



MINUTES OF THE MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE

**TUESDAY 15 FEBRUARY 2022
VIA DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor J Henderson (Convener)	Councillor S Currie
Councillor A Forrest	Councillor C Hoy
Councillor Mackett	Councillor K Mackie
Councillor J Williamson	

Other Councillors Present:

Cllr J McMillan (Items 1 – 5)

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
Ms S Saunders, Head of Communities
Ms N McDowell, Head of Education
Ms M Sullivan, Head of Development
Ms W McGuire, Head of Housing
Ms M Ferguson – Head of Council Support
Ms J Tait, Head of Children's Services
Ms E Dunnet, Head of Finance
Mr D Stainbank, Service Manager – Internal Audit
Mr P Vestri, Service Manager – Corporate Policy & Improvement
Mr A Cruickshank, Service Manager - IT
Mr R Baty, Companies Manager (ELL & ELI)
Ms A Glancy, Finance Manager – Corporate Accounting
Mr I Gorman, Head of Operations – East Lothian Health & Social Care Partnership
Mr S Kennedy, Emergency Planning, Risk and Resilience Officer
Mr A Steven, Senior Auditor
Miss R Crichton, Committees Officer

Clerk:

Miss F Currie

Visitors Present:

Ms G Woolman, Audit Scotland
Mr J Rundell, Audit Scotland

Apologies:

Councillor K McLeod

Declarations of Interest:

None

1. MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING ON 30 NOVEMBER 2021

The minutes of the Audit and Governance Committee meeting held on 30th November 2021 were approved.

In response to a question from Councillor Williamson, Morag Ferguson, Head of Council Support, confirmed that work was continuing on the review of Common Good assets and she hoped to bring forward a report to Cabinet in June 2022.

2. INTERNAL AUDIT REPORT – FEBRUARY 2022

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 2021/22 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 ‘reasonable assurance’ had been given on the Prevent & Return Project, IT Schools Procurement and Restart of Capital Projects. 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.

Prevent & Return Project

Judith Tait, Head of Children’s Services, explained that ‘residential care’ referred to a care home or residential school, rather than a placement with a family. The length of each placement depended very much on the child’s individual needs. She stated that the audit findings and recommendations were still relevant to the work of Children’s Services despite current challenges and anticipated changes in governance. She added that the work of Prevent & Return was multi-layered and focused on keeping a child out of care or, where a care placement was necessary, trying to ensure that the child remained within East Lothian. Recognising the risks, implementing the recommendations from the audit and ensuring that the service had the resources to meet current need and to prevent future need for care, would form key parts of the work going forward.

Ms Tait confirmed that the work to return children from placements out with East Lothian was continual but that the service had seen a significant increase in the number of external placements in 2018/19. She confirmed that the proposals for a National Care Service and its implications for children’s services would not slow or stop the pace of work. The role of Children’s Services was to secure the best outcomes for young people and the staff would continue to work within whatever new governance structures might be put in place. The service already worked closely with colleagues in Education and other areas and, while there would be challenges to come from the new arrangements, this work would not cease. She also confirmed that plans to replace one of the Lothian Villa houses would continue as the current building was no longer fit for purpose.

In response to a further question, Ms Tait clarified that while effective processes were critical, social work was primarily about the practice, culture and behaviour of staff. To

run a safe service and to achieve stated outcomes, staff must always respond appropriately to the situation.

Restart of Capital Projects

Douglas Proudfoot, Executive Director for Place, highlighted that all recommendations had been accepted and a lot of work was already underway. In addition, the financial management and delivery of projects remained subject to regular review with the most visible of these projects belonging to the education estate. Relevant entries within the Infrastructure, Education and Corporate risk registers were also regularly reviewed and updated. Mr Proudfoot also clarified the materiality threshold for depreciation in the overall value of assets.

Mr Stainbank outlined the findings from Internal Audit's follow up work on the Cybersecurity, Payroll and Housing Rents audits and noting that COVID-19 had impacted on service areas' ability to complete some of the outstanding recommendations. He also updated Members on progress against the 2021/22 Internal Audit Plan, advising that the remaining audits should be completed by June 2022. Officers then responded to questions from Members.

Ms Ferguson advised that resourcing issues and the impact of COVID-19 had led to a delay in implementing the recommendations of the audit. Increased temporary/non-recurring funding for COVID-19 had resulted in an increase in temporary workers within the Council which had created a lot of extra work for the Payroll Team. She pointed out that despite this extra work and a staff vacancy within the team, all Council staff had been paid on time throughout the period.

Ms Ferguson confirmed that undertakings had been given on timings for completion of the audit recommendations and she hoped to meet these deadlines. She informed Members that a preferred candidate had been identified for the vacant Team Leader post and recruitment to other vacancies was underway. She acknowledged previous difficulties in recruiting suitably qualified staff but said that a number of factors may be responsible for this. She was not aware if difficulties recruiting to this sector were an issue nationwide.

Responding to a question from Councillor Mackett, Ms Ferguson agreed to provide him with details of the total amount of overtime paid to staff during the period.

Sarah Fortune, Executive Director for Council Resources, acknowledged Members concerns over the lack of progress with the audit recommendations but said that the Payroll Team and the wider Council had faced a perfect storm of circumstances including COVID-19, staff vacancies and increased obligations which had led to a focus on business critical activity. She reminded Members that the Payroll Team had worked incredibly hard during the period to ensure that all staff were paid on time each month and this deserved significant credit. She added that the recent service review and recruitment to existing vacancies would allow the Team to increase the pace of action on the outstanding recommendations.

Mr Stainbank offered additional assurance by reminding Members that many of the recommendations had already been partially implemented.

Councillor Mackett emphasised that his questions were not a criticism of the Team but rather a way of identifying the reasons for the delays and whether additional resources were required to take forward these actions.

The Convener thanked Mr Stainbank for his very useful and comprehensive report. She echoed her colleague's remarks adding that the HR and Payroll Teams were not being singled out and that the same questions would be asked of any service area in similar circumstances.

Decision

The Committee agreed to note:

- i. the main findings and recommendations from the Internal Audit reports issued during the period from November 2021 to February 2022;
- ii. the findings from Internal Audit's follow up work; and
- iii. Internal Audit's progress against the annual audit plan for 2021/22.

3. INTERNAL AUDIT PLAN 2022/23

A report was submitted by the Service Manager – Internal Audit informing the Committee of Internal Audit's operational plan for 2022/23.

Mr Stainbank presented the report outlining the factors taken into account when preparing the annual audit plan and reminding Members that this work contributed to Internal Audit's overall opinion on the control environment. He advised that the Internal Audit team adopted a risk based approach to its audit work and he referred to the possibility of additional reactive work and its potential impact on the audit plan.

Mr Stainbank responded to questions from Councillor McMillan. He acknowledged that working from home had presented some challenges for the audit team but they had worked hard to address these and to continue to provide appropriate assurance from their audit work. He reflected that, in his view, the IT Service within the Council was working very well and had implemented the majority of the recommendations following from the recent audit of cybersecurity. He referred to some of the measures being put in place to mitigate the effects of any potential cyber-attack but accepted that it was not always possible to give complete assurance against such risks.

In reply to a question from the Convener, Mr Stainbank outlined the full complement of the audit team and stated that, while small, the size of the team was appropriate to the size of East Lothian Council. He advised that since the beginning of the pandemic the team had completed significant assurance work relating to new processes put in place to respond to the impact of COVID-19, as well as keeping up to date with the reviews set out in the audit plans.

The Convener commented that it might be useful to feedback through the Council Management Team the quantum of work undertaken by the Internal Audit team.

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

Decision

The Committee agreed to approve the Internal Audit plan for 2022/23.

4. ELC ANNUAL AUDIT PLAN 2021/22

Gillian Woolman, Audit Scotland, presented the annual audit plan for 2021/22. She referred to the continuing impact of COVID-19 during 2021/22 and how this would be reflected her team's external audit work. She then highlighted the main points of the audit plan, including the financial statement audit planning, key areas of audit focus, assessing Best Value and the timeline for completion of the report.

Ms Woolman responded to questions from Members. She outlined the audit standards and codes of practice adhered to when conducting local authority audits and the internal and external quality assurance process undertaken to ensure that all audit work met required standards. She observed that there continued to be significant challenges in the local government audit market in England – where only 40% of local authority audits were completed by December 2021 – but that there were no signs of similar issues occurring in Scotland.

Ms Woolman confirmed that it was open to audit committee to add external members, as was the case at Borders Council, and that Audit Scotland would only make such a recommendation where it felt that Elected Member scrutiny was not sufficient. On the approval of the audit plan and report, she said that East Lothian adopted a similar approach to many councils in that the annual audit plan and report were presented to the Audit & Governance Committee, with the final audit report also being presented to full Council.

In response to further questions, she noted that common good assets were of particular interest in many councils across Scotland. She noted that Members were very engaged in this issue and, in the interests of governance and transparency, she supported any proposal to report the outcome of the review to full Council. Referring to the audit of financial statements for 2021/22, she confirmed her expectation that the accounts would again make a clear distinction between additional COVID-related funding and spend, and the Council's standard financial transactions. She also reiterated her intention of presenting her final audit report to full Council at its meeting in December 2022.

Ms Fortune confirmed that the outcome of the review of common good assets would be reported to Elected Members in an open and transparent way. In relation to the accounts for 2021/22, she acknowledged the continuing challenges of accurately reflecting the amount of additional funding coming through the Council's ledgers and whether those sums were recurring or non-recurring, and whether they would have implications for future financial years. She agreed with the view that the financial impacts of COVID-19 would not be fully understood for some time to come. In the meantime, Members would continue to receive regular financial reports at full Council, as well as the presentation of the annual accounts alongside the external auditor's report.

Councillor Currie thanked Ms Woolman and officers for their helpful responses. He noted that the pressure to deliver additional COVID-relating funding, such as business loans, was considerable but that the Council did so despite the pressure on processes and governance arrangements. He said that the pandemic had demonstrated that the audit process and good governance were more important than ever. The audit process had given the public confidence that things were being done correctly. He agreed that the consequences of the past two years would not be fully understood for some time, particularly around capital projects, but he hoped that the Council would benefit from the governance processes which had been put in place. He offered his thanks to Ms Woolman and her colleagues and to the Council's officers.

The Convener wholeheartedly agreed with Councillor Currie's remarks adding that it had never been more important for proper diligence and financial controls.

Decision

The Committee agreed to note the contents of the annual audit plan.

5. EAST LoTHIAN INVESTMENTS LTD

A report was submitted by the Companies Manager informing the Committee of the work undertaken by East Lothian Investments Ltd in 2020/21.

Richard Baty, Companies Manager, presented the report outlining the background and governance arrangements for ELI and the work undertaken during 2020/21. He summarised lending activity and the distribution of additional COVID-related funding. He also reported on the continued progress of the East Lothian Gift Card.

Mr Baty responded to questions from Members. He advised that ELI liaised closely with local business associations, the Business Gateway to promote the use of the Gift Card as well as utilising social media and local and national press to raise awareness of the scheme. He said he was aware of the scheme in East Ayrshire where the council had distributed additional one-off government funding to eligible families by issuing cash gift cards. He advised that the East Lothian Gift Card was different as it was only for use in businesses which had already signed up to the scheme. It was not a cash gift card.

Mr Baty also replied to questions on the number of loans issued and the provision for bad debt recovery. He confirmed that the potential risks were subject to regular review and at present one company was being closely monitored. However, there had been surprisingly little cause for concern, given the challenging circumstances over the past two years. He said that ELI was not feeling any pressure to scale up its loan operations, however, the gift card scheme was an area where they hoped to expand in future years. He also agreed to provide further information on the amount of gift card spend in the period October-December 2021 to Councillor Williamson and details of business start-up loans to Councillor Forrest.

Councillor Currie said the results outlined in the report were hugely impressive and the lack of loan defaults demonstrated the due diligence carried out by Mr Baty and his team. He would be concerned about scaling up the current arrangements as ELI used its local knowledge to provide loans to businesses in the county that might not secure funding elsewhere. He encouraged ELI to consider the gift card model used in East Ayrshire to try to ensure people were spending money in local businesses. He also raised the possibility of the use of common good assets to address the need for affordable premises and help support new businesses and new jobs in local towns. He thanked Mr Baty and his team and commended their efforts which had been of real benefit to the county.

The Convener thanked Mr Baty for another excellent report.

Councillor Forrest welcomed the report highlighting the impact of the loans on the local economy and the success of local businesses. He thanked Mr Baty and the ELI Board for all they had done for East Lothian.

Decision

The Committee agreed to note the contents of the report.

6. HEALTH & SOCIAL CARE PARTNERSHIP RISK REGISTER

A report was submitted by the Chief Executive presenting to the Committee the Health & Social Care Partnership (HSCP) Risk Register for discussion, comment and noting.

Scott Kennedy, Emergency Planning Risk and Resilience Officer, presented the report outlining the background and process for evaluating and recording risks within the register and the process for monitoring the management of individual risks. He advised that the HSCP register contained 1 very high, 4 high and 3 medium risks. He reminded Members that the HSCP risk register was held on the NHS Lothian datix system and he demonstrated the live nature of the register but highlighting updates to risks 3915 and 3911 which had reduced the score on both from 16 to 12.

Iain Gorman, Head of Operations in the East Lothian HSCP, provided further elaboration on the risk register and advised that a third risk (3912) was being recommended for a reduction in its overall score. He said that a number of risks had been escalated in the run up to Christmas 2021 due to the impact of COVID-19. However, following 5 – 6 weeks of stability within affected services, previously enhanced monitoring arrangements could now be reduced to more normal levels.

Mr Gorman responded to a question from Councillor Currie. He confirmed that communication with the public had taken place towards the end of 2021 when there was significant risk of service failure but that, currently there were no plans for any follow-up announcement. He outlined some of the progress that had been made to stabilise services over the past weeks but advised that there were a few areas such as staff recruitment and the increase of in-house service capacity that must be addressed before they would be in a position to issue further information to the public. He assured Members that significant investment was being made in services and that the HSCP was working hard to put in place an appropriate service model.

Councillor Currie welcomed this response but said he would discuss the issue further with Mr Gorman after the meeting.

Councillor Currie said he appreciated that, in terms of the most vulnerable, no amount of mitigations would entirely eliminate the risks. However, he emphasised the need to address issues around providers or the burden of care would fall on family members and create increased strain for them. He also noted that carrying out necessary work with Members and officers to review the Council's appetite for risk would be essential for the future.

Councillor Mackie supported the comments made by Councillor Currie. She said some families of elderly and vulnerable individuals were concerned that care packages agreed last year had yet to be put in place. They were concerned about their relatives' health as family members are not always able to visit every day. These families were looking for care packages to be implemented.

Mr Kennedy advised that during the summer of 2022 the risk registers would be moving onto new IT software and that this work would take place alongside a review of the Council's risk strategy and risk appetite. He would update Members on this work at the beginning of the new Committee session after the summer.

Decision

The Committee agreed to note the Health & Social Care Partnership Risk Register and that:

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

7. EDUCATION RISK REGISTER

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

Mr Kennedy presented the report advising that the risk register contained 1 very high, 8 high, 7 medium and 2 low risks and that, in line with the Council's policy, only the very high and high risks had been reported to the Committee.

Nicola McDowell, Head of Education, responded to a question from Councillor Williamson on the risks associated with introducing same sex toilets in secondary schools. She confirmed that a full risk assessment had been carried out in relation to these proposals and decisions had been taken in line with legal advice.

Councillor Currie commented that considering the challenges associated with education, the fact that the risks outlined in the register were being managed effectively was remarkable. He paid tribute to the leadership and staff within the Education Service both centrally and in individual schools.

The Convener thanked Mr Kennedy and the staff in the Education Service for their efforts. She noted that 60% of the Council's budget was spent on education and there was currently only one 'red' section within the risk register. She added that, in reality, the summary of risks set out in the register translated into a huge amount of work being carried out across the service.

Decision

The Committee agreed to note the Education Risk Register and that:

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

Education Service and were likely to be a feature of the risk register over a number of years.

8. CHILDREN'S SERVICES RISK REGISTER

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

Mr Kennedy presented the report advising that the risk register contained 1 very high, 3 high, 6 medium and 4 low risks and that, in line with the Council's policy, only the very high and high risks had been reported to the Committee.

The Convener noted that there had been a sizeable discussion of some of the key issues surrounding Children's Services earlier in the meeting and that Members had no additional questions relating to the risk register. Mr Kennedy confirmed that he would discuss the audit report and Members' comments with Mr Stainbank and update the risk register to reflect these discussions.

Decision

The Committee agreed to note the Children's Services Risk Register and that:

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

Valedictory

Councillor Mackett thanked Councillor Henderson for being a very honest and professional Convener of the Audit & Governance Committee over the past 5 years. He offered his best wishes to Councillor Henderson and to all other Councillors who would not be returning after the elections in May.

Monica Patterson, Chief Executive, also offered her sincere thanks, and those of the Council Management Team, to Councillor Henderson and to the other members of the Committee. She added that this Committee was particularly important to the Council and its officers, who valued its scrutiny and contribution to overall governance.

Signed

Councillor Jane Henderson
Convener of the Audit and Governance Committee