

Minute of Meeting



Audit Committee

Date	Time	Venue
Tuesday 22 June 2021	11.00 am	Virtual Meeting by MS Teams

Present:

Mike Ramsay (Independent Chair)
Councillor Cassidy
Councillor Milligan
Councillor Muirhead
Councillor Hardie
Councillor Smaill
Councillor Parry
Peter de Vink (Independent Member)

In attendance:

Grace Vickers	Chief Executive
Kevin Anderson	Executive Director Place
Fiona Robertson	Executive Director Children, Young People and Partnerships
Gary Fairley	Chief Officer Corporate Solutions
Derek Oliver	Chief Officer Place
Jill Stacey	Chief Internal Auditor
Stephen Reid	External Auditor, E.Y.
Grace Scanlin	External Auditor, E.Y.
Alan Turpie	Legal Services Manager
David Gladwin	Finance Manager
Saty Kaur	Executive Business Manager, Place Directorate
Myra Forsyth	Continuous Improvement Manager
Janet Ritchie	Democratic Services Officer

1. Welcome and Apology

The Chair, Mike Ramsay welcomed everyone to the meeting.

2. Order of Business

The order of business was as per the agenda previously circulated.

3. Declarations of interest

No declarations of interest were received.

4. Minutes of Previous Meetings

- 4.1 The Committee, on a proposal by Councillor Muirhead, seconded by Councillor Smaill, approved the minute of the meeting of 4 May 2021 as a correct record.

Councillor Smaill highlighted a matter arising from the previous minute with regards to Item 5.3 where a discussion took place regarding Hillend and if the Audit Committee had a role in appraising this. After a brief update from Jill Stacey regarding a piece of work around capital investments within the Audit Plan and if there were any areas of concern that the Audit Committee Members had this could be incorporated within the Audit scope and reported back to the Audit Committee. Councillor Smaill agreed to meet with Jill Stacey to discuss this further.

Mr Anderson also confirmed that the projects will be presented in a report to the Council meeting for consideration next week and within that paper it defines the range of risks on an individual element and the programme itself and the discipline in terms of the gateway review process. He further advised that the paper also referenced that any material change beyond the cyclical reporting to Council would be brought forward for Member's information and any particular interest for the Audit Committee would be submitted accordingly.

The note of the Treasury Briefing held on 17 February 2021 was presented as an appendix to the minute for information. Jill Stacey highlighted a typo in the spelling of her name and it was agreed that this would be amended.

- 4.2 The Action log was submitted and the following noted:

- 1) 'Internal Audit Annual Assurance Report: 2019/20 - Risk Management Policy and Strategy: The Chair highlighted that at the last meeting it was indicated that the Risk Policy and Strategy would be presented to this meeting. Mr Oliver advised that the Quarter 4 report was presented to this meeting and provided an update to the Committee on the reasons why this paper was not presented today. Mr Oliver advised the committee on the formal review of Place Services and that within this review there will be the creation of Protective Services of which integrated risk management will form part of. He therefore suggested that the revised Policy and Strategy is brought back later this year once Protective services structure is in place.

Jill also indicated that the Internal Audit Review which will be presented to the next meeting of the Audit Committee makes reference to the Risk Management Policy and Strategy.

Mr Oliver also highlighted that with regards to Risk Management nothing had changed and that he was responsible for this. He also briefly provided the Committee on a draft timeline for the creation of Protective Services and that this would be a priority for this service therefore it was agreed that this would be presented to the December Audit Committee.

- 2) 'Annual Governance Statement 2019/20 – Financial Improvement Updates': Completed
- 3) Financial Reports – Council Meeting: Completed for this quarter. Ongoing.
- 4) Internal Audit Recommendations: Ongoing – to be presented in September 2021.
- 5) Treasury Management: EY to provide a report on Treasury Management - This item is on today's Agenda
- 6) February Briefing on Treasury Management - Note of the formal briefing to be circulated to members of the Audit Committee: completed.
- 7) Report on reconciliation of Social Housing work in progress and completions – Report to be circulated to Members of the Audit Committee when completed – Mr Smaill provided brief update and it was agreed this item would be carried forward: September 2021
- 8) Property Maintenance - BTSG report to be circulated to Members of the Audit Committee when completed – Mr Anderson provided a brief update and it was agreed this item would be carried forward: September 2021
- 9) Council House Building programme update – Report which will be presented to Council on 11 May 2021 to be circulated to Independent Members of the Audit Committee: Completed

5. Public Reports

Report No.	Report Title	Presented by:
5.1	Risk Management update Quarter 4 2020/21	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report was to provide Audit Committee with an update on the risk responses Midlothian Council has implemented during quarter 4 2020/21 to respond to the current risk climate; and to provide assurance that Midlothian Council took a proportionate and planned approach to prepare and respond to each of the identified risks.</p> <p>The report provides an overview of the significant risks faced by the Council during quarter 4 2020/21 and should act to provide assurance that Midlothian Council took a proportionate and planned approach to prepare and respond to each of these risks.</p>		

Derek Oliver presented this report highlighting the main sections contained within the report and in responding to various questions and comments he advised that:

- With regards to the EU exit it was difficult to isolate specific EU exit impacts, however organisationally some information has been received from Scotland Excel with regards to some supplies and materials there may be price increases which will have a resulting impact on project costs. Although there has been nothing directly at this point this is definitely an emerging risk and anything which will have a Budget impact will be passed to the Finance Team. He also confirmed that this could also have a potential impact on Housing costs but reiterated that this may not just be EU exit related
- With regards to Settled Status various forms of literature has been prepared and sent out both internally and externally. He further advised that HR have ensured that the workforce are aware of the deadline for this and the message has been pushed through the third sector for the wider community.

In response to a question regarding the Child Abuse enquiry Gary Fairley provided a quick overview of the current position advising that the Government in partnership with COSLA have the redress scheme and discussions are ongoing in terms of local government's contribution to that. He further advised that the 2017 Act removed the time limit which means that Midlothian have 8 ongoing cases on and these are at different stages so the extent of any liability is still unknown. In terms of financial this sits as a contingent liability on the Council's Account.

Mr Oliver then responded to questions regarding the pandemic risk advising that although the Pandemic risk was not necessarily on the list of risks there are other public health impacts covered with civil contingencies. In terms of COVID this was not listed but epidemics and endemics were and elements of control emergency plans were in place. With regards to a pandemic happening again a Pandemic Response plan is in place and is regularly being reviewed should there be a future pandemic of any variant. He further advised that the Council has to be responsive to the workforce and that pandemic response plans will ensure the risk is mitigated as much as possible. He further advised that the IJB also have identified risks for their workforce and that the ownership would have to be a collective response both the Council and the IJB.

The Chair stated that the Risk Strategy due later in the year would provide further clarity on identifying the ownership of risks.

Decision

The Audit Committee noted the current risk landscape and organisational response to the most significant risks in quarter 4 2020/21.

Report No.	Report Title	Presented by:
5.2	Counter Fraud Annual Report 2020/21	Executive Director Place
Outline of report and summary of discussion		
The purpose of this report was to make the Audit Committee aware of the Council's counter fraud responsibilities and the activities of the Integrity Group and Corporate Fraud team over the past year as part of the arrangements to tackling fraud at the Council.		

Having robust fraud prevention and investigation arrangements in place contributes to safeguarding the Council's resources for delivery of services, as part of protecting the public purse. A focus on enhancing fraud prevention and detection to improve Midlothian Council's resilience to the risk of fraud, theft, corruption and crime, and ensure these are embedded preventative practices, are specific changes associated with the Counter Fraud Strategy approved by Council on 25 August 2020. Assurances about the effectiveness of the Council's existing systems and arrangements for tackling fraud can be taken from the outcomes contained within this report.

Kevin Anderson presented this report highlighting the main sections contained within the report. In responding to questions raised Kevin Anderson and Jill Stacey provided clarification with regards the aspects of fraud in relation to funding provided to businesses and it was noted that there are incidences of fraud across the country and that Edinburgh Council administer these funds on behalf of Midlothian Council. Any cases of fraud have been reported to Police Scotland for recovery. In addition Audit Scotland oversee the national fraud and that data matches are ongoing to review potential frauds which is also monitored by the Council's new Integrity Group on a monthly basis. A report will be presented to the Audit Committee next year on the conclusion of the National Fraud Initiative exercise. It was also noted that a key message is that Midlothian Council have robust preventative measures and investigation arrangement in place to address counter fraud activity.

Also raised was the write off of non-domestic rates and Gary Fairley advised that this is not fraudulent loss but rates not recovered, he further advised that to address the wider issue which has been raised by Members at Cabinet it was agreed that a briefing would be arranged in conjunction with Edinburgh Council to highlight what happens and what is open to the Council to address this. This has not been arranged due to Edinburgh Council managing the administration of Business Grants and Strategic Grants on behalf of the Government but the intention is that this will still be arranged. Further discussion took place regarding this issue and it was acknowledged this was not just with licensing but with the ownership of these buildings and the Members highlighted that this is an ongoing issue.

Decision

The Audit Committee noted:

- a) The counter fraud work undertaken during the year to 31 March 2021 in support of the Council's counter fraud policy and strategy; and
- b) The outcomes of the counter fraud activity 2020/21.

Report No.	Report Title	Presented by:
5.3	Draft Annual Governance Statement 2020/21	Chief Executive
Outline of presentation and summary of discussion		
The purpose of this report was to propose that the Audit Committee considered and approved the draft Annual Governance Statement that would be published in the Council's Statement of Accounts 2020/21.		

Midlothian Council is responsible for ensuring that its business was conducted in accordance with the law and proper standards, and that public money was safeguarded and properly accounted for, and used economically, efficiently and effectively.

The Chief Executive presented this Report to the Committee and outlined the three recommendations detailed in the Report.

Decision

The Audit Committee :

- a) Considered the details of the draft Annual Governance Statement 2020/21 at Appendix 1 to ensure it reflected the risk environment and governance in place to achieve objectives, and acknowledge the actions identified by Management to improve internal controls and governance arrangements;
- b) Approved that it be published in the Council's Statement of Accounts 2020/21, noting the requirement for the final Annual Governance Statement to be signed by the Chief Executive and Leader of the Council at the conclusion of the external audit process; and
- c) Noted that from March 2020 the Council have been managing the response to the Covid-19 Pandemic which resulted in two "lockdown" periods during the course of 2020/21.

Action

Chief Executive/Leader of the Council

Report No.	Report Title	Presented by:
5.4	Wider Scope Review of Treasury Management	EY, External Auditors
Outline of presentation and summary of discussion		
<p>This report has been prepared as part of the response to the annual wider scope risk assessment process. External auditors in the public sector have a wider remit under the Code of Audit Practice, than those in the private sector, including aspects of governance and financial management.</p> <p>The Focus of the review was the increased attention and scrutiny of treasury management, along with specific concerns expressed by members of the Audit Committee which led to the consideration of treasury management as an area of increased focus as part of the wider scope audit procedures in 2020/21.</p> <p>The report summarised the finding of the review, which focused on whether the Council's Treasury Management and Investment Strategy was in line with the principles of key guidance from CIPFA and whether the Council demonstrated that strategies had been applied in practice. Also considered was the quality and completeness of treasury management reporting to management, Audit Committee and the Council against the requirements established in the guidance.</p>		

In presenting this report to the Committee Stephen Reid highlighted the main focus of the review and advised that there were 4 recommendations as a result of the review, three graded priority 2 and one graded priority 3.

Grace Scanlin then provided the committee with some key aspects contained within the report and further details with regards to the four recommendations.

Thereafter there followed a lengthy discussion and questions raised by the Committee

Councillor Milligan welcomed this report and made several comments in particular about the good work of Officers and highlighted that these Officers had not lost money for the Council they had in fact achieved a good revenue income back to the Council and asked for confirmation from Stephen Reid that the External Auditors agreed that Officers followed the guidance laid down by Council and the Audit Committee.

Stephen Reid confirmed that that there were no significant findings or high risk areas identified from the review although there are areas for enhancement but also highlighted that this was only one source of evidence and that the Committee also received the Internal Audit Report which also did not raise any significant findings or areas of high risk to bring to the Committee's attention.

Councillor Milligan then quoted a comment contained within the report 'The Council has historically managed to achieve one of the lowest weighted average borrowing rates when compared to other Scottish local authorities. The loans fund rate for the Council in 2020/21 is estimated to be 3.1%, against the 2019/20 weighted average across the sector of 3.7%.' He asked Mr Reid for an explanation as to why this comment was important and also if he could confirm that Treasury Management was managed by Midlothian Council Officers and that for at least the 10 years have been one of the best or second best performing area in Scotland.

In response Mr Reid advised that throughout the time he has been External Auditor there has been no significant findings raised with regards to the treasury management function of the Council.

In a further response to Councillor Milligan's comments Gary Fairley referred to the next item on the agenda, the Annual Treasury Management Outturn Report 2020/21 which highlights the weighted average borrowing and that this is a recognised benchmark across the sector in Scotland. He also confirmed that Midlothian has been either the highest or second highest performer during his time as Section 95 Officer. He then went on to provide some clarity on the financing of the investment of the Council's capital estate and with the level of performance this has resulted in a cash savings of £1.8 million which means the impact of capital investment on the Council's revenue budget and the housing revenue account are eased.

The Chief Executive commented that the statement 'weighted average borrowing' means that there is a greater return on the investments and the investments are relatively low risk so the return highlighted by Mr Fairley means that this return can be invested back into services. She further highlighted that this is good news in terms of the performance of the treasury management team.

Councillor Smaill also welcomed the recommendations in the report and commented on the borrowing and the savings we make. He also stated that there had been some debate as to who was responsible for the choice of our counterparties but this report makes it clear that it is the Section 95 Officer who is responsible for this. Councillor Smaill then advised on the reasons why he felt Midlothian Council should not have been associated with Croyden Council but acknowledged that we can move forward with the additional strengthening suggested by Ernest Young but to which the Audit letter should be added as discussed at the Briefing which is a public document and should also be reviewed by the Audit Committee.

Mr de Vink commented that it was stated for 10 years the treasury management was hugely successful but in his opinion for 10 years the Council has taken outrageous risks. He further stated that since joining the Audit Committee he has been highlighting the risk of being involved with deposits in Councils which are not respectable or are a financial or political risk. He then highlighted that Croyden could have been as bad as the Western Isles and the Council was very lucky in this situation, he felt that there should be a rule that we do not get involved in deposits with another council and should only be involved in instruments recognised by all careful financial institutions.

The Chief Executive expressed her thanks to the Treasury Management team on their performance as outlined by Councillor Milligan over a number of years has been excellent so wished to pass on her thanks to the team.

Councillor Milligan endorsed the comments by the Chief Executive and that the Audit Committee should send a ringing endorsement to this team who have done excellent work over the last 10 years. He further advised that as a Councillor he relies on the Finance Team to advise, Auditors to check and counter balance and External Auditors to supplement this and there is nothing in this report that does not support a ringing endorsement to the treasury management team. He further emphasised that if other services were performing at this level this would be celebrated therefore the work this team has done over the last 10 years should be acknowledged with a ringing endorsement.

Councillor Muirhead also agreed with the endorsement of the treasury management team and that they have performed extremely well over a number of years and deserve the Audit Committee's congratulations.

Councillor Smaill emphasised that what was said should not be misunderstood and that we must be able to show that we have the strongest controls when we make deposits so the Ernest Young recommendations will allow us to strengthen our appeal to the market by augmenting our creditability. He also congratulated those involved and endorsed the recommendations.

The Chair advised that he would like other Councillors to comment as there were two Councillors who were making a ringing endorsement to the treasury management team and the results had been impressive over the last few years however but he did not read EY report as a ringing endorsement. He further stated that once the Audit Committee asked questions in December about the Croyden decision making process and whether the Auditors report had been taken into account at that time. Council Officers supplied a draft investment checklist after this which would be used in future to capture due diligence but he stated this was

clearly not used with regards to the Croyden decision and as stated in this report that the checklist would be completed retrospectively for deposits placed in 2020.

The Chair stated that when he reviewed the Croyden reports which were available in 2019, the auditors wrote *'on the basis of the significance of matters identified with your levels of reserves and the matters relating to Children's services raised by Ofsted we are not satisfied that the Council has made proper arrangements to secure economy, efficiency and effectiveness in use of resources we therefore propose to give a qualified adverse conclusion'*. He then advised that nowhere in these checklists is there any reflection of Croyden Council's Auditors comments which was public information in March 2020 and this was not taken into account in the decision making process.

He acknowledged that the Council has achieved good results the question that this report highlights to him is that due diligence was not fully functional at that time and if the Government had not bailed out Croyden we may have been in a different situation. He then raised the question of when the interest payments from Croyden were due to be paid and advised if these were paid in April this year we can then accept some assurance but if this is not paid until maturity it will not be known if money has been lost or not on this decision.

The Chair then commented that the overall treasury management results that have been achieved over previous years and as stated by the Chief Executive and other Members of the Committee contributed towards the provision of services in Midlothian. He then advised that his concern with this report was that it highlights that these were achieved but without the necessarily following all the treasury management practice guidelines in particular TMP3, in recording the decision making process at the time. He also stated that the payment mechanisms require two senior officials to sign off payments over £50,000 and the payment of £30,000 was transferred to Croyden which would be signed off by Section 95 Officer and another senior officer so acknowledged some kind of due diligence was done but does require some improvement.

He further advised that he did not agree with a ringing endorsement but would endorse what has been achieved so far but stated that these results need to be achieved by doing the work properly.

Mr de Vink stated that it is the risk aspect that is important and even although the Council has had a fantastic 10 year record, if the risk is such that it could make the Council the worst and it is not worth taking the risk.

Mr Fairley in responding to some of the questions and comments raised advised that the interest due from Croyden was paid in full on the anniversary of the loan which brought to the Council an income of £240,000 advising that this was the per annum figure and over the 2½ yr term of the loan is around £601,000 income.

He then responded to the comments regarding the due diligence carried out and the status of this and advised that as the Section 95 Officer he was comfortable with the due diligence that was carried out by himself and the team. He also reiterated that the internal local authority lending market is well established and as set out in the treasury management strategy the status of those deposits is UK government backed. Mr Fairley advised that the activity that took place in April 2020 refinanced deposits that the Council had with a number of financial

institutions and shifted those deposits over to the internal local authority market again bringing the security of the UK Government

Mr Fairley then stated that clearly there are a number risks around treasury management and the inter authority loan that the Council has brings the return with an interest rate of 1.85% and while there are other alternatives that the Audit Committee could recommend to Council for example place the surplus funds within the debit management office of UK Government but over the last year they have been charging to deposit funds and this would have an significant impact on the Council's revenue budget.

Councillor Smaill commented that we have to borrow to make these deposits and we are still left with the question of reputational risk to the Council and advised on the 4 occasions where reputational risk to the Council has occurred. He stated that beyond the financial consideration there is the question of the ethics of going to any entity including a local authority who does not have adequate corporate governance standards.

Councillor Cassidy welcomed the questions and comments with regards to due diligence and stated that if we were not carrying this out we would be neglecting our duty as an Audit Committee.

Councillor Milligan also advised that he welcomed the questions raised and in reference to a point raised by the chair regarding the risk to treasury management which is managed by professionals and he further stated that as he is not qualified in financial management he takes advice from those professionals. He further went on to say irrespective if there are some short comings in the way this was dealt with he asked the question again to Stephen Reid *'Did Council Officers carry out their treasury activity in accordance with the Strategy approved by Council and endorsed by this Audit Committee or have they shifted away from this?'*

Stephen Reid repeated what he said earlier and what is reflected in the report which has been presented today in that they identified 3 priority 2 and 1 priority 3 and no priority 1 recommendations. The definition of that priority rating is provided in the report so hence there is no significant findings that has been identified in the scope of the work that has been undertaken to date. He further advised that during the term of his appointment at External Auditor there has been no significant findings identified or reported in respect of treasury management.

Mr Reid in providing clarity on his role and the role of the Audit Committee advised that there are two elements and it was important for the Audit Committee to focus on these, the Treasury Management Strategy and procedures which Officers execute against and those are key governance documents which are subject to review and consideration on periodic basis and then approval by Council. He further stated that the Council ultimately approves the policy and that today the discussion has drifted into what is appropriate investments or borrowing and those are questions which are fundamentally for Council to make a decision on and not one that External Auditors would make a comment on. Mr Reid further advised that his responsibility was commenting on the governance arrangements and it was an important distinction that the Audit Committee needed to consider in fully discharging its governance role in going forward.

Councillor Smaill raised a point for noting with regards to the position of Link and that this was not part of competitive tendering and felt this was not a good example to set to other parts of the Council where it is very important that we stick to the schedule of competitive tenders and also exceptional circumstances one single appropriate supplier.

Decision

The Audit Committee endorsed the recommendations as set out in the report:

Report No.	Report Title	Presented by:
5.5	Annual Treasury Management Outturn Report 2020/21	Chief Officer Corporate Solutions
Outline of presentation and summary of discussion		
<p>The purpose of the report was to inform members of the Audit Committee of the Treasury Management activity undertaken in 2020/21 and the year-end position.</p> <p>The Code recommends that Treasury reports are presented to and scrutinised by Audit Committee in advance of being considered by Council.</p> <p>The report was being presented to Audit Committee on 22 June 2021 and subsequently to Council, and will be updated to reflect any comments that the Audit Committee have.</p> <p>Mr Fairley in presenting this report highlighted the main points arising from treasury activity in 2020/21. In conclusion Mr Fairley advised that the cost of borrowing was being maintained and a better than average return on deposits had been achieved and Midlothian continues to perform above the Link model benchmarks.</p> <p>The Chair commented on how well the team have done on getting the average rate of borrowing to an extremely low level and thereafter asked members for any questions with regards to this report.</p> <p>Mr Fairley in responding to a questions regarding borrowing, deposits and the carry cost he advised that the strategy is to cash back reserves and to secure long term external borrowing to fund the asset base. He then gave an example if they had taken the loan in April this year but left it to now then the rate would have been higher which would have resulted an additional cost on the life time of the loan.</p> <p>Councillor Smaill further asked for an explanation on the carry cost and the Chair explained that the carry cost is the difference in rates from borrowing and deposits.</p> <p>Mr Fairley provided an explanation advising that if we borrowed long term before we spent money to pay contractors then we would have cost of carry but he highlighted the Council is under borrowed so it is the opposite position as not enough has been borrowed to fund the capital investment long term so do not have a cost of carry.</p>		

In responding to a question from the Chair on clarity of not borrowing more than we need Mr Fairley advised that deposits with other local authorities and financial institutions are the cash reserves that the Council has.

Mr de Vink asked for clarity on the significant investment in Hillend Ski slope and it was explained that this was on the Agenda for the Council on 29 June 2021 and that the full Council may remit elements to the Audit Committee if appropriate.

In responding to a point raised by Councillor Smaill with regards to the various projects and any issues which may arise Mr Fairley confirmed that was a very important point and the General Services Capital Plan report which will be presented to Council on 29 June 2021 and sets out the position clearly against the original plans. He further advised that there will be the quarterly monitoring reports on the general services capital plan and that work was ongoing with the two new development officers on how these can be enhanced.

Decision

The Audit Committee noted the Annual Treasury Management Report 2020/21.

Action

Chief Officer Corporate Solutions

Report No.	Report Title	Presented by:
5.6	Unaudited Financial Statements 2020/21	Chief Officer Corporate Solution
Outline of presentation and summary of discussion		
The Financial Statements are expected to be concluded around the 30 June 2021 therefore it was agreed that a further Audit Committee would be arranged prior to the end of August 2021.		
Decision		
Democratic Services would arrange a further Audit Committee to consider the unaudited Financial Statements prior to the end of August.		
Action		
Democratic Services		

6. Private Reports

No private reports were submitted.

7. Date of Next Meeting

The next scheduled meeting will be held on Tuesday 28 September 2021 at 11.00 am

The meeting terminated at 12.57 pm.