



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

**TUESDAY 17 SEPTEMBER 2019  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor J Henderson (Convener)  
Councillor F Dugdale  
Councillor C Hoy  
Councillor K Mackie  
Councillor K McLeod  
Councillor J Williamson

**Council Officials Present:**

Mrs A Leitch, Chief Executive  
Mr A McCrorie, Depute Chief Executive  
Ms M Patterson, Depute Chief Executive  
Mr J Lamond, Head of Council Resources  
Mr T Reid, Head of Infrastructure  
Ms S Fortune, Chief Operating Officer - Finance  
Ms A Glancy, Principal Accountant (Financial)  
Ms L Craig, Finance Officer  
Mr P Vestri, Service Manager – Corporate Policy & Improvement  
Mr J Coutts, Service Manager – Community Housing & Homelessness  
Mr S Allan, Senior Auditor  
Mr P Moore, Senior Auditor  
Mr S Kennedy, Emergency Planning, Risk and Resilience Officer  
Mr B Farnsworth, General Manager, Musselburgh Racecourse  
Mr D Kennedy, Financial Controller, Musselburgh Racecourse  
Mr S Cooper, Team Manager Communications  
Ms R Crichton, Committees Officer

**Clerk:**

Miss F Currie

**Visitors Present:**

Ms G Woolman, Audit Scotland  
Ms E Scoburgh, Audit Scotland  
Mr G Strachan, Lothian Valuation Joint Board  
Mr B Brown, Lothian Valuation Joint Board  
Mr G Elliot, Lothian Valuation Joint Board

**Apologies:**

Councillor S Currie  
Councillor G Mackett

**Declarations of Interest:**

Item 11 - Councillor Mackie declared an interest as a member of MRAC.

Item 11 - Councillor McLeod declared a non-financial interest.

**URGENT ITEM OF BUSINESS (STANDING ORDER 5.2)**

**Election of a Depute Convener**

The Convener announced an urgent item of business. The Clerk informed the Committee of the requirement to elect a Depute Convener and invited nominations from Members. The Convener proposed Councillor Mackie and this was seconded by Councillor Hoy. The Members agreed unanimously to elect Councillor Mackie as Depute Convener of the Audit & Governance Committee.

**1. MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING ON 18 JUNE 2019**

The minutes of the Audit and Governance Committee meeting held on 18 June 2019 were approved as a true record, subject to one amendment:

- **Item 8** – Councillor McLeod requested that paragraph 4 be amended to reflect that he had asked the questions on non-recurring costs.

**2. INTERNAL AUDIT REPORT – SEPTEMBER 2019**

A report was submitted by the Depute Chief Executive (Resources & People Services) informing the Committee of Internal Audit reports issued and follow-up work completed since the last meeting of the Committee and providing an update on the progress against the 2019/20 annual audit plan.

Stuart Allan, Senior Auditor, 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 provided for all three audits. Mr Allan, along with Senior Auditor Peter Moore, summarised the main findings of each audit, highlighting areas with scope for improvement. Officers responded to questions from Members.

**Creditors (Duplicate Payments)**

Sarah Fortune, Chief Operating Officer – Finance, provided clarification of the work undertaken during the audit. She confirmed that while the system did generate an error message when the same invoice number was entered more than once, staff were able to override this which had resulted in cases of duplicate payments. However, guidance was in place and managers were encouraged to conduct spot checks and address any issues promptly. There had been recruitment issues within the Finance team but a new staff member would be in post shortly. Enhanced staff training would be undertaken and discussions were underway regarding support and training for Unified Business Support (UBS) staff.

Ms Fortune advised that it was the responsibility of individual service areas to ensure that their staff followed the guidance relating to the procurement of goods and services. All but one of the duplicate payments identified by the audit had been recovered and processes were in place to deal with any future cases. Referring to the software

system, Great Plains, Ms Fortune indicated that discussions were ongoing regarding a possible replacement and the timing of this work had yet to be agreed.

Mr Moore added that staff were working to recover the duplicate payment that remained outstanding.

### **Area Partnerships**

Mr Allan reported that as part of the audit work the team had reviewed six project applications which had been considered by different Area Partnerships (APs). For four of these, the funding decisions had been made at AP meetings and in the remaining two cases, the decisions were made following e-mail correspondence. One of these had been considered by a sub-group and the sub-group's summary paper had been e-mailed to the partnership's members. In the last case, all documentation had been provided to members by e-mail. While Standing Orders allowed for alternative means, Mr Allan said he would prefer to see all significant decisions being taken at AP meetings.

Members raised questions around the issue of conflicts of interest, particularly where both bodies were involved in considering a project or planning application. Mr Allan referred to the guidance which was already available to Elected Members and indicated that it was a matter of personal judgement. He added that in the examples reviewed as part of the audit, it was the officers rather than the Elected Members who had had conflicts of interest and that Management had agreed to prepare appropriate guidance covering conflicts of interest. Mr Allan reiterated that AP members would require to use personal judgement when considering whether a conflict of interest arose, however where members had a personal interest in an application being considered, his view was that they should always err on the side of caution.

Angela Leitch, Chief Executive, stated that training and guidance on decision-making and conflicts of interest was provided to all Elected Members and particularly those who were members of the Planning Committee. She suggested that Elected Members who sat both on an Area Partnership and the Planning Committee should reserve judgement and avoid expressing views on applications before they were presented for consideration at the Committee.

Referring to the application process, Mr Allan pointed to one of the recommendations of the audit which required Area Partnerships to clearly demonstrate how projects might best meet local priorities and provide a clear rationale for their decision-making.

Mrs Leitch said that Area Partnerships needed to move to evidence-based decision-making. She acknowledged that many groups were passionate about particular projects but each partnership, as a body, should be objective. She also suggested that existing guidance to Elected Members could be enhanced.

The Convener thanked officers for the audit report. Referring to proposals for an informal review of the work of Area Partnerships, she said that any lessons which helped to build on previous successes would be welcome.

### **Purchase Cards**

Mr Allan advised that while there had been no examples of inappropriate expenditure found during the audit, there were several cases where staff should have used alternative purchasing options and a small number of cases where no receipts or invoices could be located. He explained that around 350 purchase cards had been issued across the Council, excluding school fund purchase cards, and in many cases there were good reasons for their use. However staff needed to ensure that cards were

only used where no other purchasing options existed. Mr Allan advised that the purchase cards guidelines stated that when procuring goods or services, employees should use Pecos or Council contracts in the first instance. Purchase cards were intended for ad-hoc or emergency purchases and in some cases could eliminate the need for petty cash. He confirmed that a number of important changes were currently being made to purchase cards and that these would help address some of the audit recommendations.

Ms Fortune advised that the Council consistently reviewed the number and use of purchase cards. This review process was now mandatory and managers were required to provide a robust business case for continued use of these cards. She also highlighted the forthcoming review of the Purchase to Pay system which would be likely to have additional implications for the future use of purchase cards.

Mr Allan then took the Committee through the findings in respect of Internal Audit's recommendations made in previously issued audit reports for five areas (Homelessness, Overtime, Complaints Handling Procedure, Council Tax Liability, and IT Access Controls). He informed Members that, in four of the five reports, all of the recommendations had been implemented. Of the 6 recommendations made following the audit on Council Tax Liability, 3 had been implemented and 3 partially implemented and revised completion dates had been provided.

Mr Allan also drew attention to the Internal Audit progress report for 2019/20 and advised that the team had also been completing work on the previous year's audit plan. He added that one audit remained outstanding from 2018/19 and that it, along with further audits from the 2019/20 plan, would be presented to the Committee's November meeting.

Gillian Woolman from Audit Scotland welcomed the comprehensive report from Internal Audit. She said that Audit Scotland relied on these assessments on the effectiveness of internal controls to support its own audit function and that the areas identified for review under the current audit plan would be built in to Audit Scotland's planning process for 2019/20.

Alex McCrorie, Depute Chief Executive, welcomed the comments from Ms Woolman and reiterated that the final outstanding audit report from 2018/19 would be presented at the next Committee meeting.

The Convener echoed the previous remarks stating that she always found the Internal Audit reports extremely useful.

## **Decision**

The Committee agreed to note:

- (i) the main findings and recommendations from Internal Audit reports issued during the period from July 2019 to September 2019;
- (ii) the findings from Internal Audit's follow-up work;
- (iii) Internal Audit's progress against the annual audit plan for 2019/20.

### **3. ANNUAL ACCOUNTS 2018/19**

A report was submitted by the Depute Chief Executive (Resources & People Services) providing the Committee with an update on the main changes arising during the audit of the draft financial statements, and asking the Committee to approve the now audited accounts for 2018-19.

Ms Fortune presented the report reminding Members that the draft accounts had been considered by Council in June and thereafter published for inspection, as required by statute. She highlighted the main changes which had been made following the audit of the financial statements and she thanked her own staff and the Audit Scotland team for their help in preparing the final accounts.

Ms Fortune responded to questions from Councillors Williamson and Mackie in relation to the Dr Bruce Fund. She advised that a review of all Common Good Funds and Trusts was currently underway and this would include consideration of the amount and purpose of awards granted and whether there was a more holistic way of managing these funds. She also confirmed that it was the trustees of the Dr Bruce Fund who made decisions on whether or not money was awarded.

Councillor Mackie indicated that as a Trustee of the Dr Bruce Fund she could not recall being asked to approve the awards in 2018/19. Mr McCrorie agreed to look into this and confirmed the award level was the same as that for 2017/18.

Ms Woolman suggested that she should now present her annual audit report to assist the Committee in approving the annual accounts.

### **4. ISA 260 LETTER FROM AUDIT SCOTLAND**

Ms Woolman presented Audit Scotland's letter to those charged with governance which outlined the findings of the audit of East Lothian Council's annual accounts for 2018/19.

She highlighted some of the key points including confirmation that the financial statements represented a 'true and fair view' and that she anticipated being able to issue an unqualified audit opinion, the significance of which should not be understated. She drew Members attention to the report for inclusion in the annual accounts and the draft letter of representation from the Council's Section 95 Officer. She then proceeded directly to the annual audit report.

### **5. EAST LoTHIAN COUNCIL 2018/19 ANNUAL AUDIT REPORT**

Ms Woolman presented Audit Scotland's annual audit report to Members for 2018/19.

She outlined the key messages in the report including sound financial management and positives in sustainability, governance and transparency and value for money. She then provided a detailed summary of the findings from the audit of the annual accounts drawing attention to areas of particular interest. She confirmed that the draft accounts were of a good standard and she expressed her appreciation for the support and access provided by Council staff which had helped to expedite the audit process.

Ms Woolman informed Members that overall the financial statements provided positive assurance and there were no issues of materiality to be reported. She drew attention

to the appendices which included the action plan of recommendations for improvement and a summary of significant audit risks identified during the planning stage. She concluded that the report had been prepared to give Members assurances of the audit work carried out and to support the Committee's consideration and approval of the annual accounts.

In response to questions from Councillor McLeod, Ms Woolman and her colleague Esther Scoburgh, provided further details of the work underway following the Best Value Assurance report published in November 2018 and explained the definition of 'non audit related services'.

Replying to further questions, Jim Lamond, Head of Council Resources, confirmed that all PFI contracts were kept under review. He added that he had always indicated his willingness to consider making changes to the current arrangements but this had to be balanced against other factors most notably a willing third party to the contract. Regarding the relationship between slippage and capital borrowing, Mr Lamond advised that impact of delays in capital projects was continually monitored as part of the quarterly financial review process but reminded Members that the Council could not borrow in advance of need and slippage did not necessarily mean surplus cash funds at year end.

Addressing the question of alternative budget proposals, Ms Woolman advised that she could only comment on the proposals that had been presented to Council.

Councillor Hoy queried the assessment of sustainability contained in the report and whether this was contradicted by the need for future cuts in services. Ms Woolman indicated that the assessment related to the financial management process and the financial profile of the Council. Mr Lamond acknowledged that the possibility of future cuts to services and financial sustainability seemed like a mixed message, however much would depend on the budget settlement put forward by the Scottish Government.

Replying to a question from the Convener, Ms Woolman acknowledged the significant work which had gone into the Local Development Plan, its supplementary guidance and a developer contribution framework. As one of the fastest growing local authority areas, East Lothian had been more active than most in this area.

The Convener thanked Ms Woolman for her very helpful report and invited the Members to note the contents of both Audit Scotland documents and to approve the recommendations in relation to the annual accounts.

## **Decision**

The Committee agreed to:

- i. note the contents of the ISA 260 letter from Audit Scotland;
- ii. note the contents of the annual audit report;
- iii. note the main changes to the annual accounts arising during the course of the audit; and
- iv. approve the 2018-19 audited accounts for the Council and its group components.

## **6. REPORT TO THE AUDIT & GOVERNANCE COMMITTEE OF EAST LOTHIAN COUNCIL BY LOTHIAN VALUATION JOINT BOARD**

Mr Graeme Strachan, Assessor for the Lothian Valuation Joint Board (LVJB), presented his report to Committee highlighting the main areas of change and issues faced by the LVJB.

He covered –several aspects of his report, including: the change from a five- to a three-year cycle of revaluation of the Valuation Role; changes to the Valuation Role appeals process; maintenance of the Electoral Register and online registration processes; costs associated with the Annual Household Canvass; young person’s registration; legislative change allowing foreign nationals legally resident in Scotland to vote in Local Government and Scottish Parliament elections, and Scottish referendums; the entitlement of Scottish prisoners serving sentences of under 12 months to vote; challenges caused by high volumes of applications and calls received in the days preceding a registration deadline; and the challenges associated with a property value-based Council Tax system.

In response to questions from Members, Mr Strachan confirmed that East Lothian’s registration levels were in proportion to other local authority areas and that the Scottish Government had plans to carry out a review of Council Tax valuation. He informed the Committee that the LVJB gave presentations on the Electoral Register in schools each year, although he noted that only three secondary schools within East Lothian had accommodated these presentations.

### **Decision**

The Committee agreed to note the report.

## **7. HOUSING ANNUAL ASSURANCE STATEMENT**

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) presenting the Housing Annual Assurance Statement for Committee approval.

James Coutts, Service Manager for Community Housing and Homelessness, highlighted the salient points in the report. He advised that the Scottish Housing Regulator’s (SHR) regulatory framework was revised in 2019, which placed a new requirement on all social landlords to submit an Annual Assurance Statement to the SHR each year. The Annual Assurance Statement would indicate whether the landlord was in compliance with all regulatory requirements and standards and would highlight any areas of material non-compliance and actions to address these. He advised that the brief statement would be made publically available once signed.

The Convener questioned the scope of the task should East Lothian Council be required to submit all evidence of compliance, for example for a Freedom of Information request. Mr Coutts advised that this would be a relatively simple task should any Elected Member or interested party wish to review the evidence.

### **Decision**

The Committee agreed to:

- i. note the new regulatory framework and the requirement for the Senior Internal Auditor to sign-off the Annual Assurance Statement on behalf of the Council; and
- ii. approve the Annual Assurance Statement (as detailed in Appendix 1 of the report), noting that East Lothian is fully compliant with regulatory requirements.

## **8. 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, outlined the salient points in his report. He advised that the Register included 1 Very High risk, 5 High risks, 19 Medium risks and 18 Low risks. He stated that in line with the Council's Risk Strategy only risks rated as 'Very High' and 'High' were reported to the Committee.

In response to questions from Councillor Williamson on Risk D1, Homelessness, Mr Coutts advised that approximately ten houses had been obtained on the open market this year, and that East Lothian Council would continue to find and purchase appropriate properties. In response to a further questions from Councillor Williamson, he advised that a flat-sharing model had been piloted between Queen Margaret University, the Rock Trust, and East Lothian Children's Services with care-experienced young people; he acknowledged that tenancy issues could arise if care was not taken to match tenants properly.

Replying to a question from Councillor McLeod, Mr Coutts stated that eviction was always a last resort, and was usually due to a tenant's wilful non-payment of rent and/or non-engagement with support.

The Convener questioned how much money was available to deliver the planned risk control measures for homelessness. Mr Coutts stated that resource allocation to support implementation of the 'Housing First' approach required by the Scottish Government fell substantially short of expectations. The Convener noted the seriousness of the situation and thanked officers for their work on producing the Risk Register.

### **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.



## **9. INFRASTRUCTURE RISK REGISTER**

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

Mr Kennedy presented the report noting that the risk register included 13 High risks, 46 Medium risks and 13 Low risks. He advised the Members that questions on the detail of the Register could be directed to Tom Reid, Head of Infrastructure.

In response to a question from Councillor Mackie regarding the future of kerbside collection, Mr Reid stated that East Lothian Council had a statutory obligation to provide kerbside collection. He advised that the Scottish Government's Deposit Return Scheme (DRS) for glass, steel, aluminium, and PET drinks containers would strip value assets from kerbside collection, which the Council sold to cover collection costs; models indicated that DRS could potentially have an adverse financial impact on the Council. Mr Reid advised that recycling boxes were still considered to be the most effective system, as they guaranteed high-quality capture. However, the impact of the DRS and future changes to the money claim back scheme for local authorities administered by the Scottish Government would require alterations to the Council's current collection arrangements.

Replying a question from Councillor McLeod, Mr. Reid advised that the issuance of a VEAT notice allowed the extension of the current kerbside collection contract beyond the original contracted period without the risk of legal challenge.

Responding to Councillor Dugdale, Mr Reid indicated that once the outcome of the modelling work on kerbside collection was known a report would be brought forward to Council or Cabinet. In his view, this modelling work would go some way to mitigating the risk outlined in the register.

The Convener noted that work from the Building Standards Team had been outsourced. Mr Reid explained that it had been challenging to draw staff to East Lothian Council and three members of the team had resigned within the last month to take up career development opportunities elsewhere.

Councillor Mackie commented on the breadth of issues covered by the Infrastructure Service and thanked Mr Reid for a very interesting summary of the key risks.

### **Decision**

The Committee agreed to note the Infrastructure Risk Register and in doing so, noted that:

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

## **10. SAFEGUARDING PUBLIC MONEY: ARE YOU GETTING IT RIGHT? (ACCOUNTS COMMISSION, APRIL 2019)**

A report was submitted by the Chief Executive to provide the Committee with an overview of the Accounts Commission report, *Safeguarding Public Money: Are You Getting it Right?*

Paolo Vestri, Service Manager - Corporate Policy & Improvement, highlighted the key messages in the report. Mr Vestri advised that the review of internal controls by Audit Scotland, presented at the previous Committee meeting, along with Service Risk Registers, provided a high level of assurance to Councillors. He also highlighted the section of the report dealing with the roles of Officers and Elected Members. He asserted that the Council's Internal Audit Service ably complied with the report's stated model of internal audit.

The Convener reflected on the scale and scope of the Accounts Commission's report. She was happy to review the Councillor Checklists and report back to Committee with any recommendations for further action.

### **Decision**

The Committee agreed:

- i. to note the position of East Lothian Council in regard to the key messages and recommendations in the Accounts Commission report, *Safeguarding Public Money: Are You Getting it Right?*;
- ii. that all Elected Members be issued with the Standards Commission's 'Advice Note on Distinguishing Between their Strategic Role and any Operational Work'; and
- iii. that the Chair of the Committee review the Councillor Checklists included in the report and report back to Committee with any recommendations for further action.

## **11. MUSSELBURGH RACING ASSOCIATED COMMITTEE**

A report was submitted by the General Manager of Musselburgh Racecourse providing commentary to the Committee on the 2018-19 Racecourse audit process. It also provided an update on performance to date and the likely financial position of the Musselburgh Racing Associated Committee (MRAC) after the conclusion of the tender process to appoint a third party to operate the Racecourse.

Bill Farnsworth, General Manager of Musselburgh Racecourse, presented the report. He provided a detailed summary of the findings of the audit process, commentary on the timing of the audit and the reasons for the delay to the final sign-off of the annual accounts and audit report.

Turning to the current financial position of the MRAC, Mr Farnsworth drew the Members attention to deficit of £49,600 as at 1 April 2019, the anticipated handover date to the third party operator and the forecast profit for the period 1 April to 15 October 2019 (handover date). He advised that the forecast figure could change depending on the level of media rights income for the period but that this would not be known until the financial year end. He also highlighted that an outstanding claim

against the MRAC which was due to go to Tribunal in November 2019 and this could impact on the financial position. He concluded by pointing out that very little discussion had taken place regarding possible mechanisms to off-set the deficit and, as yet, nothing had been agreed. The question of whether it was appropriate for all the legal fees to be changed to the MRAC was also outstanding.

In response to questions from Councillor McLeod, Mr McCrorie advised that discussions regarding the sale of equipment and other mechanisms for offsetting the deficit were taking place.

Mrs Leitch reminded Members that the procurement process was ongoing and suggested that detailed questions should wait until the conclusion of the process.

Replying to a further question, Mr McCrorie confirmed that there was no cap on the cost of the procurement process. He referred to the Chief Executive's remarks but added that the one-off costs were reflected in the annual accounts which were subject to review by the racecourse auditors, Scott-Moncrieff.

The Convener agreed with the need to be aware of sensitivities during the procurement process. However, she felt that this was an important matter and she looked forward to receiving a further update later in the year.

Mr Farnsworth said it remained unclear to him where the ultimate responsibility lay for the financial position of the Racecourse. He noted that while the MRAC was not part of the Council, it was part of the Council's accounts.

Mrs Leitch advised that as Chief Executive she was responsible for the finances of the Council.

## **Decision**

The Committee agreed to:

- i. note the update on the audit process; and
- ii. note the likely financial position of the MRAC after the conclusion of the tender process to appoint a third party to operate the Racecourse.

Signed .....

Councillor Jane Henderson  
Convener of the Audit and Governance Committee