East Lothian Council

REPORT TO:	Audit and Governance Committee
MEETING DATE:	24 November 2020
BY:	Depute Chief Executive (Resources & People Services)
SUBJECT:	Internal Audit Report – November 2020

1 PURPOSE

1.1 To inform the Audit and Governance Committee of Internal Audit reports issued, and follow-up work completed, since the last meeting of the Committee and to provide an update on progress made against the 2020/21 annual audit plan.

2 RECOMMENDATION

2.1 That the Audit and Governance Committee note:

    i. the main findings and recommendations from the Internal Audit reports issued during the period from September 2020 to November 2020 as contained in Appendix 1;

    ii. the findings from Internal Audit's follow-up work;

    iii. Internal Audit's progress against the annual audit plan for 2020/21 as set out in Appendix 2.

3 BACKGROUND

3.1 Since the last meeting of the Committee final reports have been issued in respect of the following audits: Residential and Non-Residential Charging, Housing Rents (Billing and Reconciliations), Section 75 Developer Contributions, EU Exit Assurance Review and Scottish Housing Regulator Annual Assurance Statement.

3.2 The main objective of the audits was to ensure that the internal controls in place were operating effectively. A summary of the main findings and recommendations from the audits is contained in Appendix 1, apart from the Scottish Housing Regulator Annual Assurance Statement which is included as Appendix 2 in Agenda Item 5 of the Audit & Governance Committee papers.

3.3 For the audit reviews undertaken, Internal Audit has provided management with the following levels of assurance:

- ➢ Residential and Non-Residential Charging – Moderate Assurance

- ➢ Housing Rents (Billing and Reconciliations) – Reasonable Assurance

- ➢ Section 75 Developer Contributions – Reasonable Assurance

- ➢ EU Exit Assurance Review – Not Graded

- ➢ Scottish Housing Regulator Annual Assurance Statement – Not Graded

3.4 Internal Audit follows-up on recommendations made in previously issued audit reports to ensure that they have been implemented as agreed by Management. Detailed spreadsheets are maintained to monitor progress being made and this report provides a summary of the current status for two audits that were reported in previous years. Our findings are detailed below.

Area Partnerships

3.5 Internal Audit's report on Area Partnerships was issued in September 2019. Our follow-up review has highlighted that all nineteen recommendations made have been implemented.

Risk Management

3.6 Internal Audit's report on Risk Management was issued in November 2019. Our follow-up review has highlighted that all six recommendations made have been implemented.

Progress Report 2020/21

3.7 A progress report attached as Appendix 2 is prepared to assist the Committee in their remit to evaluate Internal Audit's work and measure progress against the annual audit plan for 2020/21.

4 POLICY IMPLICATIONS

4.1 None

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7   BACKGROUND PAPERS

7.1   None

AUTHOR'S NAME	Duncan Stainbank
DESIGNATION	Service Manager – Internal Audit
CONTACT INFO	dstainbank@eastlothian.gov.uk
DATE	13 November 2020

Executive Summary: Residential & Non-Residential Charging

Conclusion: Moderate Assurance

The Council has appropriate processes and procedures in place for the raising of charges for residential and non-residential social care costs in most circumstances. However there are a few significant areas where processes should be improved including reviewing of care plans, application of waivers and temporary charging values, authorisation of non-residential invoices and monitoring and control of charges made through to debt collection on a regular basis.

Background

Section 14 of the Care Act 2014 provides the power for Local Authorities to make charges for care costs in certain circumstances. The Council has a Charging Policy for Non-Residential Social Care that is updated and approved on an annual basis. Residential charges are made in accordance with guidance on charging for Residential Accommodation issued by the Scottish Government with Council operated residential accommodation charges set within the East Lothian Council Charging Book.

Summary of findings & recommendations

The following key findings and recommendations are highlighted, which have all been **agreed by Management**:

- 7 of 30 residential clients tested did not have evidence that their care plans had been reviewed in the last 3 years. *Management have agreed that following return to full capacity following COVID restrictions clients will all have annual care reviews completed and documented* **by January 2022**.
- Review of residential charging identified that in 3 cases clients did not have the appropriate charges made against them as a result of a lack of review of waivers approved or application of a minimum temporary charge whilst financial assessment is completed. *Management have agreed to resolve both the issues with these individual clients and improve processes and monitoring to improve control* **by April 2021**.
- In one case a client had not had a charging order raised against their property when this was required. *Management have agreed to resolve this case and then monitor the raising of charging orders on an* **ongoing basis moving forward.**
- Homecare invoicing is manually intensive and as a result is often delayed by 3-4 months, and does not contain appropriate authorisation processes. From testing of 30 residential clients, 3 clients were not having timely invoices raised. *Management have agreed to review current manual processes and establish a more automated process to improve controls over raising timely and accurate invoices* **by June 2021.**
- Older Peoples services currently have outstanding debt in excess of £824K. The Debt Management Group last met in August 2019 and recommendations for debt recovery and write off are not being progressed resulting in continued increases in large individual debts. *Management have agreed that the Debt Management Group should now meet on a two monthly basis going forward* **from December 2020.**

Recommendation Summary

Recommendations Grade	High	Medium	Low	Total
Current Report	-	23	-	23
Prior report	N/A	N/A	N/A	N/A*

* This control review is new and no prior report exists for comparison

Materiality

There are currently 568 residential clients contributing on average approximately 25% of the residential care costs of approximately £16 million. There are 982 clients who receive care at home.

Headlines

Objectives	Conclusion	Comment
1. A clear and accessible Council Residential and Non-Residential Charging Policy is in place.	Reasonable	A Council Residential and Non-residential Charging Policy is in place for 2019/20 – however the 2020/21 Policy has been delayed in being agreed due to issues with the introduction of an allowance for disability related expenditure and the requirement for some changes in wording around over 65 assessments to avoid claims of age discrimination.
2. Clients have an up to date care assessment; a Care Plan is in place and residential reviews are regularly carried out.	Limited	For all of the clients tested a care plan or support plan was in place. However 7 of 30 (23%) residential care clients did not have a record of a review taking place in the last 3 years and 1 of 30 non-residential clients. Whilst COVID-19 restrictions may have reduced current capability for Residential Care reviews, action is required to prevent further slippage in review times.
3. Where appropriate a financial assessment has been completed for all clients on a timely basis.	Reasonable	From a sample of 60 clients, 7 had not yet had a financial assessment completed however in 6 of these cases placements had started between late February 2020 and July 2020. In 1 case the placement had commenced in October 2019 and despite requests to the family member with guardianship no financial assessment had been completed. As a temporary minimum client contribution level was not applied and due to the client's death, the debt is now held by the Council. Recommendations have been made to ensure responsibilities and escalation mechanisms are clear in these circumstances.
4. The charges being made against clients are accurate and complete to the package of support being received, and in line with the financial assessment and charging policy.	Limited	For a sample of 30 clients in residential accommodation, 26 had charges applied correctly in accordance with procedures, 1 client had not had a contribution charged as their placement had been made under section 16 and 17 of the COVID Act and statutory guidance prevents charging, 1 client had a waiver placed on charges in April 2018 that had not properly been reviewed resulting in charges of £24k now being due and in 2 cases a failure to apply temporary minimum contributions had contributed to debt of £2k and £10k now being due. Care at Home clients had charges applied correctly. Regular reviews of client charges are required to prevent large future debts being incurred.
5. Where specialist services are being procured clarity on the funding for these services across Council, NHS and personal funding are documented.	Substantial	From the one case of specialist services identified during testing the regular invoicing to the NHS of the correct value is being made and the invoices are being paid to the Council in a timely manner.
6. Procedures are in place to clearly contact clients and their representatives confirming charges that are due and the payment schedule for payments on a timely basis.	Limited	Processes are in place to appropriately confirm with clients and their representatives what charges clients are due to make for residential and non-residential care. However from testing of 30 residential clients, 3 clients were not having timely invoices raised. It was also established that in one case a client that should have had a charging order in place to allow for payment had not had this charging order applied. Homecare invoicing is manually intensive and as a result often delayed by 3-4 months, and does not contain appropriate authorisation processes. Recommendations have been made to improve these processes.
7. Accurate, complete, timely and appropriate action is taken when charges are being recovered.	Limited	Older Peoples services currently have outstanding debt in excess of £824K. The Debt Management Group last met in August 2019 and recommendations for debt recovery and write off are not being progressed. The Debt Management Group should now meet every two months from December 2020.

Areas where expected controls are met/good practice.

No.	Areas of Positive Assurance
1.	Charging policies are reviewed on an annual basis including the use of an independent Charging Working Group including Councillors and independent members representing service users and providers.
2.	Testing established that when emergency care has been procured as a result of COVID-19 arrangements without full assessments being completed charges are not being made in accordance with statutory guidance.
3.	When specialist services are being provided in conjunction with the NHS, testing established that these are being invoiced and paid in accordance with the agreements in place.
4.	An appeals process is in place for financial assessments and whilst not reviewed as part of this exercise will form part of a future Internal Audit review.

Recommendation Grading/Overall opinion definitions

Recommendation	Definition
High	Recommendations relating to factors fundamental to the success of the control objectives of the system. The weaknesses may give rise to significant financial loss/misstatement or failure of business processes.
Medium	Recommendations which will improve the efficiency and effectiveness of the existing controls.
Low	Recommendations concerning minor issues that are not critical, but which may prevent attainment of best practice and/or operational efficiency.

Levels of Assurance	Definition
Substantial Assurance	There is a sound system of internal control designed and operating in a way that gives a reasonable likelihood that the objectives will be met.
Reasonable Assurance	Whilst there is a sound system of internal control, there are minor weaknesses, which may put some of the objectives at risk or there is evidence of non-compliance with some of the controls, which may put some of the objectives at risk.
Moderate Assurance	The system of internal control is broadly reliable, however there are a number of weaknesses, which put some of the objectives at risk or there is evidence that the level of non-compliance with controls put some of the objectives at risk.
Limited Assurance	Weaknesses in the system of internal control are such as to put the objectives at risk or the level of non-compliance puts the objectives at risk.
No Assurance	Control is generally weak leaving the system open to error or abuse, or there is significant non-compliance with basic controls, which leaves the system open to error or abuse.

Executive Summary: Housing Rents (Billing and Reconciliations)

Conclusion: Reasonable Assurance

There is a sound system of internal control in place for Housing Rents (Billing and Reconciliations), including the arrangements in place to ensure compliance with legislation in respect of the rent setting process and the procedures in place to ensure that rent points are properly allocated to properties added to the housing stock. However some weaknesses were identified, including the arrangements in place for applying rent increases to temporary homeless properties leased from Registered Social Landlords, the reconciliation of property control totals and the lack of a clear audit trail during the annual billing process.

Background

The Housing (Scotland) Act 2001 outlines the landlords responsibilities in respect of the rent setting process. Under the provisions of section 25 landlords are required to give tenants a minimum of 4 weeks notice before increasing rents or service charges. In addition, sections 53 and 54 require appropriate tenant participation and consultation in respect of the operation of the Housing Revenue Account.

The Housing (Scotland) Act 2010 introduced the Scottish Social Housing Charter which sets out standards and outcomes that all social landlords should aim to achieve when performing their housing activities. We note that Local Authorities are required to report on their performance against the standards and outcomes in the Charter.

Summary of findings & recommendations

The following key findings and recommendations are highlighted, which have all been **agreed by Management**:

- In six cases, errors were identified in the rent increases applied to temporary homeless properties leased from Registered Social Landlords. *Management have agreed to undertake appropriate checks to ensure that rent increases are correctly applied to Housing Association and homeless properties* **by February 2021**.
- The existing arrangements in place for reconciling the property control totals on the Orchard system require review to ensure that a reconciliation summary sheet is prepared on an annual basis and all supporting documentation is retained. *Management have agreed to introduce revised verification procedures by* **December 2020**.
- There was a lack of evidence held on file to confirm that appropriate reconciliations had been undertaken during the annual billing process between the number of live accounts on the Orchard system and the number of annual rent charge letters that had been issued. *However* Management have now completed a retrospective reconciliation. *Management advised that the reconciliations had been undertaken and agreed to retain all evidence on file for future years* **by February 2021**.

Recommendation Summary

Recommendations Grade	High	Medium	Low	Total
Current Report	-	11	2	13
Prior report	N/A	N/A	N/A	N/A*

* No prior report exists for Housing Rents (Billing and Reconciliations).

Materiality

The Council has approximately 8,840 houses and 1,190 garages on the Housing Revenue Account with the projected income for 2020/21 from let houses being £31.8 million and for let garages being £582k as at the end of August 2020.

Headlines

Objectives	Conclusion	Comment
1. Adequate procedures are in place for the rent setting process to ensure compliance with legislation.	Substantial	The Housing (Scotland) Act 2001 outlines the landlords responsibilities in respect of the rent setting process. A rent increase of 5% was implemented for 2020/21 and we found that appropriate arrangements were in place to ensure that the Council had complied with legislation. The draft Tenant Participation Strategy in place for 2020 to 2023 will be formalised in November 2020.
2. Regular reviews are undertaken of the rent setting process.	Reasonable	The Council introduced a points based system in 2003 to calculate the rent chargeable for properties on the Housing Revenue Account. We note that following a recommendation by an external consultant, a review of the rent setting model will be considered in 2021.
3. Adequate procedures are in place to ensure that rent points are properly allocated to properties added to the housing stock.	Substantial	There are seven property elements set up on the Orchard system and each element has a number of attributes to reflect the different characteristics of properties. We note that a weighting is accorded to each attribute and a standard form is completed for allocating rent points based on the property elements and attributes. For a sample of 10 cases reviewed, we found that adequate arrangements are in place for ensuring that rent points are correctly allocated to properties that have been added to the housing stock.
4. System parameters are correctly set up on the Orchard system for rents and charges.	Moderate	Housing rents, garage rents and service charges had been correctly updated with the 5% rent increase for 2020/21. However in six cases, errors were identified in the separate rent increases applied to temporary homeless properties leased from Registered Social Landlords.
5. Systems are in place to ensure that annual rent charge letters are issued to all tenants.	Reasonable	We found that a rent charge letter had been issued for 8,984 houses and 951 garages setting out the annual rent increase for 2020/21, although the garage addresses had not been included on the garage letters. There was a lack of evidence held on file to confirm that appropriate reconciliations had been undertaken during the annual billing process between the number of live accounts on the Orchard system and the number of annual rent charge letters that had been issued.
6. Adequate arrangements are in place to ensure appropriate reconciliations are carried out during the annual billing process.	Moderate	We sought to establish if a reconciliation was undertaken during the annual billing process between the number of properties identified for a housing rent increase on the Point Value Modification Report and the number of properties that received an annual rent charge letter. From our review, we found no evidence to indicate that a reconciliation had been undertaken for 2020/21.
7. Information held in respect of the Council's housing stock is accurate and complete.	Moderate	We found that a reconciliation had been undertaken between the Orchard system and the Keystone system for 2019/20, however the supporting documentation had not been retained to confirm that the totals agreed. From our review of the housing stock, we found that a summary sheet had not been completed to evidence the reconciliation of the property control totals on the Orchard system for 2019/20 and five properties had been removed from the housing stock in error.

Areas where expected controls are met/good practice

No.	Areas of Positive Assurance
1.	Adequate arrangements are in place to ensure compliance with legislation in respect of the rent setting process.
2.	Adequate procedures are in place to ensure that rent points are properly allocated to properties added to the housing stock.

Recommendation Grading/Overall Opinion Definitions

Recommendation	Definition
High	Recommendations relating to factors fundamental to the success of the control objectives of the system. The weaknesses may give rise to significant financial loss/misstatement or failure of business processes.
Medium	Recommendations which will improve the efficiency and effectiveness of the existing controls.
Low	Recommendations concerning minor issues that are not critical, but which may prevent attainment of best practice and/or operational efficiency.

Levels of Assurance	Definition
Substantial Assurance	There is a sound system of internal control designed and operating in a way that gives a reasonable likelihood that the objectives will be met.
Reasonable Assurance	Whilst there is a sound system of internal control, there are minor weaknesses, which may put some of the objectives at risk or there is evidence of non-compliance with some of the controls, which may put some of the objectives at risk.
Moderate Assurance	The system of internal control is broadly reliable, however there are a number of weaknesses, which put some of the objectives at risk or there is evidence that the level of non-compliance with controls put some of the objectives at risk.
Limited Assurance	Weaknesses in the system of internal control are such as to put the objectives at risk or the level of non-compliance puts the objectives at risk.
No Assurance	Control is generally weak leaving the system open to error or abuse, or there is significant non-compliance with basic controls, which leaves the system open to error or abuse.

Executive Summary: Section 75 Developer Contributions

Conclusion: Reasonable Assurance

The Council has appropriate processes and procedures in place to ensure that S75 Developer Obligations are put in place in line with legislation and that monitoring is undertaken to ensure that they are received at the points set out in the agreement. Monitoring is undertaken to ensure that obligations received are utilised on the proposed capital projects. However improvements have been highlighted including that a public register of all S75 agreements is available online and clear and complete documentation on trigger points is available.

Background

Under section 75 of the of the Town and Country Planning Act (Scotland) Act 1997 the Council is allowed to negotiate developer obligations that are used to fund capital programmes for a number of services including Education, Roads Services, Amenity Services and Housing. East Lothian is experiencing a high level of development over the next few years which will result in significant income from developer obligations. During 2019/20 the Council received obligations amounting to approximately £13 million.

Summary of findings & recommendations

The following key findings and recommendations are highlighted, which have all been **agreed by the Planning Service Manager and the Planning Obligations Officer**:

- A record of the number of contributing properties is maintained, however reconciliations should be carried out between the number of contributing properties and the contribution calculation. *A reconciliation will be carried out* **from January 2021**.
- A central record of all information relating to S75 agreement should be put in place **by January 2021**.
- The council website has a record of all planning applications, however in only 1 of 15 cases was the S75 Agreement available in this format. *To ensure a clear public record is maintained all S75 agreements will be placed on the website* **by January 2021**.
- Testing completed was unable to establish clear and complete documentation for completion of trigger points including commencement of developments and completion/occupation of properties. *Management have agreed to request and monitor documentation for trigger points* **by April 2021.**
- Following the Covid-19 pandemic management has agreed that more frequent discussions with the major developers would help to monitor potential delays in receipt of obligations and these will commence **from January 2021.**

Recommendation Summary

Recommendations Grade	High	Medium	Low	Total
Current Report	-	7	-	7
Prior report (September 2016)	7	7	-	14

Materiality

For the financial year 2019/20 the Council received developer obligations of approximately £13 million. Following expenditure of approximately £9 million the Council still holds approximately £21 million to help future capital programme spending.

Headlines

Objectives	Conclusion	Comment
1. Clear, accessible, relevant and appropriate developer obligation policies and procedures are in place.	Substantial	The East Lothian Council Local Development Plan and Developer Contribution Framework Supplementary Guidance 2018 provide a Policy and procedure on how Section 75 (S75) calculations of contributions will be completed and is available on the Council website.
2. Adequate governance processes are in place to oversee the developer obligation process.	Substantial	The Council has adequate governance processes in place to oversee the development of the Local Development Plan and the developer obligation process. The S75 Group – Developer Contributions is a management oversight group that meets quarterly to oversee these processes.
3. Management have adequate controls in place to ensure that developer contributions are set at an appropriate level and within the requirements of the relevant statutes.	Reasonable	The Council has appropriate controls in place to ensure that developer obligations comply with legislation. However the underlying records are not held centrally for each agreement which would allow figures to be readily confirmed.
4. Management have adequate procedures in place to ensure that S75 agreements are in place prior to planning permission being granted.	Substantial	Procedures are in place to ensure that S75 agreements have been completed before planning permission is formally granted. In all 15 agreements tested Section 75 agreements had been put in place prior to planning permission being granted.
5. A complete and accurate register is in place containing all S75 agreements.	Limited	A public register is maintained giving details of all planning applications. However only 1 of the 15 tested agreements was held on this public register and some of the agreements refer to a paper based record that no longer exists.
6. Management have adequate controls in place to monitor contributions and ensure collection of amounts owed by the relevant date.	Moderate	Processes are in place to ensure that developer obligations are calculated using the appropriate indexation value and received in line with the S75 agreements, however evidence is not readily available to confirm the key dates for the progress of each development. Recommendations have been made to improve information capture and control.
7. Controls are in place to allow contributions received to be used by the appropriate due date for the purposes set out in the legal agreements.	Substantial	Regular monitoring is undertaken to ensure that obligations received are utilised within the repayment period stated in the agreement.
8. Consideration has been given to the impact on the capital plans if contributions are delayed.	Reasonable	We were informed that discussions have been held with some developers with regard to deferring obligation payments during the period of lockdown. Potential delays in receipt of obligations will be considered in capital budget planning. Increasing the frequency of discussions with developers is recommended going forward.

Areas where expected controls are met/good practice

No.	Areas of Positive Assurance
1.	A strategy together with policies and procedures has been put in place for developer obligations.
2.	A governance structure has been put in place to oversee the agreement and monitoring of developer obligations.
3.	A register of all planning applications is maintained and available for public access.
4.	Detailed guidance has been put in place setting out the situations in which a developer obligation will be sought.
5.	Developer obligation agreements are put in place before planning permission is given.
6.	Developer obligations received are monitored to ensure that they are utilised within the agreed timescales.
7.	Trackers are maintained to monitor the trigger points for both the financial obligations and the affordable housing obligations.

Recommendation Grading/Overall opinion definitions

Recommendation	Definition
High	Recommendations relating to factors fundamental to the success of the control objectives of the system. The weaknesses may give rise to significant financial loss/misstatement or failure of business processes.
Medium	Recommendations which will improve the efficiency and effectiveness of the existing controls.
Low	Recommendations concerning minor issues that are not critical, but which may prevent attainment of best practice and/or operational efficiency.

Levels of Assurance	Definition
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Moderate Assurance	The system of internal control is broadly reliable, however there are a number of weaknesses, which put some of the objectives at risk or there is evidence that the level of non-compliance with controls put some of the objectives at risk.
Limited Assurance	Weaknesses in the system of internal control are such as to put the objectives at risk or the level of non-compliance puts the objectives at risk.
No Assurance	Control is generally weak leaving the system open to error or abuse, or there is significant non-compliance with basic controls, which leaves the system open to error or abuse.

East Lothian Council Internal Audit Assurance Report

From:	Duncan Stainbank, Service Manager – Internal Audit
To:	Sharon Saunders, Head of Communities & Partnerships
	Douglas Proudfoot, Head of Development
	Lynn Crothers, Service Manager – Protective Services
	John Cunningham, Interim Service Manager – Economic Development
Date:	12 November 2020

EU Exit East Lothian Council Preparedness

1. Background

The UK officially left the EU on 31 January 2020 and entered a transition period that is to run until 31 December 2020. After that date the UK will carry out its trade with the EU and other countries either based on trade deals negotiated by that date or under WTO regulations.

The timetable for leaving the EU is fixed and the transition period will end on 31 December whether a deal is reached or not. The impacts of Brexit will be further compounded by the ongoing COVID-19 pandemic already taking its toll on trade and business sustainability making economic recovery more challenging. It is now imperative for national and local agencies to plan and prepare for the reasonable worst case scenario of a 'no deal' or 'limited deal' Brexit.

In parallel with the ongoing negotiations, the UK Government has also released a number of documents and information to assist with preparations including: A Border Operating Model, A Global Tariff Scheme, Negotiated trade deals with other countries, Legislation changes including The Immigration and The Single Market Bills. In addition a publicity campaign is currently running to raise awareness of business and individuals of actions to be taken to prepare for the end of the transition period.

The Scottish Government also has been preparing for the impact of the EU exit and in particular, plans have been developed to mitigate the impacts of a 'No Deal' Brexit through a 'Ministerial Group on EU Exit Readiness' which is supported by a 'No Deal Planning Board'. The Scottish Government preparations include:

- Minimising disruption to supplies of food and medicines if there are significant delays at ports.
- Providing online information for EU Citizens on Settled Status.
- Establishment of a £7M Rapid Poverty Mitigation Fund.
- Ensuring legislation impacted by leaving the EU has been updated and consented.
- Providing information to businesses to assist in managing trade and economic impacts.
- Working with farmers and crofters to ensure financial payments will remain in place.
- Reserving 300 Police Officers to deal with any issues arising at ports, borders or possible civil unrest.

This audit reviews the process of preparing Council services for the potential reasonable worst case scenario in the short to medium term following the end of the transition period.

2. Review Methodology

The audit review terms of reference agreed to cover the following key control objectives, to ensure that:

➢ Clear, accessible, relevant, and appropriate process for preparing for EU Exit is in place and operating;

➢ A complete review of all Council services has been carried out to identify potential issues, changes arising from EU Exit;

➢ Ongoing liaison with other appropriate public bodies to ensure effective collective mitigation and communication is in place and operating on a timely basis;

➢ Management has investigated the impact of a no deal exit on the Council's supply chain and has developed contingency plans, with supplier or other organisations for any significant areas of risk;

➢ Management has identified any potential staffing issues both within the Council and its suppliers and developed contingency plans for any significant areas of risk;

➢ Adequate mitigation processes have been put in place to counter any further significant risks identified;

➢ A communication plan is in place with local business and residents, community partners and resilience forums; and

➢ Risks and issues have been presented for consideration alongside multiple concurrent risk events and further mitigation considered if necessary.

3. Findings

3.1 EU Exit Process

CMT have Brexit as a standing item for discussion at each meeting and have delegated responsibility for EU Exit to the Head of Communities & Partnerships and the Head of Development. A Report on East Lothian Council's Brexit Preparations and Response was submitted to the Council in October 2020 and a further report is being produced in preparation for the December 2020 Council meeting.

Since spring 2020, a refreshed process for preparing the Council for EU Exit has been developed by the Service Manager Protective Services and the Interim Service Manager Economic Development. This process has been communicated through governance and management groups including the Council, CMT and SMT. The key elements of the processes are the management of Brexit Working Group, East Lothian Council Service Impact and Risk Analysis due for completion in November 2020, progress reporting to Council on 27 October 2020, agreed East Lothian Council and National Response groups will be stood up in December 2020. It is recognised that these are compressed timescales for delivery on a Brexit response, however this has been necessary as a result of both uncertainty over potential trade arrangements with the EU post the 31 December 2020 and redirection of resources to the response to the COVID-19 pandemic.

3.2 Council Service Review

A questionnaire was issued to all Service Managers across East Lothian Council in October 2020 by the Service Manager Protective Services in order to review their earlier 2019 risk assessment of service risks and issues in relation to EU Exit. Some services issued joint responses and others did not fully respond, from the 11 responses received 8 services identified specific issues/risks of EU exit and 4 had identified mitigations. Key risks/issues identified are:

- Supplier cost increases/disruption to supply of good or services;
- Reduction or changes to Grant income;
- Supplier workforce limitations;
- Increases in demand for council services.

The process communicated to all levels of management within the Council includes a Service Impact and Risk analysis. The Brexit Working Group Meeting of the 11 November 2020 was held to review the current information and review progress to finalise this task.

Recommendation 1: The service impact and risk analysis should cover all services within the Council to ensure that there is a comprehensive understanding of potential impacts.

3.3 Communication with Public Bodies

COSLA is supporting Scotland's 32 Councils to ensure Local Government is prepared for the end of the transition period and in particular, the impacts on services should there be a 'No Deal' scenario. COSLA has been holding monthly meetings with representatives from all local authorities including East Lothian Council to provide updates and identify issues from a Local Authority perspective. These COSLA Meetings are now being held weekly since September.

The intention is to stand up a National Coordination Centre (NCC) in December 2020. Within the NCC will be a Police Operation Coordination Centre (POCC) and a Multi-Agency Coordination Centre (MACC) to support the Scottish Government and Resilience Partnerships. Key to information sharing will be the continued use of the national Resilience Direct information system as the main reporting tool, which is accessed by all of the East Lothian Council Senior Management Team.

Brexit has been regularly scheduled for discussion at the Connected Economies Group (CEG), with CEG taking the lead role in engagement with the business sector in East Lothian. In addition the East Lothian Council website provides guidance links for business and individuals to both Scottish and UK Government sources of up to date information. Further work is underway to source appropriate webinar material for local businesses.

3.4 Supply Chain

The East Lothian Council Procurement team have completed an EU Exit Procurement Risk Assessment updated in October 2020. This risk assessment highlighted ongoing work to improve resilience of the supply chain with Scotland Excel and Crown Commercial Services. Areas of risk have been highlighted in relation to Janitorial supplies and chemicals, construction materials and food supplies. Scotland Excel attendance at the Scottish Public Sector Food Forum is noted as an action to mitigate potential delays in food supplies.

Internal Audit interviews in a sample of 10 service areas highlighted that other than ensuring fuel storage capacity is maintained close to maximum no further changes in stock levels were being actively

considered across the Council at the time of completing this review. In some cases services are not increasing stock levels as they have been requested not to by suppliers.

Recommendation 2: As part of the impact and risk analysis, information on anticipated essential supplies and potential Brexit impact should be collected as part of the Brexit Working Group Work Programme. Service-specific decisions on enhancing essential supplies stock levels if appropriate should then be confirmed.

In the short to medium term cost increases and potential price fluctuations of key goods and services are anticipated by service management during 2021. Brexit was highlighted as a risk in the Financial Strategy, however no specific adjustments have been made in the 2020/21 budget due to a lack of clear information on potential impacts at the time. Internal Audit have been advised that potential price increases in specific goods and services will be evaluated during the 2021/22 budget setting in conjunction with Finance, Service Management and Procurement.

3.5 Staffing Issues

East Lothian Council has provided information to all EU nationals working for the Council of the actions required under the EU settlement scheme. Service management record that there are no concerns over the Council employed staff. Whilst concerns have been expressed over potential shortages in labour supply in specific industries e.g. private sector construction, this is a risk rather than a clear current issue. Monitoring of workforce levels, internal and external, and potential impacts on Council Services will continue through the Brexit Working Group arrangements.

3.6 Mitigation of Risks

The East Lothian Council Corporate Risk Register has displayed a Brexit risk for over 2 years. The latest Corporate Risk register was presented to the June 2020 Audit & Governance Committee including the highlighted Brexit Risk which has not subsequently been updated and now has out of date information included within the recorded risk; a planned update to the Brexit Corporate Risk is now in progress in the lead up to December 2020. In addition a more comprehensive Brexit risk register at a service level will be developed as part of the impact and risk analysis phase of the Brexit Working Group during November 2020.

Recommendation 3: Development of the Brexit Working Group Work Plan should ensure clear mitigations against identified risks from the impact and risk analysis phase.

The General Data Protection Regulations will be retained in domestic law at the end of the transition period, but the UK will have the independence to keep the framework under review. As a result if East Lothian Council requires data from EU/EEA it is recommended that a contract is put in place between the Council and the sender on EU approved terms. Work has been completed to identify any data flows that require these contracts and insertion of standard clauses are being reviewed. The exercise to review data flows identified a very small number of data flows that are currently impacted.

3.7 Communication Plan

No specific communication plan is being developed for EU Exit processes however, the communication methods described in section 3.3 above will be in place. In addition East Lothian Council is developing a potential 'Category 1 Response' by establishing a Brexit Single Point of Contact, internal communication procedures via dedicated mailbox and Resilience Direct as well as reporting arrangements to the Multi-Agency Co-ordinating Centre. These will all be in place prior to the 31 December 2020.

3.8 Risk Consideration of Concurrent Multiple Events

Business Continuity Plans across the Council were considered and updated for the Brexit risk in 2019. However this was prior to the COVID-19 pandemic and based on an assumption of No Deal Brexit on 31 October 2019. A change in timing of the EU Exit to 1 January 2021 changes the likelihood of concurrent business continuity events including the COVID-19 pandemic. Testing with Service management identified only 1 service area that had already updated their business continuity plan to consider the EU exit risk in this context. Business Continuity plans undergo regular review in service areas with current COVID and Brexit issues being considered.

Recommendation 4: All service areas should update business continuity plans to take account of Brexit risks and potential mitigations.

One of the highlighted potential risks from identified UK Government reasonable worse case scenarios is localised fuel shortages. East Lothian Council has a Fuel Plan – response to Fuel Shortage or Crisis in place. However the Fuel Plan was last updated in March 2012 and requires to be updated. Internal Audit have been advised that the Fuel Plan has been utilised since 2012 and found fit for purpose.

Recommendation 5: The East Lothian Council Fuel Plan should be updated by January 2021.

4. Conclusions

East Lothian Council have an appropriate plan in place to ensure that arrangements are made to mitigate the recognised impacts of EU Exit. However the plan requires to be enacted over a short timescale as a result of both uncertainty in the outcome of UK negotiations with the EU and resources being utilised on the response to COVID-19. Recommendations have been made to assist with the development of plans to mitigate the effects of EU Exit.

5. Recommendations

Recommendation 1: The service impact and risk analysis should cover all services within the Council to ensure that there is a comprehensive understanding of potential impacts.

Management Response and Timescale: **Lynn Crothers Service Manager Protective Services:**

Agreed this will be completed as part of the impact and risk analysis process. **By December 2020.**

Recommendation 2: As part of the impact and risk analysis information on anticipated essential supplies and potential Brexit impact should be collected as part of the Brexit Working Group Work Programme. Service-specific decisions on enhancing essential supplies stock levels if appropriate should then be confirmed

Management Response and Timescale: **Lynn Crothers Service Manager Protective Services:**

Agreed as part of the impact and risk analysis we will collect and record service specific decisions on potential enhancements to essential supplies stock levels and ensure that there is agreement on any stock level changes required. **By December 2020.**

Recommendation 3: Development of the Brexit Working Group Work Plan should ensure clear mitigations against identified risks from the impact and risk analysis phase.

Management Response and Timescale: **Lynn Crothers Service Manager Protective Services:**

Agreed clear mitigation will be identified when possible as part of the impact and risk analysis process. **By December 2020.**

Recommendation 4: All service areas should update business continuity plans to take account of Brexit risks and potential mitigations.

Management Response and Timescale: **Lynn Crothers Service Manager Protective Services:**

Agreed all business continuity SPOC's will be requested to ensure that business continuity plans will be reviewed and updated if appropriate for potential impacts of Brexit. **By December 2020.**

Recommendation 5: The East Lothian Council Fuel Plan should be updated by January 2021.

Management Response and Timescale: **Bruce Moffat Service Manager Transportation & Waste**:

Agreed, we will refresh the East Lothian Council Fuel Plan document although most of the protocols are likely to remain the same. **By January 2021.**

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Housing Rents	We will examine the processes and controls in place for the billing and reconciliation of housing rents.	November 2020	Completed
Payroll Systems	We will review the procedures in place for ensuring the accuracy and completeness of payroll information and overall payments being made to staff following the implementation of the new payroll system in 2019/20. This review will be subject to discussion with Audit Scotland to prevent duplication of assurance resources.	June 2021	Planning Commenced
Council Tax	We will now focus Council Tax audit work on granting of reliefs and recovery processes.	June 2021	
Non-Domestic Rates	We will now focus our audit work on granting of new Non-Domestic Rates reliefs and recovery processes.	June 2021	
EU Exit	We will review the actions identified to mitigate the risks of EU exit and examine the reported progress on implementation of these actions.	November 2020	Completed
Section 75 (Developer Contributions)	Section 75 payments (developer contributions) bring significant funds to the Council for infrastructure projects. We will examine all control aspects of the Section 75 process.	November 2020	Completed

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Homelessness Assessment & Housing Allocation	We will review the processes in place for the assessment of homelessness, provision of preventative advice and allocation of temporary accommodation and housing rents following recent changes.	June 2021	
Cyber Security	We will examine the evidence of compliance with appropriate cyber security standards including ISO27001, International Standard for Information Security and the Scottish Government Cyber Resilience Strategy for Scotland, Public Sector Action Plan.	June 2021	
School Excursions	Review of the control processes in place to ensure security of funding and reduction of risk for the arrangements for School Excursions.	February 2021	
COVID Lessons Learned	Internal Audit will review progress on implementation of mitigation actions as part of a lessons learned exercise for the COVID-19 pandemic.	February 2021	
Residential & Non Residential Care Charges	We will review the controls in place for charging for residential & non-residential care to ensure that all charges are being made and collected in accordance with policy.	November 2020	Completed
Fleet Management	We will review the arrangements in place for the replacement, purchase, disposal and maintenance scheduling of vehicles through the new fleet management system.	February 2021	Planning Complete

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Following the Public Pound	This audit rolled over from the 2019/20 audit plan and will review controls around a selection of organisations receiving Community Partnership Funding.	June 2021	
Risk Management	We will select a sample of High risks from both the Council's Corporate Risk Register and service area Risk Registers and will review the adequacy and effectiveness of the risk control measures in place.	February 2021	
Scottish Housing Regulator (SHR) Annual Assurance Statement	Work required to provide assurance on the regulatory requirements set out in the Scottish Housing Regulators Chapter 3 of the Regulatory Framework.	November 2020	Completed
Review of Performance Indicators	Internal Audit will continue to review the systems in place for the preparation and reporting of Performance Indicators.	February 2021	