr A Steven, Senior Auditor
Mr S Kennedy, Risk Officer

Other Councillors Present:

Councillor J McMillan (Items 2 – 7)

Clerk:

Ms F Currie

Visitors Present:

Ms G Woolman, Audit Scotland
Ms E Scoburgh, Audit Scotland

Apologies:

Councillor S Brown
Councillor S Currie

Declarations of Interest:

None

1. MINUTES OF THE AUDIT & GOVERNANCE COMMITTEE MEETING HELD ON 24 JANUARY 2017 (FOR APPROVAL)

The minutes of the Committee's meeting on 24 January 2017 were approved.

Jim Lamond, Head of Council Resources, provided a further update on the review of the Council's PPP contracts and clarification of the ownership of these contracts. He said that discussions were ongoing with CIPFA regarding arrangements for them to carry out a 'health check' of existing contracts. On the question of ownership, Mr Lamond advised that enquiries had confirmed that Innovate East Lothian was wholly owned by an intermediary who was in turn wholly owned by Lloyds Bank. All of the Innovate directors were based in the UK and there was no evidence of any off-shore ownership.

2. EAST LoTHIAN COUNCIL ANNUAL AUDIT PLAN 2016/17

A report was submitted by Audit Scotland presenting the Annual Audit Plan and providing the Committee with an overview of the planned scope and timing of the audit.

Esther Scoburgh, Audit Scotland, presented the report. She outlined the key risk areas identified for East Lothian Council, the planned audit work and the timetable for completion of the key financial statements.

Ms Scoburgh responded to questions from Members explaining the arrangements for the Best Value audit work and the choice of two additional areas: financial and services planning and financial governance and resource management. She also confirmed that control work was underway and on target to deliver their interim report for the next Committee meeting on 20 June 2017.

Sarah Fortune, Service Manager – Business Finance, advised of the intention to present the draft accounts to the Committee on 20 June. Mr Lamond added that the external auditors would usually present their interim report before the presentation of the draft accounts. However, a change to the meeting schedule as a result of the local government elections meant that both documents would be presented at the same time.

In response to further questions from Members, Ms Scoburgh outlined the reasons for including Universal Credit as a key audit risk in relation to provision for bad debts. Ms Fortune explained that bad debt provision was continually reviewed and part of the year end work was to provide an assurance to Members that the provision was both reasonable and prudent.

Councillor McAllister observed that the introduction of Universal Credit had removed Housing Benefit which had itself been introduced to reduce rent arrears. He considered it ironic that things seemed to be going backwards.

John Cunningham, Service Manager – Benefits, acknowledged that there was a cyclical aspect to the process and that there were elements similar to the past. He

said that while Universal Credit was deemed by UK Government to be more efficient to deliver, there were positives and negatives to the system.

Decision

The Committee agreed to note the contents of the Annual Audit Plan.

3. DEVELOPMENT RISK REGISTER

A report was submitted by the Chief Executive presenting to the Committee the Development Risk Register for discussion, comment and noting.

Scott Kennedy, Risk Officer, presented the report. He outlined the background to the Risk Register and drew Members' attention to the current scorings which included 13 High risks, 29 Medium risks and 12 Low risks. As per the Council's Risk Strategy only the Very High and High risks had been reported to the Committee.

Following a question from Councillor Caldwell, Mr Kennedy provided further explanation of the Register including the audit trail showing evidence of previous reviews and changes in risk levels over the past 18 to 36 months.

Douglas Proudfoot, Head of Development, responded to further questions from Members explaining the issues around the management of solid fuel households. He also agreed to provide further information on the Tyne/Esk LEADER and FLAG funding programmes.

Councillor McAllister referred to the redevelopment of the landscape as a result of the loss of traditional industries, such as mining and fishing, and the importance of securing funding. He expressed concern that Musselburgh and Fisherrow Harbour had been excluded from funding programmes and he would pursue the matter with officers.

Councillor McMillan welcomed the report which he considered to be thoughtful and well rounded.

The Convener thanked officers for their diligence and for providing an excellent report.

Decision

The Committee agreed to note the Development Risk Register and, in doing so, note that:

- the relevant risks had been identified and that the significance of each risk was appropriate to the current nature of the risk.
- the total profile of the Development risk could be borne by the Council at this time in relation to the Council's appetite for risk.
- although the risks presented were those requiring close monitoring and scrutiny over the next year, many were in fact longer term risks for Development and were likely to be a feature of the risk register over a number of years.

4. COMMUNITIES AND PARTNERSHIPS RISK REGISTER

A report was submitted by the Chief Executive presenting to the Committee the Communities and Partnerships Risk Register for discussion, comment and noting.

Mr Kennedy presented the report. He drew Members' attention to the current scorings which included 1 Very High risk, 4 High risks, 33 Medium risks and 16 Low risks. He updated Members on risk C&P3 advising that the capital plan bid for a replacement for the CRM system was now in the budget and the WiFi contract had been extended for another year.

Tom Shearer, Head of Communities & Partnerships, responded to a number of questions from Councillor Williamson regarding the Council's private sector leasing contract with Orchard and Shipman. Referring to discussions at a previous Committee meeting, he acknowledged that the company's performance had fallen short on occasion and that further effort was required to ensure that outstanding issues were addressed.

Mr Shearer also advised that the current contract was due to end next year and he hoped to look at including measures for improving the level of service delivery as part of the tender process. In reply to a query from Councillor McAllister, he confirmed that at present there are very few providers of this service in Scotland.

Councillor Caldwell raised the question of penalties for poor performance and whether these could be built into the contract. Mr Shearer stated that all options would be looked at to bring about improvements in the longer term.

Councillor McAllister added his concerns to those raised by his colleagues in relation to Orchard and Shipman. He agreed that more stringent measures should be considered to address poor performance, including penalties or bringing the service back within Council control.

The Convener also expressed his disappointment but noted that the failings had been recognised by officers and action was being taken to rectify matters.

Decision

The Committee agreed to note the Communities and Partnerships Risk Register and, in doing so, note that:

- the relevant risks had been identified and that the significance of each risk was appropriate to the current nature of the risk.
- the total profile of the Communities and Partnerships risk could be borne by the Council at this time in relation to the Council's appetite for risk.
- although the risks presented were those requiring close monitoring and scrutiny over the next year, many were in fact longer term risks for Communities and Partnerships and were likely to be a feature of the risk register over a number of years.

5. AUDIT SCOTLAND REVIEW OF HOUSING BENEFIT FRAUD INVESTIGATION LIAISON ARRANGEMENTS IN SCOTLAND (DECEMBER 2016)

A report was submitted by the Depute Chief Executive – Resources and People Services informing the Committee of the recent *Review of Housing Benefit Fraud Investigation Liaison Arrangements in Scotland* carried out by Audit Scotland in December 2016.

Mr Cunningham presented the report. He summarised the background to the investigation of Housing Benefit fraud, the findings of the Audit Scotland report and the working relationship between the Department of Work and Pensions (DWP) and East Lothian Council's Benefits Team.

In response to questions from Members Mr Cunningham outlined the differences between the Council and DWP approach to dealing with fraud cases including prosecution, administrative sanctions and debt recovery. On the split between cases of fraud and error, he informed Members that this would be difficult to assess but it was an area of concern. He indicated that work was ongoing to encourage clients to notify any changes which may affect their entitlement to benefits and that cases of overpayment through error would typically be pursued at an administrative level rather than in the courts. He also advised on the operational threshold for reporting fraud cases to the Procurator Fiscal.

Alex McCrorie, Depute Chief Executive – Resources and People Services, said that the report provided a good perspective on the work undertaken by the Council. He also reflected on the change in the debt threshold for prosecution, which had increased since the transfer of responsibility to the DWP, and the level of diligence required in achieving successful prosecutions.

Councillor McMillan raised a point about the level of referrals under the Council's old policy and the level under the DWP policy and whether the Council was receiving value for money from the new arrangements. He noted that liaison at an operational level appeared to be good but he wondered whether improvements were needed at a strategic level.

Gillian Woolman, Audit Scotland, welcomed the Council's approach to the report findings and said that she would share the Council's analysis with her colleagues.

Responding to further questions, Mr Cunningham indicated that while additional resources were always welcome, he considered it highly unlikely that any duties or staff resource might be repatriated to the Council from DWP.

Decision

The Committee agreed to:

- (i) note the content of the review and the Executive Summary contained within the report;
- (ii) note that the ELC Benefits and Financial Assessments Service is continuing to liaise with the DWP's Fraud and error Service through its involvement in the HB Fraud Issues progression group (HBFIPG).

6. INTERNAL AUDIT REPORT – FREEDOM OF INFORMATION

A report was submitted by the Depute Chief Executive – Resources and People Services informing the Committee of the recently issued audit report on Freedom of Information.

Stuart Allan, Senior Auditor, presented the report summarising the areas where controls had been met, those with scope for improvement and the recommendations contained in the Action Plan.

In response to questions from Members, Mr Allan advised that staff were required to undertake an online training course and that completion rates were monitored. He stated that any delays in meeting the 20 working days target related to delays in obtaining the necessary information from service areas rather than any cost implications.

Mr Allan also explained that although there was no statutory requirement to publish FOI responses, the Council did seek to publish most responses as long as they did not contain personal data. However, he noted that this was not a priority for the service area and that it would be done as time allowed.

Mr Lamond added that the publication of responses was still considered to be best practice and the service would continue to seek to do this when possible. However, it was not possible to commit to achieving publication within a specific timescale.

Decision

The Committee agreed to note the contents of the Executive Summary and Action Plan.

7. INTERNAL AUDIT REPORT – PERFORMANCE INDICATORS 2015/16

A report was submitted by the Depute Chief Executive – Resources and People Services informing the Committee of the recently issued audit report on Performance Indicators 2015/16.

Mr Allan presented the report. He outlined the report findings and referred Members to the recommendations contained in the Action Plan which had been agreed by Management.

Mr Allan responded to questions from Councillor Goodfellow regarding the figures for attendance at leisure and recreation facilities across the county.

Responding to questions from Councillor McMillan, Mala Garden, Internal Audit Manager, advised that each year an analytical review was undertaken to select the 5 performance indicators to be reviewed as part of the audit. These indicators were part of the measures used in benchmarking against other local authorities.

Decision

The Committee agreed to note the contents of the Executive Summary and Action Plan.

8. INTERNAL AUDIT REPORT – PPP CONTRACT MONITORING

A report was submitted by the Depute Chief Executive – Resources and People Services informing the Committee of the recently issued audit report on PPP Contract Monitoring.

Ms Garden presented the report outlining the findings and recommendations contained in the Action Plan which had been accepted by Management. She responded to questions from Members providing clarification on issues relating to utilities reconciliation, the schools covered by the audit, the categories of use, charging rates and monies outstanding. She also confirmed that there would be a follow up report brought to the Committee later in the year.

Mr Proudfoot welcomed the report and acknowledged that it had identified a number of areas where controls were not operating effectively. However, he said that the Action Plan had been accepted and timescales for implementation agreed.

Councillor McAllister referred to Mr Lamond's update earlier in the meeting on the ownership of the Council's PFI contracts. He expressed concerns about the management of these contracts and welcomed the fact that officers were going to look into this issue.

Monica Patterson, Depute Chief Executive – Partnerships & Community Services, advised Members that Councillor McAllister had made similar remarks at a recent meeting of the Policy & Performance Review Committee and had been given an assurance that his concerns would be fully investigated.

Decision

The Committee agreed to note the contents of the Executive Summary and Action Plan.

Sederunt: Councillor Goodfellow left the meeting.

9. INTERNAL AUDIT REPORT – HOME TO SCHOOL TRANSPORT

A report was submitted by the Depute Chief Executive – Resources and People Services informing the Committee of the recently issued audit report on Home to School Transport.

Ms Garden presented the report summarising the areas where controls had been met, those with scope for improvement and the recommendations contained in the Action Plan which had been accepted by Management.

In response to questions from Members, Ms Garden confirmed that for one of the recommendations relating to segregation of duties, the service area had indicated that implementation would be subject to staff resources being identified. In respect of health and safety matters Ms Garden confirmed that these checks would have been undertaken as part of the tendering process.

Ian Dalglish, Service Manager – Transport, responded to a question on the verbal agreement of charging rates. He advised that managing contracts for children with special needs required an additional element of flexibility to ensure that contractors could adapt to a child's changing needs. He added that providing continuity for

contractors was also important – allowing them to invest in specialised equipment - and was one of the reasons for moving towards longer-term contracts.

Decision

The Committee agreed to note the contents of the Executive Summary and Action Plan.

10. INTERNAL AUDIT PLAN 2017/18

A report was submitted by the Depute Chief Executive – Resources and People Services informing the Committee of Internal Audit’s operational plan for 2017/18.

Ms Garden presented the report outlining the factors taken into account when preparing the annual audit plan, the procedures for undertaking reviews and the audit coverage. She also drew Members’ attention to the arrangements in place for the East Lothian Integration Joint Board (IJB).

Responding to a question from Councillor McMillan, Ms Garden advised that the current approach was for Internal Audit to give an assurance statement at the year-end based on the findings and risks identified in their work as a whole, rather than based on testing undertaken for each individual audit report.

Decision

The Committee agreed to approve the Internal Audit Plan for 2017/18.

11. INTERNAL AUDIT PROGRESS REPORT 2016/17

A report was submitted by the Depute Chief Executive – Resources and People Services informing the Committee of Internal Audit’s progress against the annual audit plan for 2016/17.

Ms Garden presented the report which had been prepared to assist the Committee in their remit to evaluate Internal Audit’s work and measure progress against the annual audit plan.

Decision

The Committee agreed to note the contents of the Internal Audit Progress Report 2016/17.

Signed

Councillor Kenny McLeod
Convener of the Audit and Governance Committee