



**MINUTES OF THE MEETING OF THE  
AUDIT AND GOVERNANCE COMMITTEE**

**TUESDAY 26 NOVEMBER 2019  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor J Henderson (Convener)  
Councillor S Currie  
Councillor F Dugdale  
Councillor G Mackett  
Councillor K Mackie  
Councillor K McLeod  
Councillor J Williamson

**Other Elected Members Present:**

Councillor J Goodfellow (Item 1)  
Councillor J McMillan (Items 1 – 5)

**Council Officials Present:**

Mr A McCrorie, Chief Executive  
Ms M Patterson, Depute Chief Executive  
Mr J Lamond, Head of Council Resources  
Mr T Reid, Head of Infrastructure  
Mr D Proudfoot, Head of Development  
Ms S Fortune, Chief Operating Officer - Finance  
Mr P Vestri, Service Manager – Corporate Policy & Improvement  
Mr B Moffat, Service Manager – Transport & Waste  
Mr D Stainbank, Service Manager – Internal Audit  
Mr S Allan, Senior Auditor  
Mr P Moore, Senior Auditor  
Mr R Baty, Business Development Manager  
Mr S Kennedy, Emergency Planning, Risk and Resilience Officer

**Clerk:**

Miss F Currie

**Visitors Present:**

Ms E Scoburgh, Audit Scotland

**Apologies:**

Councillor C Hoy

**Declarations of Interest:**

None

The Clerk advised the Committee that due the General Manager of Enjoyleisure was unable to attend today's meeting and the report on Enjoyleisure's performance in 2018/19 (Item 4 on the Agenda) would be continued to the Committee's next meeting.

## **1. MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING ON 17 SEPTEMBER 2019**

The minutes of the Audit and Governance Committee meeting held on 17 September 2019 were approved as a true record, subject to one amendment:

- **Item 1 (Area Partnerships)** – The Convener requested that paragraph 6 be amended to reflect that the review of Area Partnerships was not a formal undertaking but rather an informal look at progress during the past five years.

## **2. INTERNAL AUDIT REPORT – NOVEMBER 2019**

A report was submitted by the Depute Chief Executive (Resources & People Services) informing the Committee of Internal Audit reports issued and follow-up work completed since the last meeting of the Committee and providing an update on the progress against the 2019/20 annual audit plan.

Duncan Stainbank, Service Manager – Internal Audit, presented the report outlining the purpose of the audits and indicating that as a result of this work an assessment of 'limited assurance' had been given on Fixed Assets; 'reasonable assurance' on both Payroll Deductions and Risk Management; and 'moderate assurance' on IR35 (Off-payroll Workers in the Public Sector). He summarised the main findings of each audit, highlighting areas where controls were met and those with scope for improvement. Officers responded to questions from Members.

### **Fixed Assets**

Sarah Fortune, Chief Operating Officer (Finance), advised that the completion date of August 2020 for most of the recommendations was chosen as it aligned with the preparation of the annual accounts. However, work to address the actions identified by the audit was already taking place and would continue in the intervening period with final outcomes being reflected in the annual accounts in August 2020. She confirmed that discussions had taken place with Internal Audit to look at improvements to processes and that while not all actions were the responsibility of the Finance Team, officers from within the Team would coordinate and drive forward the work on the recommendations.

Councillor Currie asked about the inclusion within the report of any mitigating measures which had been put in place, particularly in the case of recommendations assessed as high risk. The Convener accepted his point and agreed that it was important to show action being taken and more detail would be helpful.

Jim Lamond, Head of Council Resources, acknowledged Members' concerns. He suggested that it may be more of an issue of how information was presented rather than any deficiencies in action, nonetheless it was clear that the current format did not give adequate assurance to Members. He agreed to give further consideration to this issue.

Referring to the wording of recommendation 3.2.1, Tom Reid, Head of Infrastructure, explained that currently information on Council assets was held on several different

systems; some of which required upgrading. Research would be required to identify a system which could hold all of this information in one place and such a system would be likely to incur a considerable cost. Ms Fortune agreed with Mr Reid and added that a review would have to be undertaken as to whether moving all information to one system would be likely to deliver substantive benefits to offset the potential cost.

Mr Stainbank confirmed that no issues had been identified during the audit which were material to the annual accounts.

Councillor McLeod asked if, when a follow up report was provided, it could include the previous Executive Summary to better demonstrate if progress was being made.

Mr Stainbank agreed to consider this when presenting the follow up report on Fixed Assets. The Convener thanked him and agreed that a comparison would be useful.

### **Payroll Deductions**

Mr Lamond welcomed the audit report as timely and helpful, particularly the assurance offered in relation to the new payroll system. He acknowledged that further improvements were required and would be undertaken as outlined in the Action Plan.

### **Risk Management**

Scott Kennedy, Emergency Planning, Risk, and Resilience Officer, advised that all risks were discussed with the appropriate managers as well as being reviewed and updated at regular management team meetings. Requests for updates were also sent to each 'risk owner' on a quarterly basis.

Mr Stainbank explained that the new risk management software would assist with this work by identifying any risks which had not been reviewed or updated for some time. Mr Kennedy added that the system would be in place by June 2020.

### **IR35**

Mr Stainbank agreed to look at the wording of recommendations in the Action Plan with a view to provided additional clarity for Members.

Mr Stainbank advised that there had been 234 off-payroll workers within the Council since 2017 but that it was difficult to say how many there were at any given time. He added that of the approximately 100 off-payroll workers per year only 20% fell within the scope of the IR35 rules. Each assessment under the rules lasted for the duration an employee's contract and had to be renewed each time that employee was re-engaged by the Council.

Stuart Allan, Senior Auditor, reported that 43 assessments were in scope over the past two years and a number of these individuals were no longer working for the Council. In terms of deductions on a monthly basis, 6 or 7 fell within the IR35 rules. He said that frameworks were in place for agency workers and the type of framework depended on the type of worker and number of supplier agencies. He confirmed that HR monitored these employees and kept a detailed spreadsheet which was updated on a monthly basis.

Mr Stainbank also drew attention to the Internal Audit progress report for 2019/20 which showed four completed audits, two in progress, two recently commenced and a further 14 to be completed by June 2020.

The Convener noted that this represented a significant amount of work for the Internal Audit Team and thanked officers for their report.

## Decision

The Committee agreed to note:

- (i) the main findings and recommendations from Internal Audit reports issued during the period from September 2019 to November 2019;
- (ii) the findings from Internal Audit's follow-up work;
- (iii) Internal Audit's progress against the annual audit plan for 2019/20.

### 3. TREASURY MANAGEMENT – MID YEAR REVIEW 2019-20

A report was submitted by the Depute Chief Executive (Resources & People Services) updating the Committee on Treasury Management activity during the first half of 2019-20.

Ms Fortune presented the report summarising the key points. She drew Members' attention to the current position regarding prudential indicators, capital expenditure and short and long-term borrowing. She reported that while the Council was currently operating in excess of approved boundaries in terms of its prudential indicators, largely due to assessment of developers' contributions, it was expected to remain well within authorised limits. She also advised that the Council was at present in an under borrowed position, however it was anticipated that additional external borrowing of £24m would be required during the second half of the financial year.

Responding to questions from Councillor Currie, Ms Fortune explained that the approved limits were set in line with the capital plans approved by Council as part of the annual budget. The operational boundary was quite fluid and reflected the in-year financial performance and the impact of slippage in capital projects, delays in developers' contributions and other factors would likely require the revision of approved limits going forward. She also acknowledged the need to look beyond the current year's capital spend and to take into account the capital programme over future years.

In response to further questions from Councillor Currie and Councillor Dugdale, Ms Fortune acknowledged that there had been an increase in the cost of new borrowing – 1% above the PWLB base rate – and that this could have a significant impact in future years. She explained that while the Council had anticipated an increase in rates the actual raise had been higher than expected. This would have to be taken into account when considering the affordability of the future capital programme.

Mr Lamond reiterated that the impact of the rate rise was mainly in relation to new borrowing, however the effect on affordability would have to be built into any refresh of capital budgets. Referring to the debt maturity profile, he stated that the Council's strategy on long-term borrowing provided solid protection against any temporary increase in rates. However, if the situation should persist in the longer term the current strategy would have to be reviewed.

In response to a question from the Convener, Mr Lamond confirmed that HM Treasury had introduced dampening as a control measure and while there was concern about the risk to some investments the actual impact had yet to be established.

Replying to Councillor McLeod Ms Fortune confirmed that the Council could only borrow for capital purposes and not in advance of need.

Councillor Currie said that the Council was fortunate that it had loans already locked into a low PWLB rate. While he understood the issues around slippage, he encouraged the Council to consider whether some capital projects could be brought forward to take advantage of what were still relatively low rates of interest for longer term borrowing. He added that it would be interesting to see the impact that the recent rate rise had on the budget proposals coming forward in February and whether the increase was temporary or longer term.

The Convener thanked officers for their report and noted that the impact of rate increase would be significant not just for borrowing but also for investments.

### **Decision**

The Committee agreed to note the content of the report.

#### **4. ENJOYLEISURE REPORT 2018/19**

This report was continued to the next meeting of the Committee.

#### **5. EAST LoTHIAN LAND LTD 2018/19**

Alex McCrorie, Chief Executive, declared an interest as a Director of East Lothian Land Ltd and apologised for not making this declaration at the beginning of the meeting.

A report was submitted by the Depute Chief Executive (Resources & People Services) informing the Committee of the work undertaken by East Lothian Land Ltd in 2018/19.

Richard Baty, Business Development Manager, presented the report outlining the background to East Lothian Land Ltd and providing details of projects considered and delivered in 2018/19.

In response to questions from Councillor Currie, Mr Baty explained that East Lothian Land was separate from the Council and when their solicitors were negotiating on a property they did so anonymously. He also acknowledged that it was frustrating when a property which had previously been marketed as a commercial opportunity was eventually sold for potential residential use; the former Royal Bank of Scotland building in North Berwick was a recent example.

The Convener welcomed the conservative approach adopted by East Lothian Land and supported the continuation of this tried and tested model. She shared Mr Baty's frustration over the Royal Bank of Scotland site in North Berwick but she understood that it had been sold for well over the asking price.

Councillor Currie also welcomed the report. He observed that quality had been key to East Lothian Land's success and this was borne out by the occupancy rates in its properties. He said that where land was zoned for employment use it was essential that this was pursued. There was demand for good quality business premises in East Lothian and if this was not available then businesses would move to Edinburgh or elsewhere. He added that while attracting start-up businesses was important, it was

also necessary to ensure that a range of premises were available to allow businesses to expand without leaving the local area.

Mr Baty acknowledged Councillor Currie's point regarding expansion and said that there were three or four businesses within East Lothian which were currently seeking larger premises.

### **Decision**

The Committee agreed to note the contents of the report.

## **6. 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 outlined the salient points in his report. He advised that the Register included 2 High risks, 25 Medium risks and 16 Low risks. Although the Council's Risk Strategy required only 'Very High' and 'High' risks to be reported to the Committee, he said that on this occasion all Medium risks scoring 8 or higher were also included.

Councillor Williamson queried the current risk control measures in place to mitigate against inappropriate use/damage to properties, as outlined in risk C&P 5, as it seemed that previous measures had been unsuccessful.

Paolo Vestri, Service Manager – Corporate Policy and Improvement, said he was not aware of any new measures put in place or of recent discussions with the problem solving partnership at the Brunton Hall. However, he agreed to refer the question to the Head of Communities & Partnerships for a detailed response.

Councillor Currie asked if any analysis of risk trends had been undertaken and, if so, whether this had shown any increases in particular areas.

Mr Kennedy advised that Brexit had resulted in some risks scoring higher and some reducing and that these changes were reflected across the Council's service risk registers. He said that the new risk register software should make it easier to show this type of analysis and he would be arranging a briefing session for Members on the system early in the New Year.

### **Decision**

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

- i. the relevant risks had been identified and that the significance of each risk was appropriate to the current nature of the risk;
- ii. 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; and
- iii. 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.

## 7. COUNCIL RESOURCES RISK REGISTER

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

Mr Kennedy presented the report noting that the risk register included 2 Very High risks, 5 High risks, 23 Medium risks and 8 Low risks. In line with the Council's Risk Strategy only risks rated as 'Very High' and 'High' were being reported to the Committee.

Councillor McLeod asked about suspicious e-mails and whether the Council had incurred costs as a result of individuals accidentally opening corrupt e-mail links.

Mr Lamond acknowledged that some scam e-mails could be very sophisticated, however the Council had not incurred any direct costs as a result of staff mistakenly accessing messages or web links. He said that a number of measures were in place to mitigate against such eventualities and these were generally very successful. He added that his advice to staff and Councillors would be that if they are in any doubt about the source of an e-mail they should seek advice from IT.

### Decision

The Committee agreed to note the Council Resources Risk Register and in doing so, noted that:

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

Signed .....

Councillor Jane Henderson  
Convener of the Audit and Governance Committee