



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

**TUESDAY 21 SEPTEMBER 2021
VIA DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor J Henderson (Convener)
Councillor A Forrest
Councillor K McLeod

Councillor S Currie
Councillor K Mackie
Councillor J Williamson

Council Officials Present:

Ms M Patterson, Chief Executive
Ms S Fortune, Executive Director for Council Resources
Mr D Proudfoot, Executive Director for Place
Ms L Brown, Executive Director for Education and Children's Services
Mr T Reid, Head of Infrastructure
Ms S Saunders, Head of Communities
Ms M Sullivan, Head of Development
Ms W McGuire, Head of Housing
Ms M Ferguson – Head of Council Support
Mr D Stainbank, Service Manager – Internal Audit
Mr P Vestri – Service Manager – Corporate Policy & Improvement
Ms C McCorry, Service Manager – Connected Communities
Mr J Coutts, Service Manager – Community Housing & Homelessness
Ms A Glancy, Finance Manager – Corporate Accounting
Mr S Kennedy, Emergency Planning, Risk and Resilience Officer
Mr S Allan, Senior Auditor
Miss R Crichton, Committees Officer

Clerk:

Miss F Currie

Visitors Present:

Ms G Woolman, Audit Scotland
Mr M Duff, Audit Scotland

Apologies:

Councillor C Hoy
Councillor G Mackett

Declarations of Interest:

None

1. MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING ON 15 JUNE 2021

The minutes of the Audit and Governance Committee meeting held on 15th June 2021 were approved.

2. EAST LoTHIAN COUNCIL ANNUAL AUDIT REPORT - UPDATE

Gillian Woolman, Audit Scotland, provided Members with an update on the 2020/21 Annual Audit Report. She advised that the final report would be presented to the Committee at its meeting on 30th November 2021. In confirming this further delay, she outlined some of the challenges faced during the year as well as the cumulative impact of the delay from completion of the previous year's audit work. She thanked the Council for prioritising completion of its financial statements for 2020/21 which had been provided in very good time and to pre-pandemic timescales. She added that the quality of the audit work was also important and had required a greater investment of staff time this year.

Ms Woolman concluded by referring to the consultation on the planning guidance for the 2021/22 audit work, which included a delay to the proposed completion date. She also outlined two areas which may impact on future audit work.

Ms Woolman responded to questions from Members. She advised that consultation was underway on timings for completion of the 2021/22 audit work and it was possible that the proposed completion date of 31 October 2022 may also slip back. She said that Audit Scotland was trying to mitigate as far as possible but reports on wider issues were often valued by local authorities and other bodies, and it was a difficult balance to strike. She outlined the process of internal and external review undertaken by Audit Scotland and confirmed that there continued to be regular engagement with Council officers throughout the process. While findings were discussed at weekly meetings with officers she acknowledged the concerns expressed that audit findings reported at a later date may be of limited value. She agreed to relay these concerns to Audit Scotland.

Sarah Fortune, Executive Director for Council Resources, advised that Council officers worked pragmatically with Audit Scotland throughout the process from the planning stage to managing the audit and completion of the final report. She reassured Members that any material issues identified in the course of the audit would be brought to their attention in a timely fashion and not left until publication of the final report. In the meantime, issues would continue to be highlighted in the quarterly financial reports to Council and risks and control measures regularly reviewed, updated and reported to this Committee.

Councillor Currie welcomed the update and said he was reassured to note that the scrutiny functions had not ceased or been diminished in any way during the pandemic. He suggested that the Council's risk register may need updated as this delay was an additional risk and he noted that 30th November 2021 was a backstop rather than an aspirational date for completion of the report.

The Convener thanked Ms Woolman for the update.

3. INTERNAL AUDIT REPORT – SEPTEMBER 2021

A report was submitted by the Service Manager – Internal Audit informing the Committee of Internal Audit reports issued since the last meeting of the Committee and providing an update on the progress made against the 2020/21 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 'moderate assurance' had been given on Non-Domestic Rates Reliefs & Recovery; and an assessment of 'reasonable assurance' had been given on Partnership Funding and Council Tax Reliefs & Recovery. The Scottish Housing Regulator Annual Assurance Statement had not been graded but further details on this would be covered in Agenda Item 5. He summarised the main findings of the audits, highlighting areas where controls were met and those with scope for improvement. Officers then responded to questions from Members.

Non-Domestic Rates Reliefs & Recovery

Mr Stainbank advised that an interim process of quality assurance checks would be put in place as soon as possible but the completion date in the action plan reflected the need for systems development to support a more permanent change to recording and reporting. Work was also underway on the other recommendations and it was expected that this would be completed by the dates specified. He also advised that approval of the new policy had been delayed due to the Barclay review, and subsequent implementation within legislation and further impacted by the pandemic. However, the intention would be to bring this policy forward for approval in the near future and he would confirm whether this would be through Cabinet or Council.

Mr Stainbank explained that there was a hierarchy of risk associated with reviews of entitlement to reliefs and exemptions, with those deemed lower risk taking slightly longer than others. However, all reviews were completed as and when necessary.

Council Tax Reliefs & Recovery

Mr Stainbank advised that during the pandemic there had been a deliberate shift from recovery action to providing advice and assistance to the public to ensure they had the appropriate reliefs in place. While recovery work was re-commencing, the Council was mindful of the need to avoid pressurising those who were already under financial strain. While Council Tax arrears had gone up slightly in the past year, he emphasised that the Council's actions should be appropriate to its needs but also take account of circumstances more widely.

Ms Fortune pointed out that year on year the Council's Council tax revenue continued to grow as the population in the county increased. The level of arrears, although increased, remained a relatively small proportion of the revenues received. While COVID-19 had definitely had an impact, the team continued to prioritise and work with individuals to recover monies due where they were able to do so.

Councillor McLeod said that he was concerned about the level of arrears accrued prior to the pandemic and was surprised that the increase over the past year had not been higher. However he maintained that increasing staffing in the team should be considered; either to assist with preventative measures, such as advice and support, or to deal with recovery of monies owed.

Mr Stainbank referred Members to Appendix 2 of his report which outlined the findings and recommendations from the assurance review of Low Income Pandemic Payments

(LIPPs). He provided some background to the review and said that while controls were working effectively, the recommendation reflected the inherent fraud risk.

In response to a further question, Mr Stainbank clarified one of the findings from the assurance review of the LIPPs process which related to client bank accounts.

Decision

The Committee agreed to note:

- i. the main findings and recommendations from the Internal Audit reports issued during the period from July 2021 to September 2021; and
- ii. Internal Audit's progress against the annual audit plan for 2020/21.

4. REVISED INTERNAL AUDIT PLAN 2021/22

A report was submitted by the Service Manager – Internal Audit informing the Committee of Internal Audit's revised operational plan for 2021/22.

Mr Stainbank presented the report outlining the background to and the factors involved in preparing the revised plan. He said that reactive work may continue to impact heavily on Internal Audit's ability to complete the plan and contingencies had been built in, although it was difficult to predict the level of additional work required.

Mr Stainbank responded to a question from Councillor Williamson providing further detail on the risk based approach to audit assignments.

Replying to questions from Councillor McLeod, Tom Reid, Head of Infrastructure, and Wendy McGuire, Head of Housing, provided further information on the likely content and scope of the planned audits on capital projects and housing ALEO East Lothian Mid-Market Homes.

In reply to a question from the Convener, Mr Stainbank confirmed that Internal Audit was currently adequately resourced to deal with the planned audit work but that this, and any risk to delivery of the plan, would continue to be kept under review. If required, the plan would be brought back to the Committee for further revision.

The vote was taken by roll call and the recommendation was approved unanimously.

Decision

The Committee approved the revised Audit Plan for 2021/22.

5. HOUSING ANNUAL ASSURANCE STATEMENT

A report was submitted by the Executive Director for Place reminding the Committee of the requirements contained in the Scottish Housing Regulator's regulatory framework and seeking approval for East Lothian Council's Annual Assurance Statement.

James Coutts, Service Manager – Community Housing & Homelessness, presented the report outlining the background to the regulatory framework and annual assurance statement. He advised Members of the continuing impact of COVID-19 on the Council's compliance with the regulatory framework in respect of gas safety checks in the financial year 2020/21 and the first quarter of 2021/22. He also highlighted the future challenges faced by the Council in meeting its statutory obligations resulting from the forthcoming change to fire alarm system requirements for residential properties and the updated homeless person's Unsuitable Accommodation Order (UAO). He confirmed that the Scottish Government had been made aware of the situation relating to the UAO and that the Council would continue to deliver housing services as fully as possible, in line with public health regulations.

Mr Coutts replied to questions from Members. He confirmed that other local authorities, including Midlothian and Edinburgh, were facing similar challenges in relation to the UAO and that a number of factors impacted on the Council's ability to meet its obligations. He also advised that information on the new fire alarm system requirements and householder's responsibilities would be included in the next issue of Living magazine and on the Council's website. Mr Coutts explained that conversations were taking place with the Scottish Government and the Scottish Housing Regulator around the Council's delivery of its rapid rehousing plan would that it would take the full lifespan of the plan to achieve its ambitions. In the meantime, an independent review of the deliverability of the plan was being carried out which would provide information and assurance, as well as an indication of whether the completion date of 2024 remained realistic.

Ms McGuire added that work had begun on a framework looking at local housing needs across the county. She did not think the Council could ever reduce the housing waiting list to zero but she hoped that this new framework would help to inform the development of the new Local Development Plan (LDP2).

In response to a question from Councillor McLeod on ensuring access to Council properties to install new fire alarms, Mr Coutts advised that that officers would continue to engage with tenants to understand their concerns and ultimately to agree entry to properties. Forcing entry would always be a last resort.

Councillor McLeod accepted that forcing entry should always be a last resort but emphasised that Council houses were Council assets. He did not want to see the Council held responsible for the failures of a tenant who would not allow access.

Councillor Currie wished to record his thanks to colleagues in the Housing teams who had been on the frontline during the pandemic and who had continued to deliver services in the most difficult circumstances. Referring to the legislative changes and the forthcoming end of furlough and the additional Universal Credit payment, he said that the situation was set to become even more challenging over the coming months. It would therefore be more important than ever for Members to offer what support they could to colleagues in the delivery of housing services.

Councillor Forrest welcomed the report and added that, as a Council tenant, he felt it demonstrated the level of work being done to ensure tenant safety. He also agreed with Councillor McLeod regarding access to properties and he hoped that the information included in Living magazine and on the website would generate a positive response.

Recommendation iii was approved unanimously by roll call vote and all other recommendations were approved by general agreement.

Decision

The Committee agreed to:

- i. note the regulatory framework and the requirement for the Senior Internal Auditor to sign-off the Annual Assurance Statement (AAS) on behalf of the Council;
- ii. note that the regulatory framework requires the submission of the AAS no later than the 31st October 2021. The AAS must highlight any areas of non-compliance that relate specifically to the impact of the Covid-19 pandemic;
- iii. approve the Annual Assurance Statement noting that East Lothian Council was partially compliant with the regulatory requirements for the financial year 2020/21 and was partially compliant for the first quarter of 2021/22, limited to the Council's ability to effect gas safety checks when tenants were either shielding, self-isolating or otherwise refusing to engage during the height of the pandemic; and
- iv. note the Council's position with regard to future compliance with the forthcoming extension of the Homeless Person's (Unsuitable Accommodation) (Scotland) Order 2020 and the challenges being posed in regard to meeting the legislative deadlines around interlinked fire alarms and electrical safety checks.

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 1 High, 4 Medium and 8 Low Risks. As per the Council's Risk Strategy, only the High risk was being reported to the Committee.

Douglas Proudfoot, Executive Director for Place, replied to a question from the Convener on the need for changes to the Development Risk Register in light of COVID-19. He outlined the current framework of project specific risk registers which underpinned the main register and confirmed that substantial changes would be required to the Council's development strategy and the associated risk registers in order to drive the recovery programme in the medium to longer term.

Michaela Sullivan, Head of Development, added that discussions had taken place across the service culminating in the creation of a separate Housing Risk Register which would allow for more detailed scrutiny of risks and monitoring processes.

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.

7. HOUSING RISK REGISTER

A report was submitted by the Chief Executive presenting to the Committee the Housing 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, 10 High, 10 Medium and 1 Low Risk. As per the Council's Risk Strategy, only the Very High and High risks were being reported to the Committee.

Ms McGuire and Mr Coutts responded to questions from Members on the changes to legislation relating to short term lets and their impact on the availability of housing stock; assessing the viability of sites for housing across the county; additional funding for housing projects and factors impacting the housing modernisation programme.

Mr Proudfoot agreed to discuss further with Councillor Williamson his concerns regarding the sale of potentially viable sites for housing in the Wallyford area.

Decision

The Committee agreed to note the Housing 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 Housing risk could be borne by the Council at this time in relation to the Council's appetite for risk.
- iii. although the risks presented were those requiring close monitoring and scrutiny over the next year, many were in fact longer term risks for Housing and were likely to be a feature of the risk register over a number of years.

8. LOCAL GOVERNMENT IN SCOTLAND: OVERVIEW 2021 (ACCOUNTS COMMISSION, MAY 2021)

A report was submitted by the Chief Executive reviewing the Accounts Commission report, *'Local Government in Scotland: Overview 2021'*.

Paolo Vestri, Service Manager – Corporate Policy & Improvement, presented the report advising that the overview was based on the findings of local authority audit reports which continued to be dominated by the impact of COVID-19. He outlined the 3 key themes of the report and highlighted the case study examples of good practice, one of which was East Lothian Council's Connected Communities Resilience bases.

He also referred to the 7 lessons learned, as identified in the report, and how these had been taken on board by the Council in its response to the pandemic.

Responding to a question from Councillor Currie, Mr Vestri said he was not aware of any plans for a follow-up report but that next year's general and financial overview reports would continue to reflect the impact of COVID-19. In the meantime, the Council was continuing to identify lessons learned and to consider how best to reflect these in its plans for recovery and renewal. When the Council moved on from response mode there would be structured de-brief sessions for the Council Management Team and Elected Members. Mr Vestri acknowledged that the financial impact of COVID-19 would continue to be felt for several years and that this would have to be factored into forthcoming budget-setting and medium-term financial planning.

Ms Fortune added that the financial situation was hugely complex and it would be a number of years before the Council would be back to normal. She referred to a document from CoSLA which set out all of the COVID-related funding streams and the Council's own internal tracking processes which were updated regularly to help manage the in-year position and to inform future year budgets and pressures. She said that funds were still coming through from both the UK and Scottish Governments and that this remained a very complicated area of finance.

The Convener requested that Members receive clear notification of any future structured de-brief session to ensure a high level of attendance. She said that she had not been fully aware of the session on the previous date. Mr Vestri said that this had been identified as a learning point from the previous session and that arrangements would be put in place to involve as many Councillors as possible in the future session.

Decision

The Committee agreed to:

- i. note the findings and key messages in the Accounts Commission report, *Local Government in Scotland: Overview 2021*;
- ii. note the case studies used in the report to illustrate the good practice that was developed by councils including East Lothian Council in response to the COVID-19 pandemic;
- iii. note the seven lessons learned highlighted by the report and that the Council is already taking on board these lessons as it continues to respond to the pandemic and begins to plan for recovery and renewal; and
- iv. note that the case studies and lessons learned will be reviewed alongside the council's own Lessons Learned and Structured Debrief exercises as the Council continues to respond to the pandemic and develops the Recovery and Renewal Framework.

9. FRAUD AND IRREGULARITY 2020/21 (AUDIT SCOTLAND, JULY 2021)

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, *'Fraud and Irregularity 2020/21: Sharing risks and case studies to support the Scottish public sector in the prevention of fraud'*.

Mr Stainbank presented the briefing paper which he said followed on from a previous report presented to the Committee in September 2020. He outlined briefly the 7 key fraud risks identified by Audit Scotland and some of the actions taken by the Council to mitigate these risks.

Councillor Currie referred to the level of COVID-related funding issued during the past 18 months and the speed at which the monies had to be distributed by the Council. While he welcomed this briefing paper, he felt that it would be some time yet before a clear picture emerged of the level of fraud associated with the distribution of these funds.

The Convener said that Members had been well briefed on the fraud risks and were reassured by the skills and scrutiny work of the Internal Audit and Finance Teams.

Decision

The Committee agreed to:

- i. note the position of East Lothian Council in regard to the actions taken and continuing to be taken to provide assurance over the Key Fraud Risks identified in 2020/21 highlighted in the *'Fraud and Irregularity 2020/21'* briefing paper; and
- ii. examine the case studies of fraud and irregularities identified during 2020/21 and the information throughout the report to identify any further information or scrutiny activity the members 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