



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

**TUESDAY 22 SEPTEMBER 2020
VIA DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor J Henderson (Convener)
Councillor S Currie
Councillor F Dugdale
Councillor C Hoy (Items 2 – 9)
Councillor G Mackett
Councillor K Mackie
Councillor K McLeod
Councillor J Williamson

Council Officials Present:

Ms M Patterson, Chief Executive
Mr A McCrorie, Depute Chief Executive (Resources & People Services)
Mr J Lamond, Head of Council Resources
Mr D Proudfoot, Head of Development
Mr T Reid, Head of Infrastructure
Ms L Brown, Chief Operating Officer - Education
Ms S Fortune, Chief Operating Officer - Finance
Mr P Vestri, Service Manager – Corporate Policy & Improvement
Mr D Stainbank, Service Manager – Internal Audit
Mr S Kennedy, Emergency Planning, Risk and Resilience Officer
Ms C Rodgers, Transformation Programme Manager

Clerk:

Miss F Currie

Visitors Present:

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

Apologies:

None

Declarations of Interest:

None

1. MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING ON 16 JUNE 2020

The minutes of the Audit and Governance Committee meeting held on 16th June 2020 were approved as a true record.

Note: Duncan Stainbank had a temporary loss of connection to the meeting. While this issue was resolved, the Committee agreed to hear Agenda Item 5.

5. ANNUAL AUDIT REPORT 2019/20

Gillian Woolman, Audit Scotland, updated the Committee on the delayed annual audit report for 2019/20. She said that, despite best efforts, it had not been possible to meet the deadline of 30th September and the formal date for completion of the audit report had been put back to 30th November. The intention was to conclude the report in time for its presentation at an additional meeting of the Audit & Governance Committee on 26th October and the meeting of full Council on 27th October.

Ms Woolman reported that good progress was being made with only a couple of areas still to be concluded, along with the crafting of the final report. A final meeting with Council finance officers was scheduled for 29th September. She advised that Audit Scotland and the public sector were not alone in experiencing delays; ICAS had reported that 15-20% of audits were taking longer to complete. She offered her thanks to finance colleagues for their assistance in the audit work but observed that the audit stretched across all areas of the Council and this had sometimes resulted in delays in receiving the information needed to complete the work.

The Convener thanked Ms Woolman for her update and said she looked forward to seeing the report in October.

Decision

The Committee agreed to note the update on the annual audit report.

2. INTERNAL AUDIT REPORT – SEPTEMBER 2020

A report was submitted by the Depute Chief Executive (Resources & People Services) informing the Committee of Internal Audit reports issued 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 audit and indicating that as a result of this work an assessment of 'moderate assurance' had been given on the Transformation Programme. He summarised the main findings of the audit, highlighting areas where controls were met and those with scope for improvement.

He advised that follow up work on recommendations from previous audits had been paused during the period June to September but that this had now restarted and would be reported at the next meeting.

Transformation Programme

Responding to questions from Councillor Williamson, Mr Stainbank clarified the term “excessive assurance stress” and also confirmed that the Council received no financial gain from the affordable energy tariff.

Councillor Currie asked if there were figures to show the overall cost of the Transformation Programme and whether the £1.3m of savings were one-off or recurring. Mr Stainbank and Sarah Fortune, Chief Operating Officer – Finance, agreed to provide further information on the costs and a detailed breakdown of the savings incurred.

In response to a question from the Convener, Mr Stainbank indicated that the savings information came from service area budgets and that the controls in place should provide assurance on the accuracy of those figures.

Councillor Currie welcomed the report and the savings which had been made as a result of the programme. However, he said it was important to understand whether or not these were recurring; if the savings were one-off they would not have the year on year cumulative impact. Overall, he noted that good work was being done on transformation and he looked forward to receiving further information on the costs of the programme.

Ms Woolman welcomed the format of the internal audit report noting its accessibility and that this encouraged a positive level of engagement from Members.

Mr Stainbank drew Members’ attention to the progress report indicating that 6 audits had been carried forward to the 2020/21 and 2021/22 annual audit plans as a result of COVID-19.

The Convener thanked Mr Stainbank and his team for the amount of work they had undertaken in very difficult circumstances.

Decision

The Committee agreed to note:

- i. the main findings and recommendations from the Internal Audit report issued during the period from June 2020 to September 2020; and
- ii. Internal Audit’s progress against the annual audit plan for 2019/20.

3. COVID-19 CHANGE CONTROL ASSURANCE – SEPTEMBER 2020

A report was submitted by the Service Manager – Internal Audit informing the Committee of Internal Audit Assurance exercises completed since the last meeting of the Committee in relation to processes that had had significant changes in the control environment implemented as a result of the COVID-19 pandemic.

Mr Stainbank presented the report outlining the main objective of the assurance exercises and summarising the key findings of the work completed on Supplier Relief, Rent Deferment, Non-Domestic Rates (Retail, Hospitality and Leisure 100% Relief) and Residential Care (Financial Reassessments).

Councillor McLeod asked about Supplier Relief and the potential for profiteering by some operators. Mr Stainbank observed that there was always an element of risk but that the processes in place were designed to ensure appropriate adjustments would be made.

Tom Reid, Head of Infrastructure, said that one of the most important parts of the Council's response to COVID-19 had been to ensure that contracts were mobilised as quickly as possible and appropriate support structures put in place. A full appraisal of the system would take place and any over-estimates would be claimed back. However, there was no sign of this risk at present.

In reply to questions from Councillor Williamson on Non-Domestic Rates and Residential Care, Mr Stainbank confirmed that the online form was available and that the recommendations from the Non-Domestic Rates review would meet their completion date of September 2020. On Residential Care, he advised that a communication was issued to residents and families outlining the changes to assessments but he could not confirm that it had reached everyone.

Councillor Currie asked whether there was any evidence to show that businesses may have benefited twice from the 100% rent relief and the small business bonus; and whether there had been a rush of businesses requesting de-registration from the small business bonus scheme so they could benefit from 100% rent relief.

Mr Stainbank said that checks were in place to ensure that there was no double-funding and he was not aware of significant numbers of businesses leaving the bonus scheme.

Douglas Proudfoot, Head of Development, observed that in the case of small accommodation providers the reverse was true. A lot of people did not qualify for the hardship scheme as they didn't have business banking accounts.

Jim Lamond, Head of Council Resources, echoed Mr Proudfoot's remarks adding that, from the perspective of those administering the scheme, there had been no significant signs of the activity highlighted by Councillor Currie.

Ms Woolman welcomed the assurance reports and said that these were the first she had seen from Councils which focussed on the arrangements put in place as a result of COVID-19 and the controls environment. She would be sharing these with colleagues in Audit Scotland as examples of good practice.

Councillor Currie welcomed with Ms Woolman's remarks, adding that these reports demonstrated the ability of staff within the Council to respond very quickly to major changes in the administration of grants and to adapt to further changes in policy. He wanted to put on record his thanks to staff for the tremendous amount of work undertaken. He was aware that people across the county were appreciative of these efforts and a number of businesses had survived as a result.

The Convener echoed these comments and observed that, from an audit & governance point of view, the reports also provided a high level of assurance that the Council had appropriate safeguards in place to protect the public purse.

Decision

The Committee agreed to note the findings and recommendations from the reported exercises.

4. REVISED INTERNAL AUDIT PLAN 2020/21

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of Internal Audit's revised operational plan for 2020/21.

Mr Stainbank advised Members that the reactive work carried out over the past few months had impacted heavily on his team's ability to complete the previously agreed audit plan, and it was difficult to predict the continuing impact during the remainder of 2020/21. As a result, he was now presenting a revised plan for the Committee's approval.

In response to questions from Councillor Hoy and Councillor Currie regarding concerns about section 75 developer contributions, Mr Stainbank said that from an Internal Audit perspective it was the size of the payment and the impact on the capital plan which was the key issue. The high risk rating of the proposed audit reflected the unpredictability of current and future circumstances.

Mr Lamond emphasised that this audit would have featured on the plan even without the advent of COVID-19, and the purpose was to ensure that all controls were in place to harvest section 75 payments at the appropriate times. Early assessment of the impact of COVID-19 had shown no sign of developers seeking variation in the timing or phasing of payments more so than might occur in the normal course of events, or seeking to renegotiate the level of contribution. He added that all such payments were subject to strict legal requirements which should provide reassurance to Members.

Mr Lamond and Ms Fortune also confirmed that there were no indications that projects would be delayed as a result of issues with section 75 payments. However, this did not preclude delays as a result if the wider impacts of COVID-19 on the construction sector. They reiterated the tight legal restrictions which governed the payments and advised that the situation would continue to be monitored closely.

Councillor Dugdale asked when the audit report on EU exit might be expected. Mr Stainbank said that he hoped to present this to the Committee at its meeting in November.

The Convener asked if the further changes in recent days would have any impact on the revised plan. Mr Stainbank said they would not change things at present but the situation would be kept under review.

The vote on the recommendation was taken by roll call:

Councillor J Henderson	Agreed
Councillor S Currie	Agreed
Councillor F Dugdale	Agreed
Councillor C Hoy	Agreed
Councillor K Mackie	Agreed
Councillor G Mackett	Agreed
Councillor K McLeod	Agreed
Councillor J Williamson	Agreed

Decision

The Committee approved the revised Audit Plan for 2020/21.

6. 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, Emergency Planning, Risk and Resilience Officer, presented the report outlining the background to the register and the arrangements for assessment and review of ongoing risks. He informed Members that the register included 2 Very High, 5 High, 17 Medium and 16 Low risks. In line with the Council's Risk Strategy, only Very High and High risks had been reported to the Committee. He added that any COVID-19 related elements had been incorporated into individual risks where appropriate and that there was a general COVID-19 risk included in the Corporate Risk Register.

Mr Proudfoot provided assurance to Members that the alterations to some risks were in the context of the changing landscape this year and that these were regularly reviewed and updated. He also highlighted the risk related to Solid Fuels and the new risk which had been added regarding COVID-19 impact on businesses.

Councillor Williamson queried the risk related to homelessness. Specifically, the number of flat-sharing arrangements being put in place and whether COVID-19 would prevent this happening. Mr Proudfoot said he would provide additional information to him about the numbers involved and he acknowledged that COVID-19 had impacted the ability to take forward this and other initiatives related to the Rapid Rehousing Strategy. However, there were some shared tenancies already in place and this would continue to be a significant intervention going forward.

Councillor Hoy asked about temporary accommodation and the impacts of long waits for rehousing, antisocial behaviour and the associated impacts on tourism and town centres.

Mr Proudfoot acknowledged that, currently, demand outstripped supply of new and existing affordable housing. However, the Council was doing all it could to increase provision where possible and maximise the opportunities provided by national and local initiatives to reduce waiting times for tenancies; with the eventual ambition to eradicate homelessness within the county. Additional support was provided for people in temporary accommodation and longer term tenancies and the Council had one of the highest tenancy sustainment rates in the country. He accepted concerns about antisocial behaviour and said it was vitally important to get the right structures in place.

Replying to a further question on the use of B&B accommodation, Mr Proudfoot stressed that the aim was always early intervention and prevention and the Council looked to avoid using B&B accommodation wherever possible. He offered to arrange a Members' briefing on the Council's approach to homelessness, if this would be considered helpful.

Councillor Currie referred to the forthcoming national consultation on short-term lets. He asked whether any assessment had been undertaken on the number of properties coming onto the market for short-term let and what actions might be taken regarding homelessness.

Mr Proudfoot agreed that the Council needed as many levers in place as possible across the whole of the housing sector to have a long-term impact on homelessness. On the issue of short-term lets, it was clear that further legislation and regulation of this sector was likely in the future. How this would impact on the local housing strategy remained to be seen but he agreed it was important to highlight the issue.

In response to a question from Councillor Dugdale on fuel poverty, Mr Proudfoot outlined the progress made on the affordable energy tariff and the partnership with People's Energy. He saw benefits for the Council's ambitions on renewables as well as on fuel poverty. The Council would monitor closely how the new tariff performed against others in the market place, as well as putting in place other measures to improve the tariff and increase benefits for citizens.

Mr Kennedy responded to questions from the Convener on the assessment of 'risk appetite', the monitoring and review of mitigation measures, the point at which a risk might be escalated and what form this would take.

Alex McCrorie, Depute Chief Executive, advised that, in addition to measures such as discussion at Council Management Team, a risk from a service register could be moved to the Corporate Risk Register and may also result in a separate report to Council.

Decision

The Committee agreed to note the Development 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 Development 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 Development and were likely to be a feature of the risk register over a number of years
- iv. the Council Management Team would review all risks in the Development Risk register on a regular basis.

7. INFRASTRUCTURE RISK REGISTER

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

Mr Kennedy presented the report outlining the background to the register and the arrangements for assessment and review of ongoing risks. He informed Members that the register included 1 Very High, 13 High, 44 Medium and 14 Low risks. In line with the Council's Risk Strategy, only Very High and High risks had been reported to the Committee. He added that while the roads related risk had increased, all others had stayed the same and he was satisfied that appropriate mitigation was in place to manage the risks during these challenging times.

Mr Reid provided assurance to Members that the management team had spent a considerable time reviewing the risks and mitigating these as far as possible. He also highlighted risks related to Roads Budget/Expenditure and Waste and Recycling Targets and Legislation providing further detail on recent changes and mitigation measures.

Councillor Williamson raised questions on future increased demand for burial services, especially in Musselburgh, and maintenance of roads within graveyards. Mr Reid agreed that there was and would continue to be increasing demand for burial services across the county. He said that while Musselburgh did still have some capacity negotiations were underway for additional land purchase and an update would be provided at the next meeting. He confirmed that his service had responsibility for roads within graveyards and that these were regularly inspected.

Councillor Mackett asked if there were any plans to make changes to the frequency of collections for green/blue box/brown bin recycling. Mr Reid said there were no plans at present to move from fortnightly collections and that the focus was more on reducing the amount of non-recycled waste and how to strike the right balance so that this did not result in negative impacts such as an increase in fly-tipping. He outlined some of the legislative and cost considerations around recycling and measures being considered to improve and maximise this service.

Councillor Mackie asked whether it would be possible to coordinate collections so all bins and boxes for a household were emptied on the same day. Mr Reid replied that, while this would make it simpler for households, it would also raise a number of complex issues; not least accessibility and maximising the use of collection lorries. However he agreed with the need to simplify the process as far as possible to encourage less non-recycled waste.

Replying to further questions on the national deposit/return scheme, Mr Reid advised that this had been delayed due to the level of infrastructure that required to be put in place. While some larger retailers were looking to introduce their own arrangements, he understood that the roll out date for the national scheme had been put back to 2023/24.

Decision

The Committee agreed to note the Infrastructure 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 Infrastructure 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 Infrastructure and were likely to be a feature of the risk register over a number of years
- iv. the Council Management Team would review all risks in the Infrastructure Risk register on a regular basis.

8. COVID-19 EMERGING FRAUD RISKS (AUDIT SCOTLAND, JULY 2020)

A report was submitted by the Service Manager – Internal Audit reviewing East Lothian Council's position in relation to the identified emerging fraud risks highlighted in the Audit Scotland briefing paper, '*Covid-19 Emerging Fraud Risks*'.

Mr Stainbank presented the report outlining the background and key messages, as well as the measures put in place by the Council to monitor emerging fraud risks. He advised that further actions were planned including the provision of data, such as business grant data, to the National Fraud Initiative for future analysis.

The Convener observed that this was a very important area and that the Council had a duty to protect public funds.

Decision

The Committee agreed to:

- i. Note the position of East Lothian Council in regard to the actions taken and planned to be taken to provide assurance over the areas highlighted in the '*Covid-19 Emerging Fraud Risks*' briefing paper.
- ii. Use the recommended elements of '*What Public Bodies can do to reduce these fraud risks*' (page 6) to identify any further information or scrutiny activity it would wish to have reported back to future meetings of the Audit and Governance Committee.

9. LOCAL GOVERNMENT IN SCOTLAND OVERVIEW 2020 (ACCOUNTS COMMISSION, JUNE 2020)

A report was submitted by the Chief Executive reviewing East Lothian Council's position in relation to the findings of the Accounts Commission report, '*Local Government in Scotland: Overview 2020*'.

Paulo Vestri, Service Manager – Corporate Policy & Improvement, presented the report outlining the background, key messages and recommendations for action. He also provided examples of work being done by the Council which related to the 3 key areas covered by the report: the challenges Councils face, doing things differently, and the service case study. He concluded by inviting members to consider whether further information or scrutiny activity was required in addition to that already identified.

Ms Woolman welcomed the degree to which the Council embraced the national Local Government Overview report each year and how it took cognisance of the key messages and recommendations. She said this response would be useful feedback for colleagues within Audit Scotland.

The Convener thanked Mr Vestri for his summary and Ms Woolman for her comments. She also welcomed the possibility of an Elected Members' briefing on the questions contained in the checklist.

Decision

The Committee agreed to:

- i. Note the position of East Lothian Council in regard to the key messages and recommendations in the Accounts Commission report, Local Government in Scotland: Overview 2020; and
- ii. Use the recommendations detailed in the Accounts Commission report, and the 'questions for councillors' checklist to identify any further information or scrutiny activity it would wish to have reported back to future meetings of the Audit and Governance Committee.

Signed

Councillor Jane Henderson
Convener of the Audit and Governance Committee