



MINUTES OF THE MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE

**TUESDAY 26 MARCH 2024, 9AM
VIA DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor Bruce (joined at beginning of item 5)
Councillor McFarlane
Councillor McGuire
Councillor Menzies - Chair
Councillor Ritchie (joined at beginning of item 3)
Councillor Trotter

Other Councillors Present:

N/A

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
Ms L Byrne, Head of Childrens Services
Ms W McGuire, Head of Housing
Mr D Hood, Health & Social Care Partnership
Ms Z Rathe, Team Manager – Information Governance
Ms N Sandford – Team Manager - Homelessness
Mr L Wright, Emergency Planning, Risk & Resilience Officer
Mr B Axon, Enjoyleisure – Chief Executive
Mr R Fennessy, Enjoyleisure - Finance Officer
Mr R Fox, Internal Audit at Dumfries & Galloway Council

External Audit:

Ms A Fitzpatrick – Audit Scotland

Clerk:

Ms M Scott

Apologies:

Councillor Jardine

Declarations of Interest:

There were no formal declarations of interest but for transparency Councillor Menzies made Members she is an appointed Member of the Board of Enjoy Leisure.

1. MINUTE OF AUDIT & GOVERNANCE COMMITTEE ON 19 DECEMBER 2023

The minutes of the Audit & Governance Committee from 19 December 2023 were approved as an accurate record.

2. INTERNAL AUDIT REPORT: MARCH 2024

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 a final report had been issued for the Homelessness Audit, which provided management with Reasonable Assurance. Mr Stainbank highlighted the key findings, recommendations and the dates for completion for the Homelessness Audit. Mr Stainbank added Internal Audit had followed up on recommendations made in five previously issued audit reports for Data Protection, East Lothian Works, IT Asset Management, Sundry Accounts and Systems Data Backup & Recovery Testing, and highlighted the findings for each.

Responding to multiple questions from Councillor McLeod, Ms Nicky Sandford – Team Manager for Homelessness explained the Housing Options Team is split into three smaller teams; crisis response, homelessness prevention and then three accommodation officers who manage the temporary accommodation stock and all queries that come along with it. She reported Scottish Government changed legislation with regard to local connection at the end of 2022 which has resulted in significant impact of homelessness applications in recent months as it requires the department to accept people from out of area therefore has significantly increased homelessness numbers in East Lothian. Ms Sandford stated Housing First is a policy requirement of Scottish Government that was introduced in 2018 as part of the governments rapid rehousing agenda. She explained this requires the Council to provide housing as quick as possible for vulnerable homeless households and place them into permanent, settled homes, with support and to date there have been around 20 Housing First cases.

Alan Cruickshank, Service Manager – IT provided Councillor McLeod with information on why the IT services completion date had been revised to June 2024 and said at the moment he felt confident the department were on target to meet this date.

In response to a question on treasury management, Ms Ellie Dunnet, Head of Finance confirmed we cannot borrow to invest however the treasury management strategy looks at the cash balances overall and they fluctuate which results in surplus cash sitting for a short time. She explained when this happens the money is placed in accordance with the requirements set out in the treasury management strategy which priorities security, liquidity and yield in that order. If these requirements can be satisfied in terms of placing a deposit that is secure that can enable us to access that money when we need it then we may then look at yield to see what returns we can generate.

Councillor Menzies asked if there would ever be a time when a homelessness application would not be closed or completed within 28 days. Ms Sandford explained this would happen in cases where the team needed to obtain information from external parties who may not be forthcoming and also, we could have issues engaging with homeless clients and be unable to complete investigations. Ms Sandford also gave stats on homeless investigations and provided information on current open homeless cases which date back to 2017.

In response to questions from Council Trotter, Mr Cruikshank explained software had to be sought to instate the recommendations and the same staff who were involved in completing the recommendations were also needed to address the RAC issues in Preston Lodge High School and the opening of Rosehill which had to take priority.

Councillor McLeod thanked Mr Stainbank for the report and would like further updates in the future.

Councillor Menzies also thanked Mr Stainbank for his comprehensive report and was pleased to see the cost of growth being addressed. She also thanked all officers who assist internal audit with ensuring we have strong governance.

Decision

That the Audit and Governance Committee note:

- i. the main findings and recommendations from the Internal Audit reports issued during the period from December 2023 to March 2024 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 PLAN 2024/25

A report was submitted by the Service Manager for Internal Audit to inform the Audit and Governance Committee of Internal Audit's operational plan for 2024/25.

Duncan Stainbank, Service Manager for Internal Audit reported the plan had been prepared in accordance with Public Sector Internal Audit Standards and was attached to his report for Members viewing.

Councillor McLeod asked if Members could get an update or view anything regarding East Lothian's Council online procurement. Mr Stainbank stated what we are spending can be viewed online and the contracts the Council has with Scotland Excel are public knowledge.

Responding to questions from Councillor Menzies, Mr Stainbank reported there is currently a staff of three Senior Auditors who are all full time, a Senior Audit Assistant

who is on a 0.6 FTE contract and also half of his own time as he is also employed by Midlothian Council which is enough to complete the plan we have in place. He added on a regular basis throughout the year the team review the risk profile of the Council and in September will come back to Committee with a revised plan and at each meeting in between will give an update on how far through completing the plan the team are. He also assured Members of his departments independence however internal audit does not happen in a vacuum and senior officers are often the first to highlight areas they would like to be looked at, which is appropriate. Mr Stainbank added that it is recommended as best practice to take advice and guidance from senior officers when putting together an audit plan.

Councillor Menzies again thanked Mr Stainbank and his team for the report and plan.

Decision

That the Audit and Governance Committee were asked to approve the Audit Plan for 2024/25. A roll call vote was carried out and it was a unanimous decision to approve.

4. EXTERNAL QUALITY ASSESSMENT – INTERNAL AUDIT

A report was submitted by the Service Manager – Internal Audit to inform the Audit and Governance Committee of the findings from the recent external quality assessment of the Council's Internal Audit Service.

Richard Fox, Internal Audit Manager for Dumfries and Galloway Council reported a peer review was completed through the Chief Internal Auditors Group which is completed every five years. Mr Fox explained to Members how the review was carried out and said overall the findings were positive with the internal audit section meeting requirements.

Councillor Menzies asked what plans are in place to improve the four areas where we are generally conforming. Mr Stainbank reported there were detailed recommendations within the action plan which have been accepted and have management responses against them. He advised these will be completed between June and September 2024 with the final element being in place by November 2024 with minor changes to the Internal Audit Charter which will then come back to the Audit and Governance Committee in November 2024. Mr Stainbank said following on from that the team will also report against the Quality Assurance Improvement Programme in future years which will confirm all of these recommendations have been implemented.

In response to a question from Councillor McLeod, Mr Stainbank explained they will go through an appraisal process with each member of staff and find the correct route forward in terms of taking their data analytics experience forward. He added all of the audit team will be attending the Scottish Local Authority Chief Internal Auditors Data Analytics Group where best practice across Scotland is shared. Mr Stainbank reported he will continue to look at the best approach to upskilling the team with the best available data analytics for internal audit and is also looking at the possibility of bringing in a staff member to train across East Lothian and Midlothian to bring the cost down.

Councillor Trotter asked if this is reviewed regularly as the report is only compiled every five years. Mr Stainbank confirmed he reviewed against the Public Sector Internal Audit Standards annually and make changes as and when appropriate. He made Members aware the PSIAS are currently being revised therefore changes will be required under the new standards and these would be brought to this committee next year.

Councillor Menzies thanked Mr Fox and his team for carrying out this review and was happy to see on the whole internal audit is going what they should be.

Decision

The Committee agreed to note the contents of the report.

5. INFORMATION GOVERNANCE ANNUAL REPORT

A report was submitted by the Executive Director for Council Resources to report on the delivery of continuous improvement of East Lothian Council's compliance with regulatory regimes relating to Data Protection, Information and Records Management, and the Regulation of Investigatory Powers during 2023.

Zarya Rathe, Team Manager for Information Governance stated this is the first follow up report and there has been positive progress with the addition of a new Team Leader and Information Officer which has allowed us to significantly reduce backlogs and make proactive steps to improve compliance across the Council. She reported three of the four recommendations within the previous audit report have been completed with partial completion of the remaining recommendation.

Ms Rathe spoke to her report and provided an update on Data Protection, Records Management and Covert Surveillance.

In response to a question from Councillor McLeod, Ms Rathe confirmed there has never been legal action taken against East Lothian Council for a data incident nor had the Information Commissioner's Office taken any enforcement action, finding we have appropriate measures in place.

Councillor Menzies asked for the difference between a breach and a near miss and how did we compare to other local authorities of a similar size. Ms Rathe explained a data breach is defined by legislation and typically relates to a security breach involving information being disclosed to someone who shouldn't see it, someone accessing a system they shouldn't and/or the loss of personal data, whereas a near miss is similar but doesn't involve the actual inappropriate access to information, such as an email being sent to the incorrect recipient but it is recalled before being read. She noted near misses are still recorded as a learning point to see if any measures could be introduced to help reduce that risk. Ms Rathe stated there are no formal benchmarking measures between local authorities regarding data breaches, but it is a point of interest to all Scottish local authorities and as a result of this query it will be raised at the next meeting of the national group for Scottish local authority data protection officers (SOLAR) for consideration.

Councillor Menzies thanked Ms Rathe for her informative report.

Decision

The Committee agreed to note the contents of the report.

6. EAST LOTHIAN INVESTMENTS LTD

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

Lisa Deegan, Companies Manager – East Lothian Investments Ltd spoke to her highlighting 378 loans had been awarded to the value of £3.5 million since its formation with around 900 new jobs created and 1900 existed jobs have been protected. She confirmed loans are unsecured however the East Lothian Investment Directors often require personal guarantee to be provided by business owners and the bad debt is currently low, sitting at 2.91%. Ms Deegan reported between 2022-2023 EL Investments received 17 applications, 13 of which became approved loans to the value of £210,000 and was spread between all the key industry sectors. She added within this period 22 new jobs were created, and 43 jobs were protected and at the end of the 2023 period there were 27 active loans with an outstanding balance of £347,000. Ms Deegan drew Members attention to the post period note of her appointment as Companies Manager in July 2023 and has successfully been approved under the senior managers certification regime. Ms Deegan provided Members with a history of the set up of East Lothian gift cards and drew their attention to the post period note that in April 2023 EL Investments Ltd terminated the contract with Mykinex and transferred the scheme to East Lothian Council.

Councillor Trotter asked if we received feedback from companies who have benefited from this scheme. Ms Deegan confirmed EL Investments reach out to businesses to see if the project they have invested in delivered what the applicant said it would and track the number of jobs created and protected as well as constant dialogue with the business as they make their loan repayments. She added that the number of jobs quoted within the report are actuals and not forecast but if Members would like more feedback, then she was happy to take that on as an action.

In response to a question from Councillor McLeod, Ms Deegan explained the 2.91% is the bad debt rate on the scheme as a whole but she would look into the actual numbers and pass this on. She added that this figure was from March 2023 and since then EL Investments have seen companies under pressure due to the economic environment, so this is something they are keeping an eye on at board meetings.

Councillor Bruce asked what the rationale is behind £25,000 being the current arrangement for loans. Ms Deegan stated out of the 14 loans given this period four of those were at the £25,000 cap and this is something actively discussed at board level. She explained directors are keen to have the minimum level set in a way that's useful for businesses but also need to look at the amount of funds in the investment fund to lend. Ms Deegan said EL Investments gather in loan repayments each month but as they are starting to see some businesses under pressure in the challenging economic environment that it could become more difficult to recover the full loan amount.

Ms Deegan agreed to supply information on how much the gift card scheme costs to administer as she did not have these figures to hand. She noted going forward the scheme is now sitting with East Lothian Council, so she does not know about future arrangements, only the historical contract which has now terminated. Sarah Fortune, Executive Director for Council Resources was happy to gather this information and share with Members of the Committee.

Councillor Menzies asked what percentage of overall funding is loaned at any one time. Ms Deegan explained there is no formal cap on that but tends to hover around the 80% mark to keep 20% of the total loan fund in the bank at any given time due to ongoing administration costs.

Ms Deegan agreed to find out the geographical placement of loans and feedback to the Committee.

Councillor Menzies thanked Ms Deegan for her report.

Decision

The Committee agreed to note the contents of the report.

7. ENJOYLEISURE

A report was submitted by the Chief Executive of Enjoyleisure to set out the financial and operational performance of Enjoyleisure (enjoy) since March 2022, the challenges that enjoy faces in light of the cost-of-living crises and the successes that enjoy has achieved through this period.

Bill Axon, Chief Executive of Enjoyleisure spoke to his report and highlighted the successes and challenges enjoy has faced following COVID including recruitment and energy costs. Robert Fennessy, Finance Officer - Enjoyleisure provided figures for the financial year 2022/23 and confirmed an audit was carried out with an unqualified opinion with five recommendations, four of which have been implemented and one was discussed with the Board and rejected. Mr Fennessy also gave an update on the enjoy budget reporting a healthy position.

Council Trotter asked for examples on what the financial benefits will be to the Council given the ten-year extension to the funding agreement. Mr Axon stated the extension of services enjoy provide with a reduced cost to the council taxpayers of East Lothian along with support they provide to the Council in terms of service delivery and increasing community benefit. He added the access to leisure scheme has been maintained at a level far superior to most other local authorities and groups such as Active Schools and Ageing Well were able to use the facilities at no or very reduced cost.

Responding to a second question from Councillor Trotter, Mr Axon confirmed percentage wise enjoy was in the top quartile in terms of returns and memberships are now close to the higher level of memberships we had pre-covid.

Councillor Bruce asked if Mr Axon thought visitor numbers would return to their pre-covid levels and if so, how long would this take. Mr Axon stated it was hard to know this for casual use but in terms of memberships they were not short of pre-covid levels. He also provided Councillor Bruce with some information on how they have continued to market enjoy and gain new members in the future as well as compile data to show the number of people from the new housing estates using enjoy facilities.

In response to a question from Councillor McFarlane, Mr Axon stated work is being undertaken at the Pilmer Smith Pavilion for it to become fully operational and the hope is it will be open shortly.

Responding to multiple questions from Councillor Menzies, Mr Axon provided information on the strategic partnership between enjoy and the Council to manage issues and customer expectations and explained there will never be a time the Council are not paying something towards the provision of leisure services as it is critical towards its success but enjoy have been working towards reducing that liability from 60% to 30%. He stated enjoy are also partnership working with the NHS have financial and resource investment from them and with their support they hope to expand the scheme which has been trialled in Dunbar. Mr Axon confirmed the Board agreed a general 9.5% increase in charges so enjoy have been able to maintain a reduced rate increase for less active areas to engage in sport and increase costs in busier areas where it is believed this is affordable.

Councillor Bruce thanked him and his team for hosting the Preston Lodge pupils during the times of school closure as this was greatly appreciated by pupils, parents and staff.

Councillor McLeod thanked Mr Axon, Mr Fennessy and Mr Reid for the updates on the Loch Centre.

Councillor Menzies also thanked Mr Axon and Mr Fennessy for their report and information provided today. She also thanked Mr Reid for answering her questions on the Loch Centre during its time of closure. Councillor Menzies highlighted the positivity of the in-house training provided by enjoy.

Decision

Committee agreed to note the contents of the report.

- 8. HEALTH AND SOCIAL CARE PARTNERSHIP RISK REGISTER**
- 9. EDUCATION RISK REGISTER**
- 10. CHILDRENS SERVICES RISK REGISTER**

Reports were submitted by the Chief Executive to present to the Audit and Governance Committee the Health and Social Care Partnership Risk Register, Education Risk Register and Childrens Services 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.

Health and Social Care Partnership

Mr Kennedy updated Members on the current Health and Social Care Partnership Risk Register which contained 15 High and 7 Medium risks. As per the Council's Risk Strategy only the High risks are being reported to Committee.

Councillor Bruce asked what impact the medically assisted treatment standards were having on the number of drug related deaths. David Hood, Health and Social Care Partnership reported the national trend and Lothian are similar so whilst the rate of increase in terms of drug death is lowering there is still a high number of drug deaths. He did not have exact East Lothian figures to hand but agreed to share these after the meeting. Mr Hood stated staff have done well implementing stages one to five and in the process of implementing six to 10 but it remains a challenge reaching the most vulnerable people and unfortunately a number of people have lost their lives without being known to the service. He highlighted the importance of implementing the next steps for trauma and mental health support and stated it was difficult to evidence the correlation between the standards and reduction as the numbers are still not where they would want them.

Responding to a further question from Councillor Bruce, Mr Hood reported on the multiagency work to identify people especially with the police looking at the vulnerable people data base and sharing this information so the outreach team from

the Esk Centre can proactively make contact with people to build relationships and try to get them to engage. He also highlighted the work of third sector workers within the Esk Centre who have lived experience and better links with the community than statutory services may have.

Mr Hood explained at this stage there had been no formal review since the announcement of the draft bill proposed by the Scottish Government and will be completed through the normal risk and review process.

Education

Mr Kennedy updated Members on the current Education Risk Register which contained 8 High, 6 Medium and 1 Low risks. As per the Council's Risk Strategy only the High risks are being reported to Committee.

There were no questions or comments on the Education Risk Register.

Childrens Services

Mr Kennedy updated Members on the current Infrastructure Risk Register which contained 1 Very High, 3 High, 2 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 McLeod asked if the uplift in foster carer fees would cause a reduction in the risk and can East Lothian now compete with Edinburgh. Ms Lindsey Byrne, Head of Childrens Services stated she would hope for a reduction in the risk, but this would not be instant due to the time it takes to recruit new foster carers. She was confident East Lothian is now in a better position to compete with other local authorities.

In response to a question from Councillor Bruce, Ms Byrne stated she has started to see a change in the Childrens Services budget but it is a demand led service and cannot be predicted but she was confident the department were doing the best they could to reduce the demand in social work and reduce in the number of children who are required to be looked after. She highlighted recruitment is now at a steady rate and the team are committed to the early intervention and prevention strands which will hopefully see a reduce in demand overall.

Councillor Menzies thanked all staff involved in these departments as the need for services is growing while resources are not growing anywhere near the level needed to keep up with demand.

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 Health and Social Care Partnership/Education/Childrens Services 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 Health and Social Care Partnership/Education/Childrens Services 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