



MINUTES OF THE MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE

**TUESDAY 19 DECEMBER 2023
VIA DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor Bruce
Councillor Jardine
Councillor McFarlane
Councillor McGuire
Councillor Menzies - Chair
Councillor Ritchie

Other Councillors Present:

Councillor Hampshire
Councillor McMillan

Council Officials Present:

Ms S Fortune, Executive Director for Council Resources
Ms M Ferguson, Head of Corporate Support
Ms E Dunnet, Head of Finance
Mr D Stainbank, Service Manager – Internal Audit
Mr P Vestri, Service Manager – Policy, Improvement & Partnerships
Mr C Grilli, Service Manager – Governance, Council Resources
Mr T Reid, Head of Infrastructure
Ms L Brown, Executive Director for Education & Children’s Services
Ms M Patterson, Chief Executive
Mr S Cooper, Service Manager - Communications
Mr J Baker, Service Manager – Economic Development
Ms L Deegan, Companies Manager – East Lothian Land Ltd
Ms A Glancy, Service Manager – Corporate Accounting
Ms N McDowell, Head of Education
Mr S Kennedy, Team Manager – Emergency Planning & Resilience
Ms S Saunders, Head of Communities & Partnerships
Mr A Cruickshank, Service Manager - IT
Mr P Ianetta, Service Manager – Engineering Services & Building Standards

External Audit:

Mr J Boyd, Audit Director - Audit Scotland
Ms R Browne, Audit Director – Audit Scotland

Clerk:

Ms M Scott

Apologies:

Councillor K McLeod

Councillor T Trotter

Declarations of Interest:

There were no formal declarations of interest but for transparency Councillor Menzies and Councillor Ritchie made Members aware they were appointed Members of the Board of Enjoy Leisure.

1. MINUTE OF AUDIT & GOVERNANCE COMMITTEE ON 26 SEPTEMBER 2023

The minutes of the Audit & Governance Committee from 26 June 2023 were approved as an accurate record.

2. INTERNAL AUDIT REPORT: DECEMBER 2023

A report was submitted by the Service Manager for Internal Audit to inform the Audit and Governance Committee of Internal Audit reports issued since the last meeting of the Committee and provide an update on progress made against 2023/24 annual audit plan.

Duncan Stainbank, Service Manager for Internal Audit reported since the last meeting of the Committee final reports had been issued in respect of the following audits: Utilities Cost Management and Performance Indicators which both provided reasonable assurance.

Mr Stainbank highlighted the key findings, recommendations and the dates for completion for each audit category and paused for questions.

Councillor Jardine asked what had held us back on increasing assurance on objective one. Mr Stainbank explained there were three items granted limited assurance not because they were not being operationally applied but there needed to be guidelines on how properties are heated, procedures in place for the team that are assessing and reviewing this and then a business case for further resource in the area. Mr Tom Reid, Head of Infrastructure explained there is a singular officer dealing with the energy and the need for extra resource has been flagged for a number of years however the ability to supplement that has never been available. Mr Reid added that he and Mr lanetta are confident any of the recommendations highlighted by Mr Stainbank are covered but to bring it to the level of appropriate diligence an additional officer would be required, and a business case will be produced to do that.

Responding to multiple questions from Councillor Menzies in relation to energy and heating policies, Mr Reid explained some of the work Mr lanetta completes is manual and he has to physical check on buildings, some have electronic monitoring systems and all newly developed or upgraded buildings will have the appropriate automated measurement systems. He added that Mr lanetta does a huge amount of work to try and balance the usage of power against the climate change declaration so ensure we are not overproviding in buildings. Mr Reid stated the decision to turn back the heating was done as a general rule, but the set temperature may not feel the same in every building so manual adjustments are required. He made Members aware significant investment is required in buildings, fabric and the retrofit and findings from exercises done at Scottish Government level have shown it would millions of pounds of investment to get us to the point any policy would have a meaningful context. Mr Reid provided information on how the asset work would be completed and he would be happy to have further discussions with Members offline due to the huge amount of

work being done across engineering, estates and strategic assets. Mr Stainbank added there is a need for policy around this but at the appropriate time to make sure it can be implemented operationally.

Councillor Jardine commended officers for the improvements they had already made on the back of recommendations from Internal Audit. She highlighted the wide range of performance indicators under materiality in the report and stated we need to be careful to align everything to the Council Plan and make sure we are only reporting and examining the information that we absolutely need to deliver the priorities we have set.

Councillor Menzies thanked Mr Stainbank for his clear and concise report and was pleased to see progress was being made at a good pace.

Mr Stainbank drew Members attention to the six completed follow up audits, highlighting the City Deal Governance and Monitoring, Finance Business Partners and Budget Monitoring and the Prevent and Return Project.

In response to a question from Councillor Jardine, Sarah Fortune, Executive Director for Council Resources provided information on the internal audit of the innovation hub at Queen Margaret University and assured Members a lot of updates are received from internal management which show this is operating appropriately.

Decision

That the Audit and Governance Committee note:

- i. the main findings and recommendations from the Internal Audit reports issued during the period from October 2023 to December 2023 as contained in Appendix 1;
- ii. the findings from Internal Audit's follow-up work, per Appendix 2;
- iii. Internal Audit's progress against the annual audit plan for 2023/24 as set out in Appendix 3.

3. INTERNAL AUDIT CHARTER

A report was submitted by the Service Manager for Internal Audit as The Public Sector Internal Audit Standards (PSIAS) require an Audit Charter to be in place in each local authority and require the internal Audit Charter to be reviewed periodically and presented to Senior Management and to the Audit and Governance Committee for approval. East Lothian Council's Internal Audit Charter was approved by the Audit and Governance Committee in November 2022. The Charter has been reviewed and updated to include a mission statement as required by the March 2023 QAIP review against PSIAS standards. The updated Internal Audit Charter is being presented to the Audit and Governance Committee for approval.

Duncan Stainbank, Service Manager for Internal Audit defined the mission of Internal Audit to enhance and protect organisational value by providing risk based and objective assurance, advice and insight.

Councillor Jardine asked what value he felt the mission statement brought to the document and the work of the team. Mr Stainbank stated the team were aware of what their mission was, but it was pointed out as part of the external quality assessment that the mission statement was not part of the Internal Audit Charter, so the change was made.

Mr Stainbank continued to answer questions from Members providing information on his direct operational reporting line to the Chief Executive of East Lothian Council as well as the Executive Director for Resources and access to the Chair of the Audit and Governance Committee which allows the independence to review anything within the Council without fear or favour. He also agreed that the Internal Audit Charter would be circulated to the Council Management Team and information on Internal Audit Induction would be refreshed in the new year.

Councillor Jardine stated she found the presentation of the report valuable as it was very clear and covered all areas that needed to be covered. She was pleased to hear the scope and value of Internal Audit being explained and welcomed the degree of independence Mr Stainbank has.

Councillor Menzies thanked Mr Stainbank for his easily read report and giving reassurance to Members and the public that our Internal Audit is independent of any management function.

Decision

That the Audit and Governance Committee were asked to approve the updated Internal Audit Charter. A roll call vote was carried out and it was a unanimous decision to approve.

4. ANNUAL ACCOUNTS 2022/23

A report was submitted by the Executive Director for Council Resources to provide the Committee with an update on any changes arising during the audit of the draft financial statements, and to ask the Committee to approve the audited accounts for 2022/23, noting some changes to the accounts are still being finalised.

Ann-Marie Glancy, Service Manager – Corporate Accounting reported that in July she was advised the audit work for the final accounts would be delayed due to resourcing issues within the audit team and field work commenced mid-October. She added an extended audit period had proved challenging, but Audit Scotland had worked diligently with the team and thanked them for this. Ms Glancy noted an audit of Operational Assets identified incorrect data had been used in the valuation process and the team is currently working with the valuer to correct this and she asked that formal approval be delegated to the Council's Chief Finance Officer and Chair of the Audit and Governance Committee to make any necessary changes to the accounts.

Ms Glancy drew Members attention to areas within the report which highlighted changes made to the draft accounts and noted there had been no changes to the useable reserves position of East Lothian Council. Ms Glancy highlighted the significant change to the pensions and explained how this had now been resolved. She thanked all Council Officers involved in the year end process.

Ms Glancy and Mr Reid responded to questions from Members. Ms Glancy provided information on the assets in questions and explained how these will only affect the revaluation reserves which has no impact on the spending power of the Council. Mr Reid explained the consultant team used to provide information historically had gone on net space instead of gross space, so some void areas had not been included in the overall footprint therefore the correct valuation was greater. Ms Glancy then explained what happens when that information is ran through the accounts. Ms Fortune also assured Members the finance team undertake their duties were thoroughly and this

has been an area which has been consolidated through the accounts in previous years in a similar way.

Councillor Hampshire asked if there was a way for Members to get a better understanding of the challenge to individual services that have been caused by growth. Ms Fortune stated the full cost of running the Council is consolidated within the accounts which includes the cost of growth, unfortunately how the accounts are set out are to meet accounting requirements but through management commentary the team have tried to reflect the implications that are important for the Council, one of which is the concern of the impact of population growth.

In response to a question from Councillor Menzies, Ms Glancy stated the issues around the pension fund were very unusual and further guidance on how to deal the unfunded element was released from CIPFA in November. She explained the issue was picked up during the audit, the actuary was contacted, and further information was provided and changed within the accounts.

Councillor Jardine stated as a relatively new Councillor she was still getting used to the complex information on how we are doing as a Local Authority and thanked officers for the clear and concise representation of where we are at the moment as part of how we make decisions going forward.

Decision

- i. Approve the audited Accounts for the Council and Group components.
- ii. Delegate responsibility to the Council's Chief Finance Officer and Chair of the Audit & Governance Committee to make appropriate changes to the Accounts, subject to completion of audit work relating to asset valuations, and formal sign off from External Audit.
- iii. Approve the 2022-23 audited accounts for the Dr Bruce Fund.

A roll call vote was carried out and it was a unanimous decision to approve.

5. ISA 580 Letters:

- a. ELC Audit of 2022/23 Annual Accounts**
- b. Dr Bruce Fund Audit of 2022/23 Annual Accounts**

John Boyd, Audit Director – Audit Scotland presented the ISA 580 Letters for the ELC Audit of 2022/23 Annual Accounts and the Dr Bruce Fund Audit of 2022/23 Annual Accounts and outlined the key documents within. He was pleased to report that subject to the conclusion of the outstanding procedures Audit Scotland plan to issue unmodified opinions on the accounts.

Mr Boyd also took Members through the letter of representations which is a standard procedure as part of the financial statements audit process.

Councillor Menzies asked if there were plans for the Dr Bruce Fund to become more active in the future. Ms Fortune explained recommendations have come from external audit which have been accepted by management and the Council will look at what they can do within the context of the trust deeds. She added these things are fairly complex and the Council are not always able to set out conditions on how the trust funds should be used and the finance team has tried to process some of the wider reviews, but the service remains within business continuity so although we remain committed to try address and explore but not all of this is within the team's remit.

Councillor Menzies was pleased with an unmodified opinion due to the important matter and highlighted the public should know the report is a true representation of our current financial crisis and be fully aware of the crises the Council faces as a public body and have confidence that difficult decisions will be made on truthful financial reporting and good governance.

Decision

The Committee agreed to note the contents of both letters.

6. DRAFT EAST LoTHIAN COUNCIL 2022/23 ANNUAL AUDIT REPORT

7. DRAFT LEADERSHIP BEST VALUE REPORT

Reports were submitted by the Audit Director for Audit Scotland to inform the Audit and Governance Committee of the East Lothian Council 2022/23 Annual Audit Report and the Draft Leadership Best Value Report.

John Boyd, Audit Director – Audit Scotland presented the draft report which detailed the responsibilities in terms of the audit of the annual report and accounts and wider scope responsibilities as outlined in the code of practice. He explained as the Council's auditor he is responsible to report the key areas that have arisen during the audit of the financial statements including the significant audit risks as well as other matters arising. Mr Boyd provided Members with context around the unfunded pension liability and the valuation of land and buildings and confirmed the report would be finalised and issued to the Council on conclusion of procedures.

Mr Boyd highlighted the key areas for Audit Scotland's wider scope audit work and noted all local authority auditors are required to undertake a thematic review this year which covered leadership of the development of the new local strategic priorities, the full report is agenda item seven but the key messages and findings from that report are included in the Annual Audit Report. He highlighted the financial pressures the Council faces and noted the unique position in comparison with other local authorities due to significant growth and the cost implications of sustaining and managing this in the future. Mr Boyd reported the Council faced difficult decisions around future service provisions and drew Members attention to the recommendations to management within the report which will continue to be monitored in the future.

Finally, Mr Boyd thanked all the Council officers involved for their hard work, especially due to the delayed audit start. He added that going forward Audit Scotland hope to get back to pre-covid timelines.

Councillor Jardine asked if there was a danger that if elected Members didn't make necessary changes to how we prioritise our financial commitments to balance the accounts whether we might lose the right to do that, the same as authorities in the South. Mr Boyd made Members aware of the difference in legislation between Scotland and England and highlighted the key challenges the Council will face going forward. Councillor Jardine asked if Members needed to be bolder in their decision making for the forth coming budget due to limited level of reserves and progressing with transformation work. Mr Boyd explained as the Council's external auditor it would not be his place to comment on that and those decisions would come to officers and Members but has been noticed within East Lothian and other local authorities is that any efficiency savings were unlikely to be viable going forward.

Mr Boyd, Ms Fortune and Mr Paolo Vestri, Service Manager – Policy, Improvement & Partnerships continued to answer questions from Members. Ms Fortune confirmed the recommendations from the 2018 Best Value Report had been progressed and

incorporated into the Council's Improvement Plan and explained new risks have emerged since then most notably around Covid. Mr Vestri explained 9 of the 2018 recommendations were incorporated into the Council's Improvement Plan and some were carried forward to the 2020/21 plan which have all now been completed. He stated the few 2021 recommendations which were not completed due to the impact of Covid will be carried forward if they apply to the Council's 2024 Improvement Plan.

Mr Boyd stated some of the key strategic areas and current levels of service would be extremely difficult to maintain in the current climate and highlighted the importance of the Council setting what its priorities and focusing on those and their decisions around resources would need to be managed in a way to be able to deliver those especially around managing growth and the cost implications of those. Mr Boyd confirmed the responsibility of reporting this would be down to the Council, and this could be done through the annual accounts as this highlights the risks and priorities of the Council or through a Corporate Plan to cover all performance measures and indicators.

In response to a question from Councillor McMillan, Mr Boyd explained the current report is reported to the Council and the controller of audit due to the scheme of delegations stating the Audit and Governance Committee has the responsibility to oversee and scrutinise the work of internal audit then after the report is finalised it is shared with Members, is posted on the Audit Scotland website and shared at a full Council meeting.

Councillor Menzies asked questions on the collaborative work of Members and Officers and what else could be done to ensure timely scrutiny across the board. Mr Boyd confirmed he met with a sample group of Members to share their experiences on support and training and an area for development was highlighted as making sure there was joint working from Members and Officers. He named a key area to focus on going forward would be to self-reflect and complete a self-assessment of current scrutiny committees and highlight the remit of the committee and compare if this work had been undertaken.

Councillor Ritchie acknowledged and welcomed the key message from the audit report regarding financial sustainability as it is not sustainable to continue to use reserves to pay for recurring costs. She added that we are only in the current financial position because of difficult decisions already made by the Council over the last decade and are facing an even harder situation than we ever have before. Councillor Ritchie said all Members and Officers are keen to have this as a key priority and are taking action and looked forward to progressing.

Decision

The Committee agreed to note the contents of the Draft East Lothian Council 2022/23 Annual Audit Report and the Draft Leadership Best Value Report.

8. TREASURY MANAGEMENT MID-YEAR REVIEW

A report was submitted by the Executive Director for Council Resources to update the Committee on the Treasury Management activity during the first six months of 2023/34.

Ann-Marie Glancy, Service Manager – Corporate Accounting presented her report which is received against the current Treasury Management Strategy for the Council which was approved in February 2023 as well as the approved treasury indicators. The report included an economic update and a summary of treasury management activity in the first half of the year which includes the impact of updated capital expenditure

projections and sets out performance against potential indicators. She was happy to confirm all indicators had been complied with and no changes had been recommended for the strategy approved by Council.

Councillor Menzies thanked Ms Glancy for her report.

Decision

The Committee agreed to note the report.

9. EAST Lothian Land Ltd 2022/23

A report was submitted by the Companies Manager of East Lothian Land Ltd to inform the Audit and Governance Committee of the work undertaken by East Lothian Land Ltd in 2022/23.

Lisa Deegan, Companies Manager – East Lothian Land Ltd presented her report highlighting there had been no new deals for East Lothian Land Ltd within the year, a number of property related projects that had been under consideration in the prior year were not progressed due to development costs, in addition the Board had been conscious of an impending key personnel change with the previous Company Manger, Richard Baty retiring therefore focus had been on preparing for this change. She stated the purpose of East Lothian Land Ltd continued to mirror and support the strategic goals set out in the Economic Development Strategy, in respect of supporting the development of land and property which stimulates economic growth and increases employment opportunities. Ms Deegan noted a vacant Directors position remained and the Board are committed to strengthening their expertise even further across legal and finance as they look to fill this post.

In response to questions from Members, Ms Deegan stated the Board are actively discussing developmental constraints due to cost and how they can move forward with this strategically. She confirmed East Lothian Land Ltd are early on in discussions regarding risk appetite but look to revisit that in early 2024.

Councillor Menzies said she would like to see more done by ELL even though she understands the constraints, to have large amounts of money not invested at this difficult time it seems to be a wasted opportunity, so she was hopeful in the new year discussions are bold and brave with their decisions.

Decision

The Committee agreed to note the report.

10. CORPORATE SUPPORT RISK REGISTER

11. FINANCE RISK REGISTER

12. INFRASTRUCTURE RISK REGISTER

Reports were submitted by the Chief Executive to present to the Audit and Governance Committee the Corporate Support Risk Register, Finance Risk Register and the Infrastructure Risk Register for discussion, comment and noting. The Risk Registers are developed in keeping with the Council's Risk Management Strategy and are live documents, which are reviewed and refreshed on a regular basis, led by the Corporate Support Local Risk Working Group, Finance Local Risk Working Group and Infrastructure Local Risk Working Group (LRWG).

Scott Kennedy, Team Manager – Emergency Planning & Resilience stated Very High risks are unacceptable and measures should be taken to reduce, transfer or treat the risk to a more tolerable position; high risks may be tolerable providing the Council is assured that adequate and effective control measures are in place; medium risks are tolerable with control measures that are cost effective; and low risks are broadly acceptable without any further action to prevent or mitigate risk.

Corporate Support

Mr Kennedy updated Members on the current Corporate Support Risk Register which contained 1 Very High, 4 High, 14 Medium and 11 Low risks. As per the Council's Risk Strategy only the Very High and High risks are being reported to Committee.

Finance

Mr Kennedy updated Members on the current Finance Risk Register which contained 1 Very High, 6 High, 5 Medium and 3 Low risks. As per the Council's Risk Strategy only the Very High and High risks are being reported to Committee.

Infrastructure

Mr Kennedy updated Members on the current Infrastructure Risk Register which contained 3 Very High, 15 High, 34 Medium and 1 Low risk. As per the Council's Risk Strategy only the Very High and High risks are being reported to Committee.

Councillor Menzies asked if there was enough flexibility to reinstate the services if necessary or is the financial crisis to such an extent that we know just have to know the consequences. Ms Fortune explained these were not mitigation measures that ordinarily we would want to take forward and these can only be temporary measures and cannot be seen as a sustainable and strategic way to deliver and operate an organisation. Ms Fortune encouraged Members to recognise these are mitigation measures still remain appropriate given the severity of the financial situation but cannot be seen as an absolute measure going forward. She added a number of services remain in business continuity mode, a large proportion of which have been caused by recruitment struggles and increased demand on services. Ms Fortune emphasised the importance of looking at which services can be delivered in the future within the currently available resources.

Responding to a further question from Councillor Menzies, Ms Fortune emphasised the importance that the Council takes responsible decisions and deliver services within the resources now available, but the scale of the challenge ahead makes this hugely difficult. She stated she did not see any indications through independent commentators suggesting complete light at the end of the tunnel and would encourage all Members that there is a real responsibility to ensure we take decisions and deliver a balanced budget.

Councillor Hampshire asked a question relating to ash die back trees in East Lothian. Mr Reid stated it had never been flagged to him of any recoverability of ash die back but instead when a tree became infected it would die, he agreed to confirm this with his team after the meeting. He explained the complexity of dealing with ash die back in East Lothian, especially for trees on private land and confirmed the Council are fully invested in identifying trees which may affect main carriageways and working with the landowners to take these trees down. Mr Reid stated if this is not possible the Council may have to take these trees down and attempt to recover the cost as there is a dual liability. He also highlighted the huge pressure on the small team at the moment and were unable to put their report forward to almost double the team and bring in project leads to handle this due to the current revenue position, so the team remains in business continuity and are only dealing with ash die back trees at

this time. Mr Reid was happy to go through the risk register offline with any Members who felt this would be helpful.

In response to a question from Councillor Menzies, Mr Reid explained the team were currently managing the greatest risks within the identified tree stock however this question was relevant to the wider discussion had today on budgets as the Council does not have the revenue and capital to operate to the standards it would wish to deliver to the communities. He stated he is unable to maintain all of the environments he is responsible for due to budget restrictions and is instead having to prioritise and accept risk will increase while this is the case.

Councillors Jardine felt the risk register needs to be looked at alongside considerations we have in terms of the budget going forward and could encourage all Members to take politics out of it to look at things from a pragmatic point of view.

Councillor Menzies echoed the importance of removing politics from decision making and highlighted a push to look at the Council Plan to reevaluate our priorities for the short, medium and longer term to prevent elongating the current financial crises.

Decision

The Committee agreed to note that:

- i. the relevant risks have been identified and that the significance of each risk is appropriate to the current nature of the risk.
- ii. the total profile of the Corporate Support/Finance/Infrastructure risks can be borne by the Council at this time in relation to the Council’s appetite for risk.
- iii. although the risks presented are those requiring close monitoring and scrutiny over the next year, many are in fact longer-term risks for Corporate Support/Finance/Infrastructure and are likely to be a feature of the risk register over a number of years.

Signed

Councillor Lee-Anne Menzies
Convener of the Audit and Governance Committee