

Minute of Meeting



Audit Committee

Date	Time	Venue
Tuesday 17 August 2021	11.00am	MS Team – Virtual Meeting

Present:

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

In attendance:

Grace Vickers	Chief Executive
Alan Turpie	Legal Services Manager/Monitoring Officer
Kevin Anderson	Executive Director Place
Morag Barrow	Joint Director Health and Social Care
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
Myra Forsyth	Quality and Scrutiny Manager
Saty Kaur	Executive Business Manager, Resources
Grace Scanlin	External Auditor, E.Y. (part meeting)
Janet R Ritchie	Democratic Services Officer

1. Welcome and Apologies

The Chair, Mike Ramsay welcomed everyone to the meeting. Apologies were received from Councillor Hardie.

2. Order of Business

Order of business as outlined in the Agenda.

3. Declarations of interest

No declarations of interest were received.

4. Minutes of Previous Meetings

- 4.1 The minute of the meeting of 22 June 2021 was submitted and approved as a correct record having been proposed by Councillor Milligan, seconded by Councillor Muirhead subject to the comments detailed below:

Mr de Vink and the Chair raised the following amendments

With reference to Item 5.4 'Wider Scope Review of Treasury Management' (Page 9, paragraph 6) should read 'managed to achieve **one** of the lowest'

The Chair also highlighted the correct spelling for **Croydon** and with reference to Item 5.4 'Wider Scope Review of Treasury Management' (P11 paragraph 3) reference to the payment of £30,000 transferred to Croydon should read payment of **£13m**.

4.2 Matters Arising:

Councillor Smaill commented on a press release issued by the Council which stated that the yield from the Croydon deposits would pay for 10 Teaching assistants. He commented that this ignored the fact that there will be a cost of carry and therefore there cannot be a benefit of this nature because the Council have considerably more debt than money on deposit. He indicated that he felt firstly, that it was improper to issue this press release prior to the consideration of the Ernest Young report by the relevant bodies within Midlothian Council and secondly that it was misleading to the public.

Mr Fairley responded and advised that the Treasury Management Strategy approved by Council was to cash back the Council reserves, that the Council was not borrowing in advance of need or to invest and so there was no cost of carry. Mr Fairley also advised that the Council was actually in an under borrowed position, i.e, it had not secured the full borrowing to finance its capital financing requirement.

Councillor Smaill further debated that the £13m was part of the overall Treasury strategy which involves paying interest on external borrowing at the average

rate of 3.1% but in the case of Croydon the interest rate received on the deposit was 1.85% and that he did not agree with Section 95 officer's response.

Councillor Cassidy stated that he agreed that what Councillor Smaill said was correct and that the statement going out to the public was premature.

Councillor Parry noted that the day before this meeting Croydon had a full Council meeting and it was revealed that they had £310m in lost business rates. She commented that early concerns should have been brought back to this Committee and also raised concerns regarding the statement that had been issued to the public. Councillor Parry then asked if any of the recent developments were a concern to the Council and also that she felt they were not receiving full and frank information as Councillors or as Audit Committee members.

The Chair highlighted that there had been a lengthy debate on this topic at the last meeting and it is not appropriate to reopen these discussion again although he did acknowledge this did not take into account the press release.

Councillor Cassidy then raised the comment from EY with regards to the checklist completed retrospectively and asked if this is normal practice. In response Mr Fairley advised that with regards to normal practice that he understood that other local authorities do utilise such checklists and indeed that the Council had been approached by other Councils with a view to adopting our practice. He confirmed that that the appropriate checks had been carried out at the time and that the checklist now provided a means to formally record these. He also advised that in respect of the deposit place with Croydon there was no reason to suggest that that Croydon would not meet their obligations to Midlothian in full.

There followed a lengthy discussion on the deposit placed with Croydon.

Mr Fairley reiterated that the Treasury Management Strategy within which Officers operated was endorsed by this Committee and approved by Council. He also reiterated that because the Council was under borrowed, ie it has not secured the external borrowing to fully fund its capital financing requirement, that there was no cost of carry in respect of any borrowing.

It was also noted that if the Committee did not agree with the strategy when it considered it in January 2021 that there had been the opportunity to propose amendments before it was considered and approved by Council. It was also noted that Midlothian was recognised as one of the top performing Council in Scotland for Treasury Management.

In seeking to move on with the remainder of the agenda, the Chair advised that the Committee would have the opportunity to make recommendations to Council when it considers the Treasury Management Strategy for 2021/22 and noted that Officers were operating within the terms of the current Strategy endorsed by Audit Committee and approved by Council

4.2 The Action log was submitted and the following noted:

- 1) 'Internal Audit Annual Assurance Report– Risk Management Policy and Strategy': December 2021
- 2) Annual Governance Statement 2020/21 – Financial Improvement Updates: Completed
- 3) Financial Reports – Council Meeting: August 2021
- 4) Internal Audit Recommendations: September 2021
- 5) Treasury Management: Completed
- 6) February Briefing on Treasury Management: Completed
- 7) Report on reconciliation of Social Housing work in progress and completions: September 2021
- 8) Property Maintenance: TBC
- 9) Council House Building Programme– Completed.

5. Public Reports

Report No.	Report Title	Presented by:
5.1	Audit Committee Annual Report 2020/21	Chair of Audit Committee
Outline of report and summary of discussion		
<p>The Chair in presenting this report advised this was normally produced in June and that it was a summary of what has been before the Audit Committee during the year and was for a matter of record rather than for discussion. He further advised that this followed on from Self-assessment in May 2021 which referred to improvements identified and activities to improve effectiveness. He further provided some key highlights from the report and the appendices attached.</p> <p>He then asked Members if they have any comments prior this being presented to Council at the October meeting.</p> <p>Mr de Vink commented that the report was detailed and impressive and that never in the past has he seen a Chairman being so extensive in the report produced. He further commented that it raised a lot of very important issues.</p> <p>The Chair thanked Mr de Vink for his comments and confirmed that the Jill Stacey provides most of the details contained within the report.</p> <p>The Chief Executive then referred to three items as a way of an update for Members. Firstly she was pleased that there was a focus on strategic risk management and can update this committee that there is a paper being presented</p>		

to next meeting of Council to request a Seminar on assess strategic risk including legislative change, climate change, cyber security and future pandemic planning.

In terms of the second last paragraph in the report the Chief Executive confirmed that audit matters are a standing item on Corporate Management Team agenda and are therefore discussed and monitored fortnightly by senior officers and confirmed that the Chief Internal Auditor attended the Corporate Management Team (CMT) meetings. The Chief Executive then advised that at the meeting of CMT last week discussion took place regarding five outstanding audit actions from the previous year and confirmed that since then one has now been signed off and for the four others Officers are currently working on these and gave assurances to the Audit committee that the actions are taken seriously and even with the restrictions due to the pandemic the vast majority of these have been progressed. The Chief Executive then confirmed that two Business Managers had been appointed to the two directorates who will assist in the proactive management of the audit actions.

The Chief Executive advised with regards to the last paragraph in the report this is a matter governed by Standing Orders.

Councillor Cassidy echoed Mr de Vink comments regarding the Chairs efforts and commitment to this committee in the last four years has been exemplary. He then highlighted the last paragraph on P26 with regards to compliance with CIPFA guidance noting that there are two Cabinet members on this committee.

The Chair advised that this had been raised during the self-assessment and the guidance suggested that Audit Committee membership should not include the Executive. He further advised that this has been commented in previous years though noted that it is very hard to avoid in a small Council.

Jill Stacey in response to Councillor Cassidy's comments referred to Appendix 2 (P30) and highlighted that the good practice guidance stated that the make-up of the committee should have separation from the Executive. She further advised that membership of Midlothian Council's Audit Committee was compliant with the Council's scheme of administration and that with the two independent members this balances the Committee and ensures the independent scrutiny function.

Cllr Parry also thanked the Chair for his time on the Committee and also for this report. She then asked what preparations are being made to recruit new Councillors with a focus of recruiting Councillors for underrepresented groups.

The Chief Executive advised that financial matters are determined at Council level rather than Cabinet and that is an important distinction to take into account. The Chief Executive in response to Councillors Parry's comments advised that she was happy to have conversations with the groups and group leaders to outline the preparations which are ongoing for the local government elections in May 2021 and provide regular updates to them.

Councillor Milligan reiterated that the Council financial reports are all considered at Council and that budgets have been set by Council on the recommendations of the Business Transformation Steering Group. Councillor Milligan added that part of the

remit of the Audit Committee was to give assurance across the Council activities including that the Internal audit function was effective. He observed that if Jill Stacey is preparing the Chairs report, that this didn't seem right. He also commented that with 18 Elected Members if you remove the members of the Cabinet from the membership there may not be enough Members to fill the function of an Audit Committee.

The Chair then provided clarity on his report stating that Internal Audit had provided the details regarding the minutes and the work of the Audit Committee but the comments and recommendations are his as chair and reflect what he has picked up from the discussions and concerns from the Audit Committee during the year. He further stated that the work from internal audit supported the report to the Council.

The Chair then responded to a further question from Councillor Cassidy with regards to the separation of the Audit Committee and the Executive and referenced the challenges of securing this in a small Council.

Jill Stacey confirmed that the intention was to present the Chair's report to the Council meeting scheduled on 5 October 2021. Jill Stacey further advised that there was one slight change to the report which was a link to an action in Annual Government Statement presented to this committee in June 2021 that made references around the progress in terms of Elected Members and their profession development plans. . One suggestion would it be if appropriate to rename informal session as development session which would better reflect the purpose of these sessions and enhance the committee going forward. It was noted that this would be taken offline and discussed further at the next session.

There followed further discussion and it was agreed there would be no changes during this term of Council and that this recommendation was a matter for the Standing Orders Working Group and ultimately the New Council elected in May 2022.

Decision

The Audit Committee approved the Audit Committee Annual Report 2020/21 (Appendix 1) and its self-assessments using the CIPFA Audit Committees Guidance (Appendices 2 and 3), and agreed that the Audit Committee Annual Report 2020/21 should be presented to the Council.

Action

Democratic Services

Report No.	Report Title	Presented by:
5.2	Midlothian Council Unaudited Financial Statements 2010/21	Chief Officer Corporate Solutions
Outline of report and summary of discussion		
The purpose of this report was to present the Council's unaudited annual accounts for 2020/21 to Audit Committee and to provide a brief overview on some of the key		

areas. A separate presentation was provided by the Chief Officer Corporate Solutions to Committee to support consideration of this report and the accounts themselves.

In presenting the Accounts, Mr Fairley outlined some of the key highlights detailed within the report, the regulations and timescales for the preparation and the scrutiny of the Accounts. The presentation covered a number of the key points from the accounts. He further advised that the draft audited accounts were scheduled to be presented to the Audit Committee in September and that the Audit was progressing well.

On a question from the Chair regarding the September meeting Mr Fairley confirmed that although the deadline for completion of the audit was 31 October 2021 he still expected to complete for the September meeting. The External Auditor also confirmed that they were on target for the end of September.

Mr Fairley expressed his thanks to the Finance Team and Officers across the Council which had supported the completion of the unaudited accounts.

The Chair commented on the continued improvement in the management commentary which makes the information a lot more accessible to the general public and thanked Mr Fairley and his team.

Councillor Parry raised a point of accuracy on the Annual Governance Statement on page 66, B - Ensuring openness and comprehensive stakeholder's engagement, which sets out that emergency decisions were taken by the Council up to 15 June 2020. However it was her recollection that decisions have been made by Group Leaders since then. She further advised that the reason for the point of accuracy was it sets out that Standing Order 19.2 was implemented from 24 March to 15 June 2020 for emergency decisions but recently a decision by the General Purposes committee to license an event was overturned in a meeting with just three Councillors. Councillor Parry raised her concerns regarding the governance around this and the reputational damage to the Council.

Councillor Parry also raised on page 69, Improvement areas of governance, which references working between Elected Members and the Business Transformation Steering Group and how those groups work well together. While acknowledging the groups do work well there has not been a lot of consensus decision making coming out of the Business Transformation Steering Group, in her own experience of this group. Councillor Parry enquired who was asked before this report was put together.

Mr Turpie confirmed that there was a delegated power to the Executive Director Place, Mr Anderson to suspend any civic government licenses in terms of paragraphs 11 and 12 of the Civic Government Scotland Act and in this case Mr Anderson met with the Group Leaders to get their views on the matter to assist in making his decision on this matter but this was done on Mr Anderson's delegated powers.

The Chief Executive advised that just prior to the pandemic the Group Leaders met on the 16 March 2020 to discuss emergency decision making powers through the

immediate months of the pandemic and the decision to use 19.2 all of those have to be under governance arrangement have to be reported back to Council and at the Council meeting in June 2020 all these 19.2 decisions were reported. Also during that time the Chief Executive met with the Administration and Group Leaders weekly so they were kept informed and up to date on 19.2 decisions. The Chief Executive also confirmed that all 19.2 decisions made had been reported to Council as this is a requirement under Standing Orders.

The Chair advised his understanding of the answers given by the Chief Executive was that the comments in the Accounts regarding 19.2 framework is correct and any other decisions that have not gone through normal governance have been done through delegated powers under that governance framework.

Mr Fairley reiterated that the Annual Governance Statement which is an important element in the Accounts was brought to the Audit Committee in June in draft and the Committee endorsed the content of the statement reflected in the Accounts. He also advised that the Statement will also be subject to scrutiny by EY, External Auditors and may change during the audit process.

Councillor Milligan responded to the point regarding the licencing issue advising that he was quite clear in the discussion with Group Leaders that the advice from the Scottish Government was that the event did not meet the criteria to go ahead and therefore the Director took the decision under delegated powers to revoke the licence. With regards to the comment from Councillor Parry regarding the Business Transformation not working well, in his opinion it worked very well and there had been a lot of debate and discussions at these meetings and where there was a disagreement it was brought to Council for a decision. He further commented on the earmarked reserves and stated if they are earmarked they are no longer available to spend and this could be very confusing for the public when they read about reserves that Councils have when these are already committed.

Councillor Smaill thanked Mr Fairley for all the work to bring forward the accounts and advised that he considered that there were two big issues still outstanding. Firstly Lothian Buses where he noted that East Lothian Council were taking into account the pension deficit when valuing the carrying value of their shareholding and that he considered that it was undesirable for Midlothian to adopt a different valuation basis particularly as we have guaranteed the pension fund. He then raised a question with regards to housing stock numbers and contract completion on housing. In response Mr Anderson advised that for the year to 31 March 2020 there were 29 new builds and 44 buy backs. Mr Fairley then responded with regards to the carrying value of Lothian Buses shareholding on the balance sheet and that this would be covered by EY's audit.

The Chair advised that there had been an exchange of emails regarding points of detail on the content of the accounts and that these had been responded to and would be adjustments for the audited financial statements. The Chair thanked Mr Fairley for his work on the Accounts and the presentation provided.

Decision

The Committee noted the unaudited accounts for 2020/21.

6. Private Reports

No private reports were submitted.

7. Date of Next Meeting

The next meeting will be held on Tuesday 28 September 2020 at 11 am

The meeting terminated at 13.05 pm