# Notice of meeting and agenda

## Audit Committee

**Venue:**  Council Chambers, Midlothian House, Dalkeith, EH22 1DN

**Date:**  Tuesday, 12 December 2017

**Time:**  11:00

**John Blair**
**Director, Resources**

**Contact:**

Clerk Name:  Janet Ritchie
Clerk Telephone: 0131 271 3158
Clerk Email:  janet.ritchie@midlothian.gov.uk

**Further Information:**

This is a meeting which is open to members of the public.

## 6        Private Reports

**6.1**     Internal Audit Report - Stores – Report by Internal Audit Manager

- 8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.

# Minute of Meeting

Midlothian

# Audit Committee

| Date | Time | Venue |
|------|------|-------|
| Tuesday 26 September 2017 | 3.00pm | Council Chambers, Midlothian House, Dalkeith, EH22 1DN |

**Present:**

| | |
|---|---|
| Mike Ramsay (Independent Chair) | |
| Councillor Baird | Councillor Hardie |
| Councillor Milligan | Councillor Muirhead |
| Councillor Smaill | |

**In attendance:**

| | |
|---|---|
| Stephen Reid | Ernst & Young LLP |
| John Boyd | Ernst & Young LLP |
| Kenneth Lawrie | Chief Executive |
| John Blair | Director Resources |
| Mary Smith | Director Education, Communities and Economy |
| Gary Fairley | Head of Finance and Integrated Service Support |
| Elaine Greaves | Internal Audit Manager |
| Myra Forsyth | Quality and Scrutiny Manager |
| Mike Broadway | Democratic Services Officer |

## 1.    Welcome and introductions

The Chair, Mike Ramsay welcomed everyone to the meeting, following which there was a round of introductions.

## 2.    Apologies

Apologies were received from Councillor Parry.

## 3.    Order of Business

The order of business was confirmed as outlined in the agenda that had been previously circulated. Due to the publication timescales the Committee, on the recommendation of the Chair, agreed to deal with the agenda business as urgent.

## 4.    Declarations of interest

No declarations of interest were received.

## 5.    Minutes of Previous Meetings

The minutes of the Audit Committee meeting of 20 June 2017 were submitted and approved as a correct record.

## 6.    Reports

| Report No. | Report Title | Presented by: |
|---|---|---|
| 5.1 | Midlothian Council Annual Audit Report to Members and the Controller of Audit for the Financial Year ended 31 March 2017 | Stephen Reid, Ernst & Young LLP |

| Outline of Report |
|---|
| There was submitted the Annual Audit Report to Members and the Controller of Audit for the Financial Year ended 31 March 2017, prepared by the External Auditors, Ernst & Young LLP. The report advised, inter alia, that the external auditors intended to issue an unqualified opinion on the financial statements for the financial year ended 31 March 2017. In addition, the report provided detailed information on: Financial management; Financial sustainability; Governance and Transparency; and Value for Money. |

| Summary of Discussion |
|---|
| The Committee, having heard from the External Auditors in amplification of their report, discussed a number of issues arising therefrom, viz:- the level of useable reserves; the level of the Council's cash assets; the approach to Treasury Management generally; and the pension deficit. |

| Decision |
|---|
| (a)    To note and approve the Annual Audit Report; |

| (b) | To note that Audit Scotland's 2015/16 Financial overview report on Local Government in Scotland would offer the opportunity to draw comparative analysis with other Councils; |
| (c) | To note the position in relation to pension liabilities; |
| (d) | To record the Committee's appreciation of the work undertaken by the Finance Team in assisting the External Auditors in the preparation of the report; and |
| (e) | To record the Committee's thanks to Ernst & Young LLP. |

| Report No. | Report Title | Presented by: |
| --- | --- | --- |
| 5.2 | Financial Statements 2016/17 | Gary Fairley |

**Outline of Report and Summary of Discussion**

There was submitted a report, dated 22 September 2017, by the Head of Finance and Integrated Service Support presenting the Council's Audited Financial Statements for 2016/17, and providing an overview of the main changes made during the audit process.

**Decision**

The Committee, having heard from the Head of Finance and Integrated Service Support, who responded to Members questions, agreed to approve the Audited Financial Statements for 2016/17.

## 7. Private Reports

No private business was discussed at this meeting.

## 8. Date of Next Meeting

The next meeting of the Audit Committee would be held on Tuesday 12 December 2017 at 11.00 am.

The meeting terminated at 3.28 pm.

**Shared Chief Auditor Post between Midlothian and Scottish Borders Councils**

**Report by:  Kenneth Lawrie, Chief Executive**

## 1     Purpose of Report

1.1     The purpose of this report is to advise the Audit Committee of a 12 month pilot arrangement over the sharing of a Chief Auditor/Audit Manager Post between Midlothian and Scottish Borders Councils which will also create the opportunity for a wider exploration of joint working activities and benefits.

## 2     Background

2.1     The Accounts Commission's overview report on Local Government in Scotland: Performance and Challenges 2017 sets out the increasingly demanding environment facing local authorities. In particular an overall reduction of 9.2% in Scottish Government total revenue funding since 2010/11, demographic changes in particular in respect of aging populations plus a broad range of legislative and policy changes including, for example, integration of health and social care, community empowerment provision and education reform.

2.2     Councils continue to face significant challenges as a result of constrained funding combined with demographic and other cost pressures associated with current and projected growth.  In addition, managing the impact of a number of government policy and legislative changes places additional demands and reinforces the urgent need to change the way councils operate.

2.3     Whilst many councils have already taken a strategic approach in developing strategies and carrying out fundamental reviews of service delivery models to drive savings, the challenge remains.  This continues to present an ever growing need to respond in ways that provide the opportunity to 'future proof' services and to create resilience and sustainability within the context of reducing resources.

2.4     It is within this context that this report has been produced as officers in both Midlothian and Scottish Borders Council have identified that potential benefits could be realised by moving towards a joint working arrangement for the Internal Audit function across both Councils.

2.5     Whilst there will be differences in how each Internal Audit function currently delivers its services, there will also be a number of similarities as the framework and legislation underpinning the Internal Audit function is the same.  Under local authority Accounts (Scotland) Regulations 2014 7(1):

*"A local authority must operate a professional and objective internal auditing service in accordance with recognised standards and practices in relation to internal auditing".*

2.6 Furthermore, development of potential joint working must be designed within the context of the PSIAS framework which defines Internal Audit as follow.

*"Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes"*.

*Source:* PSIAS standard 1010

2.7 Internal Audit consists of a relatively small team in both organisations which increases the inherent risk around the dependency and reliance on key individuals within the team. In line with PSIAS, Internal Audit should have appropriate standing within the organisation to allow them to provide robust, independent scrutiny and challenge of Management.

2.8 The delivery of each Council's transformation programme brings a period of significant change as they work to deliver and enhance services for users, while responding to changing demographics and ongoing budgetary and funding constraints. At such times, it is important that Internal Audit has the resilience, capacity and skills to respond to changing demands and provides scrutiny and challenge to management, not only in respect of the day to day control environment, but also to support the delivery of the transformation programme.

2.9 A recent review of Midlothian Council's Internal Audit Service has resulted in a vacancy at the manager level and it is this that has presented officers with the opportunity to consider a wider partnership working arrangement to fill the role, initially on an interim basis, which could offer the potential to deliver the following benefits across both Councils:

- continuity of service delivery;
- long term / future service resilience;
- service efficiencies; and
- improved service flexibility and quality through sharing specialist expertise.

There are also a number of potential challenges of sharing the Chief Auditor/Audit Manager post across both Councils such as:

- reduced capacity for each Council as a result of the shared post (0.5 FTE for each Council);
- impact of cultural differences between Councils;
- managing expectations from senior management and audit committees as a result of revisions to roles and responsibilities required to deliver the joint arrangement;
- dual reporting lines for the shared post across both Councils;

- reduced capacity of the shared post impacting team management and development; and
- additional travel time and costs associated with the need to manage over both Councils.

In addition to Midlothian's recent review of the service, a move towards a shared arrangement would also respond to recommendations by Midlothian's External Auditor in their annual report. The recommendations noted that in filling the vacant manager position, Management considers the skills and capabilities required from the function to ensure that its position and standing within the organisation is such that it can provide robust independent challenge to senior management.

2.10   This report highlights the opportunities offered by a shared management post initially but which could offer longer term benefits of the combined skills and capabilities offered by a joint working arrangement and a reshaped Internal Audit service to further support challenge and scrutiny and the drive for improvement across Councils.

## 3        Current Arrangements – Midlothian Council

3.1    Midlothian Council's Internal Audit function currently provides Internal Audit and Corporate Fraud services and is structured as follows:

```
                    ┌─────────────────────────┐
                    │  Internal Audit Manager │
                    │         1 FTE           │
                    └─────────────────────────┘
              ┌───────────────┴───────────────┐
    ┌─────────────────────────┐   ┌─────────────────────────┐
    │ Senior Internal Auditor │   │    Internal Auditor     │
    │        0.72 FTE         │   │         2 FTE           │
    └─────────────────────────┘   └─────────────────────────┘
    ┌─────────────────────────┐
    │ Fraud and Audit Officer │
    │         2 FTE           │
    └─────────────────────────┘
```
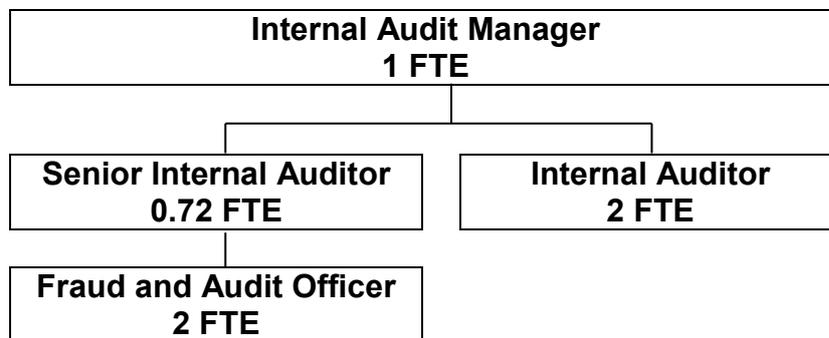
3.2    The staffing costs for Internal Audit within Midlothian are £262,500.

3.3    The Internal Audit function in Midlothian provides Internal Audit and Corporate Fraud services for both the Council and the Health and Social Care Integration Joint Board.

## 4        Current Arrangements – Scottish Borders Council

4.1    Scottish Borders Council's Audit and Risk Service currently provides Internal Audit, Risk Management and Corporate Fraud services and is structured as follows:

```
                    ┌─────────────────────────┐
                    │  Chief Officer Audit & Risk  │
                    │         1 FTE            │
                    └─────────────────────────┘
            ┌───────────────┼──────────────────┐
┌─────────────────┐ ┌─────────────────┐ ┌─────────────────┐
│ Senior Internal │ │ Corporate Fraud &│ │   Corporate     │
│    Auditor      │ │ Compliance Officer│ │  Risk Officer   │
│     3 FTE       │ │     1 FTE        │ │     1 FTE       │
└─────────────────┘ └─────────────────┘ └─────────────────┘
        │
┌─────────────────┐
│ Internal Auditor│
│     2 FTE       │
└─────────────────┘
```
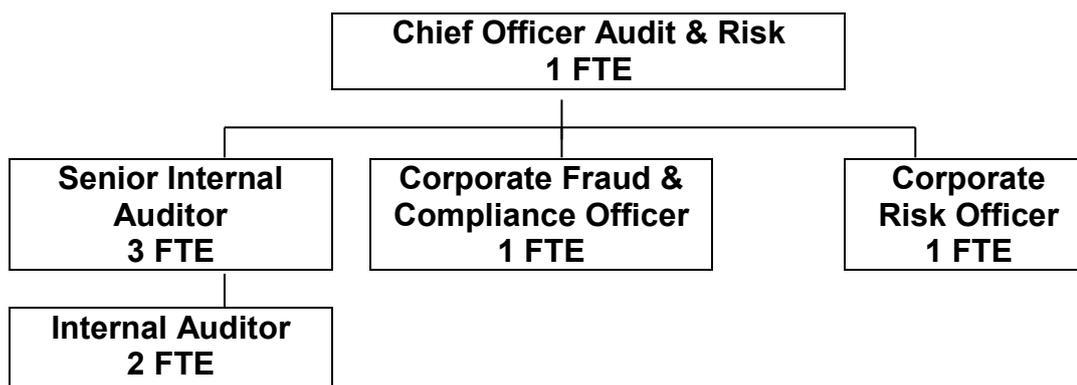
4.2    The staffing costs for Audit and Risk within Scottish Borders are £353,000. The risk element of the Chief Officer Audit & Risk post will not be shared and therefore the shared element will be 50% of the total after deduction of the employee costs associated with risk.

4.3    The Audit and Risk Service in Scottish Borders provides Internal Audit, Risk Management and Corporate Fraud services for the Council, the Health and Social Care Integration Joint Board, Scottish Borders Care (ALEO for Adult Care Services) and the Pension Fund.

**5    Pilot Arrangement**

5.1    The sharing of the Chief Auditor/Audit Manager Post between Midlothian and Scottish Borders Councils will be undertaken initially on a 12 month pilot basis with an interim review after 6 months. The basis for the partnership will be:

- Scottish Borders Chief Officer Audit & Risk to provide strategic management across both authorities and explore wider opportunities presented by a joint working arrangement;
- Senior Internal Auditors will provide support to the Chief Officer and operational management of the local team; and
- Audit teams will continue to work on the terms and conditions of their employing authorities and from their existing office locations.

5.2    There are a number of areas to consider for developing through joint working in both the short and longer term across the Councils including:
- developing common policies and procedures;
- sharing of best practice across both Councils (e.g. audit methodology, audit report templates, quality assurance);
- sharing of expertise and a greater pool of knowledge (e.g. use of data matching software);
- joint training (e.g. Fraud Awareness delivered by Fraud Officers);
- identifying and sharing intelligence and information on significant potential concerns and risks (e.g. Business Transformation);
- cover provided across specialist areas (e.g. IT Audits / Service development initiatives);
- common service standards; and

- opportunities for staff to work on joint projects / audits.

It is anticipated that in addition to the management arrangements, the pilot will provide the opportunity to actively explore future options for joint working.

## 6  Funding Proposals

6.1  The time and cost of the shared post will be split 50/50 which, after the removal of the cost of the existing risk role undertaken by the Chief Officer Audit & Risk in Scottish Borders Council, will result in a cost to Midlothian of circa £34,425 – £36,450.

6.2  Further consideration is required to identify the impact in terms of resource for both Internal Audit functions as a result of the Chief Officer Audit & Risk operating across both Councils on a 50/50 basis.  This reduction in capacity of the current full time role in Scottish Borders and expected full time appointment to the current vacancy in Midlothian will impact on both the capacity and responsibilities of the Senior Internal Auditors in order to accommodate the joint arrangements.  The review of capacity and responsibilities will also call for an interim review of the current Senior Auditor job description which may result in an interim increase in responsibilities and therefore a requirement to evaluate the role with potential cost implications in addition to those noted for the shared post.

## 7  Timescales

7.1  Commencement of partnering arrangements is 1 December 2017.

7.2  Following the initial 6 month exploratory period, a report will be presented to the Audit Committee on progress and future options.

## 8  Report Implications

8.1  **Resource**
The financial implications associated with this report are capable of being met from within existing budgets.  This intervention is expected to have a positive impact on the resourcing of both Councils, assisting to align demand for resource and supply of resource more closely within both organisations thereby improving both capacity building and sustainability.

8.2  **Risk**
This report aims to further reduce the risk to each organisation through an effective joint working arrangement, providing management and delivery of Internal Audit and Corporate Fraud.

8.3 **Single Midlothian Plan and Business Transformation**

Themes addressed in this report:

☐ Community safety

☐ Adult health, care and housing

☐ Getting it right for every Midlothian child

☐ Improving opportunities in Midlothian

☐ Sustainable growth

☐ Business transformation and Best Value

☒ None of the above

8.4 **Key Priorities within the Single Midlothian Plan**
This report does not relate directly to the key priorities within the Single Midlothian Plan.

8.5 **Impact on Performance and Outcomes**
There will be an impact on the internal audit plans as there will be a reduced resource of 0.5 FTE at the Internal Audit Manager level.

8.6 **Adopting a Preventative Approach**

This report addresses the Council's policy to have a robust internal control environment, management of risk and effective governance.

8.7 **Involving Communities and Other Stakeholders**
Scottish Borders Council have agreed to the pilot arrangement.

8.8 **Ensuring Equalities**
The proposal does not have any equalities implications.

8.9 **Supporting Sustainable Development**
The proposal has the potential to create a more robust and sustainable audit service.

8.10 **IT Implications**
IT implications require to be explored further to facilitate joint working and to identify potential for improvement and efficiencies.

8.11 **Consultation**
Early stage consultation has taken place with HR, Finance and Legal services and further work is required around some of these aspects.  Formal consultation with staff and Unions will take place, with continuing consultation as the partnership proposals develop.

## 9    Summary

This report is to advise the Audit Committee of a 12 month pilot arrangement over the sharing of a Chief Auditor/Audit Manager post between Midlothian and Scottish Borders Councils which will also create the opportunity for a wider exploration of joint working activities and benefits.

The shared post will lead both the Midlothian and Scottish Borders Internal Audit teams on a strategic level supported operationally and on a day to day basis by Senior Auditors in each council. The Midlothian and Scottish Borders Council Senior Auditors will operationally manage their respective teams.

The shared post will provide a platform for continuous improvement, leadership and direction to both teams.  An initial 12 month period, including a 6 month review, will allow information to be gathered to support the analysis of the potential benefits of partnership in these areas.

## 10    Recommendations

The Audit Committee is asked to note:

i)      the interim appointment of a shared Chief Internal Auditor post between Midlothian and Scottish Borders Council with effect from 1 December 2017 for a period of 12 months;

ii)     that there will be a wider exploration of joint working activities and benefits on the proposals set out in this report;

iii)    that a detailed programme for implementing the shared post arrangements set out in this report including wider staff and trade union consultation will be developed; and

iv)     that a further report will be presented to the Committee after an initial 6 month period.

**Date:        16 November 2017**

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**Risk Management, Update for 1 July 2017 – 30 September 2017**

**Report by Chris Lawson, Risk Manager**

## 1 Purpose of Report

Audit Committee has requested regular reporting on the Council's Strategic Risks. The Strategic Risk Profile seeks to provide a strategic look at the current issues, future risk and opportunities facing the Council.

The purpose of this report is to provide Audit Committee with the 2017/18 quarter 2 strategic risk management update, covering the period 1 June 2017 to 30 September 2017.

## 2 Background

Midlothian Council is operating in an increasingly demanding environment. New and returning councillors face major challenges from continued reductions in the funding from the Scottish Government, and greater demands for services from an ageing population and, growing school age population. The scale of these challenges mean it is more important than ever that Councillor's provide effective leadership in setting a clear strategy and make the difficult decisions that will be needed.

The Council will need to respond effectively to national policy priorities in the Scottish Government's Programme for Government and, along with partners, will need to demonstrate progress in integrating health and social care and in meeting the requirements of the Community Empowerment Act.

## 2.1 Strategic Risk Profile update

The on-going risk associated with financial stability and balancing the budget in future years remains, with the change programme becoming the most significant factor in seeking to identify and deliver on the reduction in expenditure and increased income generation needed to get the Council to a balanced budget position in future years.

2.2 The Scottish Government published the new Education (Scotland) Bill 2017 on 7 November 2017 which makes further changes to the education landscape ahead.

2.3 Following the UK decision to leave the European Union the Council were advised of some of the potential impacts in a report taken to Council on 29 August 2017 with a focus on EU funding, broader economic impacts, societal, environmental and regulatory issues.

### 2.4 Strategic Risk Profile Summary

The Top Strategic Issues are summarised in table 1.

| Top Issues | Likelihood | Impact | Score | Evaluation | |
|---|---|---|---|---|---|
| Financial Stability | 5 | 5 | 25 | Critical | |
| The change programme | 4 | 5 | 20 | High | |
| Welfare Reform | 5 | 4 | 20 | High | |

The Strategic Risks for the Council are summarised in tabled 2 below.

| Strategic Risks | Likelihood | Impact | Score | Evaluation | |
|---|---|---|---|---|---|
| Balancing budget in future years | 5 | 5 | 25 | Critical | |
| Fastest Growing Council | 4 | 5 | 20 | High | |
| Scottish Abuse Inquiry | 5 | 4 | 20 | High | |
| Historic Abuse Claims Project | 4 | 5 | 20 | High | |
| The Change Programme | 4 | 4 | 16 | High | |
| Review of Pay and Grading | 4 | 4 | 16 | High | |
| Climate change | 4 | 4 | 16 | High | |
| Information Security | 3 | 5 | 15 | Medium | |
| Health and Safety | 3 | 5 | 15 | Medium | |
| Political uncertainty – Education Governance Review | 3 | 4 | 12 | Medium | |
| Integration of health and social care | 3 | 4 | 12 | Medium | |
| UK decision to leave the EU | 3 | 4 | 12 | Medium | |
| Governance and standards | 3 | 4 | 12 | Medium | |
| Employee performance | 3 | 4 | 12 | Medium | |
| Emergency planning and business continuity | 3 | 4 | 12 | Medium | |
| Legal and regulatory compliance | 3 | 3 | 9 | Medium | |
| Working with other to deliver outcomes | 3 | 3 | 9 | Medium | |
| Asset management | 3 | 3 | 9 | Medium | |
| Internal control environment | 3 | 3 | 9 | Medium | |
| Corporate policies and strategies | 2 | 3 | 6 | Low | |

The Strategic Opportunities for the Council are summarised in table 3.

| Strategic Opportunities | Likelihood | Impact | Score | Evaluation | |
|---|---|---|---|---|---|
| Growing Council | 5 | 5 | 25 | Critical | |
| Shawfair | 5 | 4 | 20 | High | |
| Borders rail | 5 | 4 | 20 | High | |
| Easter Bush - Penicuik | 5 | 4 | 20 | High | |
| City deal | 3 | 5 | 15 | Medium | |

## 2.6 STRATEGIC ISSUES – RATED CRITICAL AND HIGH

### 2.6.1 Financial Stability

Midlothian Council faces greater demand for services against a backdrop of reducing central government funding. The Strategic Leadership Group are aware that incremental changes are neither sufficient nor a sustainable solutions for the scale of the challenge facing the council and recognise the need to be creative in the solutions to this challenge in the change programme proposals. The genuine challenge here is going to be the scale, pace and deliverability of the proposals being brought forward practically and politically.

### 2.6.2 The Change Programme

The strands of work that will continue to be necessary to address the projected budget shortfalls represent a change programme, encompassing:-
- Business Transformation Steering Group;
- The Delivering Excellence programme;
- The delivery of savings approved for 2017/18; and the continued control over expenditure;
- The Transformation Programme;
- The EWiM programme;
- An updated Capital Strategy and Reserves Strategy;
- Operational savings encompassing financial discipline measures;
- The development of further savings options for 2018/19 and beyond.

### 2.6.3 Welfare Reform

Universal Credit Full Service was rolled out in Midlothian on 22 March 2017. The Universal Credit Programme closed gateways for legacy benefits, so existing benefits will no longer be eligible as Universal Credit rolls out and there are plans for the migration of those remaining claimants on current benefit types once the digital rollout is complete for all of Great Britain. Awareness, advice and assistance is being provided by the Council.

## 2.7 STRATEGIC RISKS – RATED CRITICAL/HIGH

### 2.7.1 Balancing budget in future years
The Council's Financial Strategies core objective is to secure the Council's continued financial sustainability during what is and will continue to be an extended period of significant financial constraint, coupled with increasing service demands and increasing customer expectations.
In response to these challenges the Council has set out a Financial Strategy covering the period to 2021. In order to ensure the Services provided meet the needs of service users and are as efficient as possible the Council are implementing a Change Programme, incorporating the Delivering Excellence framework for service review

and redesign. This approach is expected to bring forward savings options in addition to ensuring service user needs are achieved.
A report setting out future budget savings will be brought forward to an early meeting of the new Council.

### 2.7.2 Fastest growing Council

Midlothian Council has been identified by the Scottish Government as the fastest growing Council in Scotland with a projected population growth of 26% between 2014 -2039. This would see the population of Midlothian grow from 86,220 – 108,369 by 2039. The growth is expected to see the 0-15 population increase by 20%. The fastest rate increase is expected in the 75+ population with a projected 106% increase between 2014 and 2039. Failure to resource and plan for these rises will significantly impact the Councils ability to fulfil its statutory obligations in relation to these groups.

To plan for the impact this growth will have on the school estate, Education have developed a Learning Estate Strategy to address the expected pressures from this and other know Government policies which will impact on capacity requirements within schools.

### 2.7.3 Scottish abuse inquiry

On 1st October 2016 the Scottish Government set up the Scottish Child Abuse Inquiry. The inquiry will report back to Scottish Government Ministers within 4 years with recommendations for the future to improve the law, policies and practices in Scotland.

If the inquiry finds historical cases of abuse within Midlothian, this would be passed onto Police Scotland for investigation. The risks to Midlothian Council is that such a move could place doubt in the eyes of the public as to the safety of those young children and young people who are currently in care. There is significant scope for a substantial financial impact arising from claims of historic abuse.

The Council have set up an Abuse Inquiry Project Team and a Claims Project Team to support the Council to prepare for information requests to support the Inquiry and in preparation of any claims that may arise.

The Claims Project has been added to the Strategic Risk Profile report as a Risk in its own right as there does not have to be an association with the Scottish Abuse Inquiry for a civil claim to be made, the period which claims can be made now extends back to 1964, creating scope for historic claims.

### 2.7.4 Review of pay and grading

During 2016 Midlothian Council made an investment of £2.67million to reduce in-work poverty. While enabling the Council to achieve a position where all employees were paid at or above the national living wage, there was a desire to secure improvements in flexibility, productivity and service quality as a result of this investment.

While the employee grades, terms and conditions altered by these changes have now taken place. The risk to the Council is that following

this substantial investment it does not realise the return in improved productivity and or flexibility across the workforce. The impact of pay and grading review is being kept under review by the Investing in our Workforce Project Board, with a focus on securing the gains.

### 2.7.5 The Change Programme

The strands of work that will continue to be necessary to address the projected budget shortfalls in the medium term, encompassing:-

- Business Transformation Steering Group;
- The Delivering Excellence programme;
- The Transformation Programme;
- The EWiM programme;
- An updated Capital Strategy and Reserves Strategy;
- Operational savings encompassing financial discipline measures;
- The development of further savings options for 2018/19 and beyond.

### 2.7.6 Climate change

There is a risk that Council Services are not adequately engaged, resourced or directed to fulfil the requirements of the Climate Change Act . This could result in the Council failing to meet its obligation under the Climate Change (Scotland) Act 2009 and incurring the associated reputational damage.

The Council is currently preparing its statutory report on compliance for government covering the previous year.

## 2.8 STRATEGIC OPPORTUNITIES

### 2.8.1 Shawfair

The Shawfair development with its new rail link provides a major incentive for house builders, employers, retailers and commercial interests; including opportunities to secure a low carbon community through a district heating scheme from the Zero Waste facility.

### 2.8.2 Borders Rail

The Borders Rail provides the opportunity to support the regeneration of priority communities of Midlothian, through which the railway passes.

The line provides ready access to education/training at Edinburgh College, Borders College and Queen Margaret University with improved access to the labour markets in Edinburgh and the Borders. The Railway has also acted as a catalyst for housing growth in Midlothian.

### 2.8.3 Easter Bush

Easter Bush offers fast growing opportunities in Science Technology Engineering and Mathematics (STEM), with opportunities to link directly with Education. Maximising partnership links between schools the University sector and the Bush will all support STEM opportunities.

### 2.8.4  City Deal

Midlothian Council is part of the South East Scotland Region City Deal bid for funding to Scottish and UK Governments.

The purpose of which is to support the acceleration of economic growth through investment in infrastructure/ housing/ skills and innovation.

Midlothian Council and our city deal partners have received confirmation from UK Government and Scottish Government Officials on a £600m city deal for Edinburgh and South East Scotland.

### 2.8.5  Fastest Growing Council

Midlothian Council has been identified as the fastest growing Council in Scotland. This brings the opportunity to support the Council vision of being 'A Great Place to Grow'. As a growing Council the Council has the opportunity to influence the future develop of Midlothian and associated infrastructure, with a focus on area targeting, improving economic opportunities, improving education and health outcomes.

## 3  Report Implications

### 3.1  Resource

There are no direct resource implications in this report although individual risks will have associated resource implications.

### 3.2  Risk

The Strategic Risk Profile seeks to articulate the significant risks facing the Council at a specific point in time. The Risks reported are generally those that impact on all parts of the Council and the strategic priorities of the Council. It appears that the presence of risk is understood and action is being taken to manage and respond to risk on an ongoing basis by officers.

The risks referred to in this report are set out within the Council's Strategic Risk Profile, attached as Appendix 1.

### 3.3  Single Midlothian Plan and Business Transformation

Themes addressed in this report:

☐ Community safety
☒ Adult health, care and housing
☒ Getting it right for every Midlothian child
☒ Improving opportunities in Midlothian
☒ Sustainable growth
☒ Business transformation and Best Value
☐ None of the above

**3.4    Impact on Performance and Outcomes**

The purpose of the Council's risk management approach is to support a  level of risk awareness, to inform decision making and support the Council to deliver on its key outcomes by highlighting and taking steps to mitigate potential disruption to delivery of services.

**3.5    Adopting a Preventative Approach**

The Risk Management approach being taken by the Council is founded on a preventative approach to managing risks, where appropriate and more generally to decision making with far greater risk awareness.

**3.6    Involving Communities and Other Stakeholders**

Consultation has taken place with Senior Managers responsible for leading responses to key Strategic Issues, Risk and Opportunities.

**3.7    Ensuring Equalities**

There are no direct equalities issues arising from this report.

**3.8    Supporting Sustainable Development**

Senior Managers must ensure the sustainability of the Council, which entails identifying, understanding and managing Strategic and Service level Issues, Risks and Opportunities.

**3.9    IT Issues**

No additional issues other than those relating to the Strategic Risk Profile.

**4    Recommendations**

Audit Committee is invited to:

Note the quarter 2 2017/18 Strategic Risk Profile report and consider the current response to the issues, risks and opportunities highlighted.

**Date:** 22 November 2017

**Report Contact:**
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**Background Papers:        Appendix 1**   Strategic Risks Profile
                                                              Quarter 2 2017/18

# Strategic Risk Profile

## ISSUES

Midlothian

### SRP.IR.02 The Change Programme

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.IR.02 | **Risk cause**<br>Change programme that doesn't address the budget shortfall;<br>The Change Programme does not achieve the projected savings<br><br>**Risk event**<br>Delayed progress in applying various strands of the Change Programme including the Delivering Excellence framework.<br><br>**Risk effect**<br>Slow or delayed proposals/savings arising from service redesign. Potentially further eroding reserves or requiring short term service reductions which impact on the Council's ability to deliver against its priorities. | Ricky *Moffat; Garry *Sheret; Kevin Anderson; Gary Fairley; Ian Johnson; Joan Tranent; Grace Vickers; Alison White | 1. Change Programme including Delivering Excellence framework<br>2. Delivering Excellence Management Tools to support the application of the framework<br>3. Senior Leadership Group developing the longer term Change Programme for the new Council.<br>4. Service reductions which would adversely impact on the Council's ability to deliver its priority outcomes.<br>5. Chief Executive has instructed the Directors to bring forward further reductions for 2018/19 following the Special Council meeting on 10.10.2017.<br>. | 4 | 5 | 🔴 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.IA.02.01 | Developing and implementing a Change Programme to ensure long term financial sustainability. | **Q2 17/18**: Strategic Leadership Group proposals were presented to Special Council 10.10.2017 to allow engagement. The Chief Executive has instructed the Directors to bring forward further reductions for 2018/19 following this Council meeting. Continued work with Strategic Leadership Group to ensure financial sustainability. | John *Blair; Ricky *Moffat; Garry *Sheret; Mary *Smith; Kevin Anderson; Gary Fairley; Ian Johnson; Allister Short; Joan Tranent; Grace Vickers; Alison White | 19-Dec-2017 | ▶ |

## SRP.IR.06 Welfare Reform

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.IR.06 | **Risk Cause:** New Universal Credit scheme introduced by UK government replacing legacy benefit schemes with a single scheme.<br><br>**Risk Event:** Universal Credit (UC) Live Service was introduced in Midlothian for newly unemployed single claimants, with or without housing costs, in Dalkeith and Penicuik Jobcentres from 27 April 2015. Universal Credit Full Service is being rolled out in Midlothian on 22 March 2017.<br><br>**Risk Impact:** The Universal Credit Programme will close gateways for legacy benefits, so existing benefits will no longer be eligible, as Universal Credit rolls out as plans for the migration of those remaining claimants on current benefit types once the digital rollout is complete for all of Great Britain. Potential for larger numbers of people/families falling in to arrears on rent and those requiring discretionary payments. | Kevin Anderson; | 1. Applying discretionary housing payment to offset full impact of under occupancy charge (also known as bedroom tax)<br>2. Work with 3rd sector to mitigate individual case circumstance were applicable.<br>3. Scottish welfare fund available for hardship cases, emergency food packs available a relevant council offices. Food banks in operation within Midlothian. | 5 | 4 | 🔶 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.IA.06.02 | Review of response when families fall into arrears | **Q2 17/18**: Head of Childrens Services and Head of Housing and communities to meet to review the response when families fall into arrears. | Kevin Anderson | 31-Mar-2018 | ▶ |

## SRP.IR.07 Financial Sustainability

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.IR.07 | **Risk cause**<br>Reduction in long term funding from Scottish Government<br>Increasing ageing population of over 75's<br>Increasing population of 0-15 age group<br>Rising customer expectations<br><br>**Risk event**<br>Ever deceasing timescale in which to address the future projected budgetary gap with the issue becoming more critical the longer a solution takes to be identified and | Gary Fairley | 1. Change Programme<br>2. Strategic Leadership Group developing the longer term Change Programme for the new Council.<br>3. Strategic Leadership Group proposals were presented to Special Council 10.10.2017 to allow engagement<br>4. Chef Executive has instructed the Directors to bring forward further reductions for 2018/19 following the Special Council meeting on 10.10.2017.<br>5. Continued work with Strategic Leadership Group to ensure financial sustainability. | 5 | 5 | 🛑 |

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|---|---|
| applied.<br><br>**Risk effect** Slow or delayed savings arising from change program. Potentially further eroding reserves or requiring short term service reductions which impact on the Council's ability to deliver against its priorities. | 6. Review of Capital Strategy, General Services Capital Plan and Reserves Strategy.<br>7. Working through COSLA to influence government spending decisions to influence Scottish Government's budget allocation to councils. |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.IA.02.01 | Developing and implementing a Change Programme to ensure long term financial sustainability. | **Q2 17/18**: Strategic Leadership Group proposals were presented to Special Council 10.10.2017 to allow engagement. The Chief Executive has instructed the Directors to bring forward further reductions for 2018/19 following this Council meeting. Continued work with Strategic Leadership Group to ensure financial sustainability. | John *Blair; Ricky *Moffat; Garry *Sheret; Mary *Smith; Kevin Anderson; Gary Fairley; Ian Johnson; Allister Short; Joan Tranent; Grace Vickers; Alison White | 19-Dec-2017 | ▶ |

# RISKS

## SRP.RR.01 Balancing Budgets in future years/Impact of Budget Cuts/Financial Strength of Council

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.01 | **Risk cause:**<br>Reduction in long term funding from Scottish Government<br>Increasing ageing population of over 75's<br>Increasing population of 0-15 age group<br>Population growth and time lag to fund pressures on public services.<br>Policy decisions by UK & Scottish Governments which are not fully funded.<br>Non or delayed savings from planned activities.<br>Future year pay award settlements and implications of living wage increases.<br>Inflation, interest rates, tax, income levels, service demand<br>Rising customer expectations<br><br>**Risk event:**<br>Reducing grant settlement.<br>Policies decisions at Government level not fully funded to Council's.<br>Securing the extent of change required in order to deliver financial sustainability and a change program that recognises the size of the challenge.<br>Cost pressures exceeding budget estimates.<br><br>**Risk effect:**<br>Gap in Council budget between budget commitments/ pressures and funding level and inadequate options presented to address this, resulting in a structural deficit | Gary Fairley | 1. The Financial Strategy to 2021-22<br>2. Development of a Change Programme including the Delivering Excellence framework developed for the new Council Administration.<br>3. Maintaining a level of reserves to deal with unforeseen or one off cost pressures.<br>4. Sustainable Capital Strategy.<br>5. Working through COSLA to influence government spending decisions to influence Scottish Government's budget allocation to councils. | 5 | 5 | 🛑 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.01.01 | Developing and implementing a Change Programme to ensure the long term financial sustainability. | **Q2 17/18**: Updated Financial Strategy presented to Council 10.10.2017 which includes details of Change Programme to allow engagement. Next Financial Strategy report is scheduled for Council on 19.12.2017. | Gary Fairley | 19-Dec-2017 | ▶ |
| SRP.RA.01.02 | Maintainaing and ensuring sustainability of growth in asset base | **Q2 17/18**: Review of Capital Strategy and Capital Plan report to Council December 2017. | Gary Fairley | 19-Dec-2017 | ▶ |

## SRP.RR.02 The Change Programme

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.02 | **Risk cause**<br>A change program that doesn't address the budget shortfall or contextual factors relating to the Midlothian area<br>Reduced resources<br>Leadership fit for the future<br>Lack of clarity or clear compelling vision for the future<br>Delay or shortfall in securing savings<br><br>**Risk event**<br>Delayed progress in applying various strands of the Change Programme including Delivering Excellence Framework<br>Slow benefits realisation and budget savings<br><br>**Risk effect**<br>Objectives of change not actually met<br>Adverse impact on services<br>Slow or delayed proposals/savings arising from service redesign. Potentially further eroding reserves or requiring short term service reductions which impact on Council's ability to deliver against its priorities.<br>Staff morale negatively affected, Government step-in | Gary Fairley | 1. Financial Strategy and Change Programme<br>2. Leadership from Executive Team and Senior Leadership Group.<br>2. Appropriated governance in place across the Change Programme.<br>3. Links between Change Programme and Workforce Plans<br>4. Resilience planning.<br>5. Senior Leadership Group regularly considering Change Programme and budget position.<br>6. Capacity to deliver change. | 4 | 4 | 🔴 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA - 02.02 | Continue to provide medium term financial projections to Council. | **Q2 17/18**: Updated Financial Strategy presented to Council 10.10.2017 which includes details of Change Programme to allow engagement. Next Financial Strategy report is scheduled for Council on 19.12.2017. | Gary Fairley | 19-Dec-2017 | ▶ |
| SRP.RA.02.03 | Developing Workforce Plans and Workforce Strategy aligned to the Change Programme | **Q2 17/18**: Draft Workforce Strategy presented to Council 10.10.17 with a finalised Workforce Strategy and Workforce Plans targeted at Council meeting on 19.12.2017. | Gary Fairley | 19-Dec-2017 | ▶ |
| SRP.RA-02.01 | Developing and implementing a Change Programme to ensure the long term financial sustainability. | **Q2 17/18**: Updated Financial Strategy presented to Council 10.10.2017 which includes details of Change Programme to allow engagement. Next Financial Strategy report is scheduled for Council on 19.12.2017. | Gary Fairley | 19-Dec-2017 | ▶ |

## SRP.RR.03 Legal and Regulatory Compliance

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.03 | **Risk cause**<br>Current or new legislation applying to Midlothian Council<br><br>**Risk event**<br>Council and or Services not identifying all applicable legislation impacting Council activities and Service requirements.<br><br>**Risk effect**<br>Council failing to meet its statutory obligations resulting in a potential negative impact for service users or employees. Reputational impact of not meeting statutory obligations. | Ricky *Moffat; Garry *Sheret; Kevin Anderson; Gary Fairley; Ian Johnson; Joan Tranent; Grace Vickers; Alison White | 1. Directors and Heads of Service responsible for identifying applicable legislation and propose Council or Service responses to CMT and Cabinet/Council as required.<br>2. Annual Assurance Statement.<br>3. Internal Audit testing of internal controls as part of risk based audit plan.<br>4. External Audit.<br>5. Statutory Inspection. | 3 | 3 | ⚠️ |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.03.01 | Legal & Regulatory Compliance | **Q2 17/18**: Heads of Service ensuring compliance with statutory obligations and making CMT, Cabinet/Council aware as required. | Ricky *Moffat; Garry *Sheret; Kevin Anderson; Gary Fairley; Ian Johnson; Joan Tranent; Grace Vickers; Alison White | 31-Mar-2018 | ▶️ |
| SRP.RA.03.05 | Participatory Budgeting | **Q2 17/18:** Development of a strategy or action plan to comply with requirements. | Ian Johnson | 31-Mar-2021 | ▶️ |

## SRP.RR.04 Employee performance

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.04 | **Risk cause**<br>Employees not suitably qualified or developed for the roles required of them.<br>limited availability of qualified practitioners in certain sectors<br>Change program not informed by all key stakeholders<br>Ageing work force<br>Employees unclear on expected behaviours. | Marina Naylor | 01 - Focus on having the right people, performing and healthy<br>02 - 'A Great Place to Grow' our values including respect ,collaboration, pride and ownership<br>02 - People Management policies reviewed as part of wider review of pay and grading<br>03 - Making performance matter<br>04 - A range of initiatives to keep staff informed of change (In brief, Staff Magazine, Espresso Sessions for Managers on new People | 3 | 4 | ⚠️ |

| | | | |
|---|---|---|---|
| Employees constrained to innovate as a result of management practice

**Risk event**
Employees not engaged/consulted as part of organisational transformation.
Experienced employees leaving the organisation
Unacceptable behaviours demonstrated by employees
Stated organisational culture not consistently reinforced by managers


**Risk effect**
Difficulties recruiting the right staff
Challenges retaining quality staff
Low skill levels
Low morale, especially during change
High absence rates, loss of experience in service areas.
'A Great Place to Grow' our values including respect ,collaboration, pride and ownership not realised, potentially resulting in missing the opportunity to capitalise on the abilities, experience and ideas of team members. | | Management Policies)
05 - Workforce planning
06 - Investing in our workforce board
07 - Healthy Working Lives Gold Award
08- Occupational Health provision in place
09 - Employee Assistance and Physio therapy services to support employee health and attendance
10 - Non-redundancy policy supported by SWITCH and Organisational Change Policy | |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.02.03 | Developing Workforce Plans and Workforce Strategy aligned to the Change Programme | **Q2 17/18**: Draft Workforce Strategy presented to Council 10.10.17 with a finalised Workforce Strategy and Workforce Plans targeted at Council meeting on 19.12.2017. | Gary Fairley | 19-Dec-2017 | ▶ |

## SRP.RR.05 Working with others to deliver outcomes

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.05 | **Risk cause**
Partners not engaged or focused to deliver specific outcomes.
Public Sector Reform Agenda.

**Risk event**
Partners prioritising activity in areas not inline with delivery of defined outcomes.
Community groups afforded legal right to make case to operate vacant properties for community use. | John *Blair; Mary *Smith; Allister Short | 1. Key partners engaged in planning and delivery of Service outcomes, e.g. Midlothian Community Planning Partnership have developed a Single Midlothian Plan. Midlothian Integrated Joint Board (Adult & Social Care Integration) have developed and Strategic Plan.
2. Approved integration scheme.
3. Service Directions in Place. | 3 | 3 | ⚠ |

| Risk effect | | | | | | |
|---|---|---|---|---|---|---|
| Delivery of outcomes delayed or not achieved<br>Officer time to support the assessment of unsustainable business cases. | | | | | | |

## SRP.RR.06 Information Security

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.06 | **Risk cause**<br>General Data Protection Regulation is a new piece of legislation currently being formulated by the European Commission. It is expected to be agreed in the first part of 2016 with a two year lead in period.<br><br>**Risk event**<br>The Regulation has been agreed with implementation due on 25 May 2018.<br><br>**Risk effect**<br>The Regulations will bring about a number of requirements on the Council including mandatory reporting of all data breaches, appointment of a Data Protection Officer and the potential for fines ranging to 4% of turnover or 20million Euros which ever is greater. | Ian Wragg | 1. Information Management Group<br>2. Public Sector Network Compliance.<br>3. Meta Compliance<br>4. Information Management, awareness raising program (Private-i)<br>5. General Data Protection Regulation Project Plan. | 3 | 5 | 🔺 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.06.03 | GDPR Project Plan | **Q2 17/18**: The Council has appointed a Project Manager to support the proposed GDPR project plan and is working closely with National Service for Scotland. A further report is to be taken to CMT seeking approval for the Governance arrangements associated with the GDPR implementation. | Phil Timoney | 25-May-2018 | ▶ |

## SRP.RR.07 Integration of Health & Social Care

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.07 | **Risk cause**<br>Internal and External providers of Care at Home services unable to meet service and quality requirements as a result of a lack of capacity.<br><br>**Risk event**<br>Capacity of Community Support outstripped by demand<br><br>**Risk effect**<br>There is a risk that patients will have their discharge delayed because there is insufficient community supports to enable timely discharge leading to deterioration in their health, beds being blocked and elective operations potentially being cancelled. | Alison White | 1. Implementation of a 4 week pilot to divert all possible nursing home admissions to the Flow Centre and then to MERRIT to prevent admission to hospital<br>2. Increased use of Midlothian Community Hospital to support patient moves to downstream beds and relieving some of the pressures on acute sites<br>3. Review of in-house service provision to increase capacity within Re-ablement through more effective use of the Complex Care service<br>4. Additional management support being provided to external Care at Home provider to address concerns over service delivery<br>5. Work underway to transfer care at home service that is now due to end on 31 March 2017 to ensure continuity of care for clients<br>6. Management support being provided to external Care at Home service to bring stability and improvements in service delivery<br>7. Recruitment campaign for additional staff over the summer months is underway, targeting local universities and colleges<br>8. Overall review of care at home services now nearing completion – this will create blueprint for future planning and delivery of services<br>9. Tender published on Procurement website for new Framework Agreement in Midlothian to deliver care at home<br>10. Temporary appointment of senior manager to take on discharge co-ordination role across Midlothian | 3 | 4 | 🔺 |

## SRP.RR.08 Asset Management – buildings, vehicles, roads and Digital assets/networks

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.08 | **Risk cause**<br>Many of the assets the Council own by their nature are in a position of on going deterioration through their normal use, e.g. roads - normal wear and tear, street lights and vehicles & buildings used to deliver services.<br><br>**Risk event**<br>Many assets will deteriorate under normal conditions although buildings, roads and street lights as an example can be damaged during more extreme weather events or as a result of a lack of maintenance.<br><br>**Risk effect** In the case of Roads Services there is a real risk of increased potholes and insurance claims, reduced skid resistance leading to higher accident potential and building up of higher costs in the future. In respect of vehicles, increased breakdowns, service failures, greater maintenance inevitable, higher short-term hire costs. In terms of property, health and safety issues arise, failure to meet current standards and higher running costs. There is also the risk of two-tier accommodation, some high quality, some low. | Ricky *Moffat; Garry *Sheret; Gary Fairley | 1. There is provision in place within the capital plan for investment in the asset base.<br>2. Asset register<br>3. Conditional Survey<br>4. Understanding of future asset needs<br>5. Asset Strategy:<br>. Roads<br>. Land<br>. Fleet<br>. Digital Service Network<br>. Digital Service hardware<br>6. Capital program - investment in estate.<br>7. On going monitoring of properties by: Maintenance Surveyors, Facilities Management and Property Users. | 3 | 3 | ⚠️ |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.08.02 | Appropriate investment in capital works and remedial maintenance over the lifespan of each property asset. | **Q2 17/18**: Prioritise needs of assets against available spend. On going need to assess, needs of assets, informed by conditional surveys. Capital spend works carried out during summer. | Garry *Sheret | 31-Mar-2018 | ▶️ |
| SRP.RA.08.03 | Review of capital plan. | **Q2 17/18**: Having established the Capital Plan and Asset Management Boards work is ongoing to review the Capital Strategy with a report targeted to Council in December 2017. | Garry *Sheret | 19-Dec-2017 | ▶️ |

## SRP.RR.09 Emergency Planning and Business Continuity Management

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.09 | **Risk cause**<br>The Council not preparing Emergency Plans and testing arrangements to respond to Civil Contingencies Incidents<br><br>**Risk event**<br>There are a wide range of potential events the Council may be expected to respond to e.g. Severe weather incident, Pandemic, Utility disruption etc.<br><br>**Risk effect**<br>Censure through non compliance with the Civil Contingencies Act<br>Not adequately recovering from the loss of major accommodation (eg secondary school, main offices), computer systems and staff<br>Not able to respond to a major emergency in the community<br>Fatal Accident Inquiries | Chris Lawson | <u>Potential</u> sub risks include:-<br>01 – Civil Contingencies Risk Register used to highlight key risks and record response,<br>- Council's plans developed and maintained in response to identified risks,<br>- Contingency Planning Group support development, peer review and roll out of plans.<br>02 – Establishment based incident response plans in place and maintained locally.<br>03 – Emergency response plan setting out general approach to respond to a major emergency inline with key partner organisations.<br>04 – As part of the Council's Emergency response plan the importance of recording decisions made and information available at the time is highlighted as this would be scrutinised in the event of an FAI. | 3 | 4 | ⚠️ |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.09.02 | Development of Emergency Planning Improvement Plan | **Q2 17/18**: Business Continuity Policy approved by CMT for roll out within the Council. Contingency Improvement Plan well developed and due to be shared with Contingency Planning Group ahead of reporting to CMT for approval. | Chris Lawson | 31-Mar-2018 | ▶ |

## SRP.RR.10 Governance and Standards in Public Life

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.10 | **Risk cause**<br>Code of conduct for Members and employees actions falling short of International Standards.<br><br>**Risk event**<br>Failure in openness, accountability, clarity.<br><br>**Risk effect**<br>Service, partnerships and project outcomes not achieved<br>Non compliance with conduct standards and reduction in | Alan Turpie | <u>Potential</u> sub risks include:-<br>01 Macro governance at the top – failure in openness, accountability, clarity;<br>02 Micro governance in services, partnerships and projects and outcomes not achieved<br>03 Non compliance with codes of conduct and reduction in standards in public life<br>04 Annual Assurance Statement. | 3 | 4 | ⚠️ |

| | standards in public life | | | | | |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.10.02 | International Governance Standards | **Q2 17/18**: Governance standards reviewed in-line with new CIPFA/SOLACE Guide. Currently being consulted on amongst key stakeholders following which this will be reported to CMT in advance of reporting to Audit Committee. | Alan Turpie | 31-Mar-2018 | ▶ |

## SRP.RR.11 Corporate Policies and Strategies

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.11 | **Risk cause**<br>Policies may not match the aspirations of the Council's Strategic priorities or cultural perspective.<br><br>**Risk event**<br>Policies not monitored may become out of date<br>Policies not reviewed to ensure alignment with strategic priorities.<br><br>**Risk effect**<br>Policies not monitored could result in non compliance with legislation<br>Policies not align to strategic priorities will inhibit the rather than support implementation of strategic priorities. | Ricky *Moffat; Garry *Sheret; Kevin Anderson; Gary Fairley; Ian Johnson; Joan Tranent; Grace Vickers; Alison White | 1. Single Midlothian Plan providing overarching direction<br>2. Service plans aligned to Single Midlothian Plan.<br>3. Leadership team to ensure correct approaches are adopted to get the right results.<br>4. Strategic housing investment plan, submitted to Scottish Government in December 2016, positive feedback with allocated funding.<br>5. Community Safety Strategic assessment in progress. | 2 | 3 | ✅ |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.11.03 | Community Safety Strategy | **Q2 17/18**: Community Safety Strategic assessment in progress. | Kevin Anderson | 31-Mar-2018 | ▶ |

## SRP.RR.12 Internal Control Environment

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.12 | **Risk cause**<br>Work procedures/process inadvertently create the capacity for fraud and waste to occur.<br>Internal Controls requiring more time, effort or cost than the risk being managed. | Ricky *Moffat; Garry *Sheret; Kevin Anderson; Gary Fairley; Ian Johnson; Joan | 1. Services have been prompted to consider fraud and waste within Service Risk Registers.<br>2. Risk Management Guide, provides direction on the need to balance time, effort and cost against benefit of risk controls.<br>3. Internal Audit examine internal control arrangements based largely | 3 | 3 | ⚠️ |

| | Risk event<br>Persons exploiting opportunities to commit fraud<br>Waste and errors<br><br>**Risk effect**<br>Waste and loss<br>Risks over managed with risk controls costing more than the potential loss being managed. | Tranent; Grace Vickers; Alison White | on the risk registers. | | | |
|---|---|---|---|---|---|---|

## SRP.RR.13 Climate Change

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.13 | **Risk cause**<br>Council Services not adequately engaged, resourced or directed to fulfil the requirements of the Climate Change Act<br><br>**Risk event**<br>Council Services not responding to the Climate Change Act with sufficient pace.<br><br>**Risk effect**<br>Council failing to meet its obligation under the Climate Change (Scotland) Act 2009 and incurring the associated reputational damage. | Ian Johnson | 1. Statutory requirement to report on compliance with the climate change duties.<br>2. Council Carbon Management Plan<br>3. Approval of a Corporate Climate Change and sustainable development action plan | 4 | 4 | 🔺 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.13.01 | Adaptive Planning | **Q2 17/18**: Adaptive planning proposal to be brought forward to CMT. | Ian Johnson | 31-Mar-2018 | ▶ |

## SRP.RR.14.1 Scottish Abuse Inquiry

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.14.1 | **Risk Cause:** Midlothian Council and its legacy organisations, predating the creation of Midlothian Council in 1996, have been involved in the provision of care of children going back to living memory. During this time there is the likelihood that the care children received fell below standards of care now in place. There is the further potential the some people in the care of Midlothian Council and its legacy organisations were subject to abuse by those who where employed to care for them.<br><br>**Risk Event:** The Scottish Government began an Inquiry into cases of Child Abuse occurring prior to 17 December 2014, the intention of this enquiry is to identify historic case of abuse which have to date gone unreported.<br><br>**Risk Effect:** If the inquiry finds historic cases of abuse in Midlothian this could damage the reputation of the Council and could place doubt in the eyes of the public as to the safety of these currently in care. There is significant scope for a substantial financial impact arising from claims of historic abuse. Some existing employees may be affected by the inquiry and subsequent claims of abuse. | Joan Tranent | The Council have set up an Abuse Inquiry Project Team to support the Council to prepare for information requests to support the Inquiry. In addition we have now set up a Claims Project Team to map out how claims will be made to the Local Authority and how we shall then manage them<br><br>The Project Team have established a Project Plan covering:<br>1. Residential establishments, List D Schools and Foster Carers: identifying Children's homes, Foster Carers and any List D Schools in Midlothian over the last 100 years and researching historic records.<br>2. Record Audit: reviewing the Council's existing paper and electronic recordkeeping systems to identify relevant records and map them to residential establishments. This also includes, where possible, noting the Council's historic recordkeeping policies, such as retention schedules.<br>3. Cataloguing/Indexing: checking and updating existing recordkeeping systems for accuracy and consistency, enabling effective information retrieval when requested by the Inquiry.<br>4. Ascertaining the succession and insurance position in relation to potential historic child abuse claims.<br>5. Ascertaining and agreeing Midlothian Council's legal position/ approach in dealing with the potential historic child abuse claims.<br>6. Identifying the need for guidance, protocol, templates etc should/if any claims be made against the council.<br>7. Consideration to identifying if additional staffing will be required as expected deluge of FOI's SAR's in 2018 from solicitors of potential claimants. | 5 | 4 | 🔺 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.14.01 | Implementation of Project Plan | **Q2 17/18**: A project team has been established. Project Plan identifying what actions are required to be undertaken and by whom. Fortnightly meetings to progress project plan. | Joan Tranent | 31-Mar-2018 | ▶ |

## SRP.RR.14.2 Historic Abuse Claims Project

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.14.2 | **Risk Cause:** Midlothian Council may receive claims as a result of the Limitation (Childhood Abuse) (Scotland) Act 2017 coming into force on 4th October 2017. The Limitation (Childhood Abuse) (Scotland) Act 2017 means survivors of child abuse no longer face the time-bar that requires person injury actions for civil damages to be made within three years of the related incident. The new limitation regime will have retrospective effect (up to including 1964)<br><br>**Risk Event:** Midlothian Council has established a Claims Working Group to prepare for the management of any claim that is received (including support for victims). The Claims Working Group has established a process ('Claims Procedure') for dealing with the claims.<br><br>**Risk Effect:** There is potential risk of reputational damage to the Council should any claims be made. In addition there is a financial risk should we have to either defend or pay out for any claims | Joan Tranent | Regular updates to Council to keep them abreast of the current situation and potential implications around staffing and future financial costs. | 4 | 5 | 🔺 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.14.2-1 | Training staff | **Q2 17/18**: Training additional staff in anticipation that many solicitors will make initial contact with Midlothian Council via a Freedom of Information Request or a Subject Access Request.<br>Ensuring that we have an understanding of our insurance position in relation to potential historic child abuse claims. | Joan Tranent | 31-Mar-2018 | ▶ |
| SRP.RA.14.2-2 | Communications Strategy | **Q2 17/18**: Having a communication strategy and ensuring that our websites have up to date information relating to claims and support for survivors. | Joan Tranent | 31-Mar-2018 | ▶ |

## SRP.RR.15 Review of Pay & Grading

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.15 | **Risk cause**<br>Investment to reduce in-work poverty need to improve flexibility, productivity and service quality. | Gary Fairley | 1. Investing in our Workforce Project Board focussed on securing the gains.<br>2. Governance on the 4 strands of work from Council: Life Long | 4 | 4 | 🔺 |

| | Many current policies and terms and conditions, including pay arrangements have been constructed around a Monday - Friday, 9 - 5 working week, with many services requiring to deliver services 7 days a week beyond 9-5.<br><br>**Risk event**<br>Council does not see improvements in productivity and flexibility across the workforce. Council services are not competitive against the voluntary 3rd or private sector.<br><br>**Risk effect**<br>Investment in pay and grading not translating into positive productivity gains for the Council. | | Learning, Policy, Pay, Non Financial Benefits.<br>3. Launch of new People Policies on 1st March 2017.<br>4. Communications plan to ensure all employees know what is changing and how this will impact them and service delivery. | | | |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.15.01 | Secure improvements in productivity and flexibility across the workforce. | **Q2 17/18**: Investing in our Workforce Board chaired by the Chief Executive focussed on securing these gains. | Gary Fairley | 31-Mar-2018 | ▶ |

## SRP.RR.16 Growing Council

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.16 | **Risk cause**<br>Population growth in Midlothian over the next 10 - 15 years will see Midlothian become the fastest growing Council in Scotland. . 0-15 population increase, projected at 20% and 75+ population increase projected to increased by 100% between 2014 and 2039.<br><br>**Risk event**<br>Failure to resource and plan for these rises will significantly impact the Councils ability to fulfil its statutory obligations in relation to these groups.<br><br>**Risk effect**<br>Inadequate capacity within the school estate to cope with the projected increase in pupil numbers. In sufficient provision to support an aging population placing costly inefficiencies on other parts of the care sector. General population increase placing additional demand on infrastructure including GP services. Increased pressure on infrastructure, services e.g. waste collection and growth of road network as new development roads are adopted. | John *Blair; Mary *Smith; Allister Short | 1. Local development plan<br>2. Services planning future service provision on the basis of anticipated service demands<br>3. The change programme<br>4. Learning Estate Strategy | 4 | 5 | 🔴 |

## SRP.RR.17 UK Decision to leave the EU

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.17 | **Risk cause**<br>UK vote to leave the European Union<br><br>**Risk event**<br>UK leaving the European Union<br><br>**Risk effect**<br>The impacts associated with the UK's decision to leave the UK have yet to be realised and will only become clear as negotiations progress following the triggering of article 50. There are some direct potential impacts such as an end to EU funding of Council co-ordinated projects and indirect impacts on industries undertaken within the geographical area which have relied on EU funding, such as agriculture. There are wider potential implications arising from uncertainty regarding the resident status of EU nationals, post any exit agreement, and the availability of workers from outside the UK accessing the job market here in the future. These factors have the potential to impact on the availability of the right people with the right skills being available to help grow the economy here in Midlothian. One area this could affect the Council could be in the delivery of future building projects within Midlothian which could curtail further economic growth. | John *Blair; Mary *Smith; Allister Short | 01 - the Council will monitor the implications of the UK's decision to leave the EU on the Council through its risk management approach and will develop approaches to respond to specific risks as further clarity on impact becomes clearer. | 3 | 4 | ⚠️ |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.17.01 | Impact Assessment | **Q2 17/18**: A follow up report assessing the potential impacts on Midlothian of the UK decision to leave the European Union was reported to Midlothian Council on 19 August 2017. The report expanded on the initial assessment report covering EU funding, broader economic impacts, societal, environmental and regulatory issues. | Kenneth *Lawrie | 31-Aug-2017 | ✅ |

## SRP.RR.18 Political uncertainty - Education Governance Review

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.18 | **Risk cause**<br>Delivering Excellence and Equity in Scottish Education: A Delivery Plan for Scotland and new Education (Scotland) Bill 2017.<br><br>**Risk event**<br>Future decision by Scottish Government on the outcome of governance review, which seeks a move to regional based Education.<br><br>**Risk effect**<br>Midlothian Council recognises that closing the attainment gap is not a task which can be achieved by schools or the Education Service alone but requires a total Midlothian approach. The delivery plan has made a commitment to regional working although is limited in detail on what this would look like. In the event the approach taken impedes the total Midlothian approach this could inhibit rather than support the efforts to close the attainment gap. | Grace Vickers | 01 - Midlothian Council has made a formal response to the Scottish Government on its consultation.<br>02 - Council has been kept informed of the Midlothian's response to the consultation | 3 | 4 | ⚠️ |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.18.01 | Fair Funding | **Q2 17/18**: The Head of Education reported to Cabinet on 15 August 2017 on the Scottish Governments Consultation: Education Governance Review - Fair Funding to achieve Excellence and Equality in Education which invitee responses to the consultation by 13 October 2017. New Education (Scotland) Bill 2017 was published on 7 November 2017. | Grace Vickers | 31-Mar-2018 | ▶️ |
| SRP.RA.18.02 | Governance Review | **Q2 17/18**: The Head of Education reported to Cabinet on 15 August 2017 on the Scottish Governments Education Governance Review - Next Steps following the Scottish Government publication of its national consultation on Educational Governance. On 7 November the Government published its new Education (Scotland) Bill 2017 which makes changes to previous proposals. | Grace Vickers | 31-Mar-2018 | ▶️ |

## SRP.RR.19 Health & Safety

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.RR.19 | **Risk cause**<br>Failing to identify and rectify non compliance with Health and Safety regulations.<br><br>**Risk event**<br>Employees required to undertake tasks they are not competent to.<br>Statutorily driven health and safety protective arrangements for service users and employees not implemented correctly.<br>non compliance with policy and procedure<br>not undertaking audits and inspections and the risk<br><br>**Risk effect**<br>Negative impact on outcomes for customers/service users.<br>Service users and employees exposed to hazards where statutory requirements exist.<br>Statutory health and safety - duty of care over services users and employees not met. | John *Blair; Mary *Smith; Allister Short | 01 - Suite of Health and Safety Management Arrangements developed setting out council response to statutory obligations<br>02 - Comprehensive range of Health & Safety Management & Assessment based development opportunities for line managers<br>03 - Use of Health & Safety Management Information System to enhance information transfer and organisational efficiency | 3 | 5 | ⚠️ |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.RA.19.01 | Health & Safety Management Arrangement Development | **Q2 17/18**: The development of the Council's Health and Safety management system has reached the Check stage of the Plan - Do -Check - Act framework. A range of Audit and review tools have been developed to provide assurance of compliance with the Management Arrangements and associated legislation. A proposed Audit and Review programme will be brought forward to CMT for agreement. The current Health and Safety Policy and those Management Arrangements due for review have been reviewed and will be consulted on through the 3 Divisional consultative Groups ahead of reporting to CMT for Approval. | Chris Lawson | 31-Mar-2018 | ⚠️ |

# OPPORTUNITIES

## SRP.OP.01 Shawfair

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.OP.01 | The Shawfair development with its new Rail link provides a major incentive for housebuilders, employers retail and commercial interests including opportunities to secure a low carbon community through district heating from Zero Waste. | Ian Johnson | 1. Shawfair Development Group.<br>2. Legal agreement with developers to secure developer contributions (Section 75)<br>3. Plan for entire community:<br>4. Business and industrial provision, including small business incubator space.<br>5. Circa 4000 new homes<br>6. A school campus comprising Early Years, Nursery, Primary, Secondary & Life Long Learning provision<br>7. New Primary schools | 5 | 4 | 🔺 |

## SRP.OP.02 Borders Rail

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.OP.02 | Regeneration of priority communities of Midlothian through which the railway passes.<br><br>The line provides ready access to education/training at Edinburgh College, Borders College and Queen Margaret University with improved access to the labour markets in Edinburgh and the Borders. Also a catalyst for housing growth.<br><br>Ensuring Midlothian secures appropriate levels of Blueprint funding. | Ian Johnson | 1. Designated Project Manager post.<br>2. Maximising the Impact: A blueprint for the Future - published by the blueprint group involving Scottish Government,<br>Scottish Borders, Midlothian and City of Edinburgh Council, Transport Scotland, Scottish Enterprise and Visit Scotland. The document sets out the ambitions of the partners to realise the full potential of the new Railway.<br>3. Dedicated Tourism Development post.<br>4. Timely submission of bids for approval by the Blueprint Group. | 5 | 4 | 🔺 |

## SRP.OP.03 Easter Bush - Penicuik

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.OP.03 | Fast Growing opportunities in Science Technology Engineering and Mathematics (STEM) with opportunities to link with education. Partnership links to schools and university sector at the 'Bush' to promote STEM.<br>Link to City Deal | Ian Johnson | 1. Planning in place around creating Secondary Schools as centres for excellence linked to specialisms including STEM.<br>2. Land allocated for expansion.<br>3. Midlothian Science Zone.<br>4. Troubleshooting issues - Roads Access - tackling road access through proposal in the Local Plan and City Deal. | 5 | 4 | 🔴🔺 |

| Related Action Code | Related Action | Related action latest note | Managed By | Due Date | Status |
|---|---|---|---|---|---|
| SRP.OP.03.A1 | A702 Trunk Road Improvements | **Q2 17/18**: Priority attention required to address the current strategic road access constraints, Council Officers to work with the Easter Bush Board, Transport Scotland and others. | Ian Johnson | 31-Dec-2017 | ▶ |

## SRP.OP.04 City Deal

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.OP.04 | South East Scotland Region City Deal - a bid for funding to Scottish and UK Governments to accelerate economic growth through investment in infrastructure/ housing/ skills and innovation. | Ian Johnson | 1. Key projects identified.<br>2. Heads of terms agreed by consortium for discussion with Scottish and UK Government Officials. | 3 | 5 | 🔺 |

## SRP.OP.05 Growing Council

| Risk Code | Risk Identification | Managed by | Risk Control Measures | Likelihood | Impact | Risk Evaluation |
|---|---|---|---|---|---|---|
| SRP.OP.05 | Midlothian Council has been identified as the fastest growing Council's in Scotland. This brings the opportunity to support the Council vision of being 'A Great Place to Grow'. As a growing Council this brings the opportunity to redevelop parts of Midlothian, improve infrastructure with a focus on area targeting, improving economic opportunities, improving education and health outcome.<br><br>This growth creates the opportunity to meet the housing need with 25% of new homes being built in the affordable | Ian Johnson | 1. Community Planning Partnership<br>2. The Single Midlothian Plan<br>3. The Integration Joint Board | 5 | 5 | 🛑 |

| | housing bracket, in addition to the expansion in Council House building. This construction will directly support employment in construction and will see a steady increase in the volume of Council tax received over time. | | | | | |
|---|---|---|---|---|---|---|

22

**National Fraud Initiative Update 2016/17**
**Report by Internal Audit Manager**

## 1.    Purpose of the Report

The purpose of this report is to update the Audit Committee on the completion of the National Fraud Initiative data matching exercises for 2016/17, and the outcomes of these exercises.

## 2.    Background

2.1    The National Fraud Initiative (NFI) is a UK wide counter-fraud exercise led in Scotland by Audit Scotland. It uses computerised techniques to compare information about individuals held by different public bodies, and on different financial systems, to identify circumstances (matches) that might suggest the existence of fraud or error.

2.2    Two NFI exercises took place in 2016/17:

- the main data match uploaded in October 2016 which compared a number of datasets; and

- the Council Tax to Referendum Electoral Roll (Recheck) data match which was uploaded in December 2016.

2.3    The main change to the data match this year was that most of the Housing Benefit matches were sent directly to the Department for Work and Pensions for investigation.

2.4    There were 2 new datasets included this year - Housing Tenants and Waiting Lists.

2.5    Initial investigation of matches was carried out by staff in the relevant services.

2.6    In June, Internal Audit gave evidence to the Public Audit and Post Legislative Scrutiny Committee of the Scottish Parliament on the NFI.

## 3.    Outcomes

The NFI exercises for 2016/17 have identified a total of £68,758 in overpaid benefits and discounts. Outcomes in 2014/15 were £135,444[1] and in 2012/13 they were £38,556.  Further details can be found in Appendix 1.

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[1] 2014/15 includes £93,000 for a house that was returned to stock as a result of an NFI investigation

## 4. Report Implications

### 4.1 Resource

Services have directed resources towards the initial checking of matches identified in the NFI reports. There has been no requirement for additional resources.

### 4.2 Risk

The NFI is a control that is implemented to identify potential fraud or error. It also provides assurance that if no fraud or error is found, that existing controls are working effectively.

Ensuring that suitable arrangements are in place to deal with the resulting NFI matches is critical in ensuring the Council meets its obligations and also provides assurance to Internal and External auditors.

### 4.3 Single Midlothian Plan

Themes addressed in this report:

☐ Community safety
☐ Adult health, care and housing
☐ Getting it right for every Midlothian child
☐ Improving opportunities in Midlothian
☐ Sustainable growth
☐ Business transformation and Best Value
☒ None of the above

### 4.4 Key Priorities within the Single Midlothian Plan

This report does not address the issues within the Single Midlothian Plan.

### 4.5 Impact on Performance and Outcomes

Participation in the NFI ensures that fraud or error can be identified as a result of data matching with information from public bodies.

### 4.6 Adopting a Preventative Approach

Participation in the NFI provides assurance that existing data held is free from fraud or error.

### 4.7 Involving Communities and Other Stakeholders

The Council's external auditors have advised Audit Scotland that they were satisfied with the Council's arrangements for NFI.

**4.8 Ensuring Equalities**

There are no equalities issues with regard to this report.

**4.9 Supporting Sustainable Development**

There are no sustainability issues with regard to this report.

**4.10 IT Issues**

There are no IT issues with regard to this report.

5. **Recommendations**

The Audit Committee is invited to:

- note the contents of this report;

**30 November 2017**

**Report Contact:**
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heather.mohieddeen@midlothian.gov.uk

**Outcomes from 2016/17 NFI Exercise**                    **Appendix 1**

| Type | No of Matches 2016/17 | Fraud or Errors | Outcome | Annual Value / No of Badges | Comments |
|---|---|---|---|---|---|
| Disabled Parking Blue Badges | 97 | 38 | £21,850 | 4,290 badges in issue | For detail of errors see below |
| Payroll | 162 | 1 | £5,242 | Total payroll £137,000,000 | For issues see below |
| Council Tax Reduction Scheme | 632 | 1 | £418 | Total CTRS £4,739,000 | For issues see below |
| Housing Tenants | 346 | 1 | £0 | | For issues see below |
| Waiting List | 466 | 9 | £0 | | For issues see below |
| Creditors | 2,727 | 0 | - | | No issues found<br>The large number of matches is as a result of the volume of creditors' information. |
| Housing Benefit | 539 | 0 | - | | No issues found |
| Residential Care Homes | 30 | 0 | - | | No issues found |
| Personal Budgets | 9 | 0 | - | | No issues found |
| Insurance Claims | 1 | 0 | - | | No issues found |
| Amberhill | 1 | 0 | - | | No issues found<br>Match of data against immigration systems |
| Cifas Pilot | 14 | 0 | - | | No issues found<br>Pilot match of data relating to fraudulent credit applications. |
| **Biennial Exercise Subtotal** | 5,024 | 50 | £27,510 | | |
| Recheck Electoral Roll to Single Person Discounts | 2,679 | 86 | £41,248 | Total Single Person Discount £3,813,000 | Includes 1 fraudulent match see below |
| **Total** | **7,703** | **136** | **£68,758** | | |

### Issues Found

Samples of each match category were selected, based on the matches recommended by NFI. Results were as follows:

- Blue Badges – 38 badges were discovered where the death of the badge-holder had been recorded on Council systems but the badges had not been cancelled on the national system. There is no evidence that the badges were in use. NFI values each badge cancellation at £575.

- Payroll – One issue was found relating to a pensioner in receipt of a gratuity whose death had not been communicated to payroll. The value shown is the remaining pension to age 85. The actual overpayment was £217.
- Council Tax Reduction Scheme – One error was found that related to a claim over a period of employment. The overpayment is being repaid.
- Housing Tenants and Waiting Lists – these are new datasets included this year. 7 deaths were removed from the waiting list and there were 3 clerical errors which were corrected.
- Creditors – this area always generates a large number of matches, but there were no errors found that had not already been identified and corrected by the internal controls in place.
- Housing Benefit – the main Housing Benefit matches were sent directly to the DWP for investigation. Matches to Payroll and Student records were sent to us for investigation, no issues were found.
- Cifas Pilot – We took part in a pilot exercise where our NFI data was compared to data from the fraud prevention service Cifas. Cifas maintains a database of frauds and attempted frauds reported by members (mainly financial organisations).  The matches related to inaccurate loan applications and mobile phone contracts. This indication of dishonesty gives no evidence of fraud against the Council.
- Electoral Roll to Single Person Discount – The comparison of the Electoral Roll to the Single Person Discount claimants has revealed 25 overpayments one of which has an outcome of £11,721 because a full exemption had been applied. The house had a full unoccupied exemption when purchased and the resident did not notify that he had moved in. With no evidence of fraudulent intent we are advised we cannot prosecute in this case.

# Internal Audit Report

# Health and Safety

# Issued: November 2017

# Final

| Level of Assurance | See Audit Conclusion on page 4 |
|---|---|
|  |  |

0

**Executive Summary**

## 1.0  Introduction

The Council has a legal duty to put in place suitable arrangements in response to statutory requirements and ultimately to manage and control key health and safety risks creating a safe and healthy working environment.

To support the Council in meeting its health and safety obligations and to provide advice throughout the Council's activities, there is a dedicated Health and Safety team within Commercial Services, part of the Resources Directorate. The team are principally involved in supporting the Council to develop and review all elements of its health and safety management system. The Health and Safety team have been working in partnership with East Lothian Council's Health and Safety team and both Councils have developed a common health and safety policy and training framework. Midlothian Council's Risk Manager manages the Health and Safety team across both councils.

Health and Safety legislation in the UK is enforced by the Health and Safety Executive (HSE) and in the case of Local Authority operated functions, the HSE are the enforcing body. The Health and Safety Executive is responsible for producing the regulatory framework within which businesses in the United Kingdom must comply. National and International Standards setting out Management System approaches to Managing Health and Safety have evolved. The most widely recognised of these is the International Standard 18001 and the Health and Safety Executive's model for 'Successful Health and Safety Management' set out in its publication HS(G)65, as shown in Appendix 1. The Council has sought to develop its health and safety management system on the HS(G)65 model which is based broadly on the concept: Plan, Do, Check, Act as detailed below:

### Plan
- In 2013, a report was submitted to the Council Management Team (CMT) by the Risk Manager proposing to redevelop the Council's Health and Safety management system and recommended a Health and Safety Improvement plan (2013 – 2016) which was subsequently approved and the Health and Safety policy was also updated and approved. The report noted the applicable legislation requirements and it was agreed to update the policies in place at that time (as detailed in Appendix 2) and to develop new policy arrangements (known as Management Arrangements) to address the policy gap in the Council's Health and Safety Management system.
- A list of Management Arrangements under development and those approved to date are shown in Appendix 3. These have been developed with input from key stakeholders, consulted through the Council's Divisional Consultative Groups and approved by the Council Management Team. The development of these new Management Arrangements set the standards by which health and safety will be managed and provide direction to employees. Health and Safety guidance is also available which complements these Management Arrangements.

1

## Do

- A new Health and Safety Management Information System (RIVO) was procured jointly with East Lothian and West Lothian Councils via the digital market place framework contract. A two year contract was agreed in August 2015 and in Midlothian the system went live in April 2016. The Risk Manager is progressing the next procurement exercise in consultation with East Lothian and West Lothian Councils. The RIVO system has improved the speed of incident reporting, sharing of information and has reduced the use of paper forms.
- The Health & Safety team provide a comprehensive range of management and assessment based training to support managers in their role of managing health and safety. This offering has developed significantly from the range of training provided back in 2013. This is another area where Midlothian and East Lothian Council have benefited from partnership working.

## Check

- Much of the work in developing the health and safety system to date has been in relation to addressing the Plan and Do sections of the management system. The Health and Safety team are aware and have planned and developed a range of audit tools to enable them to check performance against the range of health and safety Management Arrangements in place. Not having this in place makes it difficult for the Council to assure itself it is fulfilling its statutory obligations. There is reassurance from the Risk Manager this work has been developed and is evidenced and a forward plan of audits/reviews now need to be agreed with CMT.

## Act

- Following the application of the check stage it will then be possible for the Health and Safety team to report on any items which require further action as a result of audit/review of working practices.

The Council's health and safety function is benchmarked against 11 other Scottish local authorities every 3 years. The last benchmarking exercise was undertaken in February 2015 and reported that some work is still required before good practice can be deemed as "established" within Midlothian Council. The Council scored better in some elements such as Occupational Health Provision but were not meeting the minimum standards for undertaking Health and Safety audits and inspections.

### 2.0  Objectives of the Audit

The objective of the audit was to review the adequacy of the control framework designed by management to allow compliance with Health and Safety legislation.  A copy of the terms of reference for the review is attached at Appendix 5.

2

### 3.0  Conclusion

Since 2013, the Health and Safety team has made significant progress with implementing the Plan and Do phases of the HSE model which includes setting up an appropriate framework, developing Management Arrangements, providing training and procuring and embedding a suitable system. The team have concentrated resources on these aspects before focusing attention on the Check and Act phases of the model. The partnership with East Lothian Council has offered the opportunity to develop a common policy framework and gain efficiencies by sharing the workload in developing arrangements across both councils.  Positive elements of the health and safety framework are:

- the introduction of a new health and safety management information system which is being rolled out across the Council and has reduced the usage of paper forms to record accidents;
- the development of a health and safety portal on the Council's intranet has created a single information resource for Managers, including details of current Management Arrangements, guidance and details of training and development opportunities available;
- Management Arrangements have been developed and consulted on through the three Divisional Consultative Groups and the key stakeholders, senior management and trade unions have been involved in the development of subject specific policies;
- fire inspections have been undertaken across all operational properties with a program of review in place using the publicly available standard PAS79;
- the Health and Safety team is well established in the Council and employees know who to contact if they have any Health and Safety concerns;
- first aid training courses are now SQA accredited and the Health and Safety team are reviewing options to replace the Institute of Occupational Safety and Health's training course to suit the range level and job demands of managers. The proposed new course will be SQA accredited, enabling ongoing commercial income to be generated;
- the implementation of a first aid emergency helpline across the Council;
- health and safety concerns regarding public safety that have occurred over the past few years have been reported to Elected Members / CMT and appropriate action was taken by the Council;
- a health and safety user group has been set up at Stobhill depot which gives employees working in higher risk areas an opportunity to discuss, raise and resolve local health and safety issues; and
- providing expertise, advice and guidance to the Council's Safety Advisory Group arrangements for events held within Midlothian.

Management have advised that the health and safety management system is still under development and that they intend to move onto the next phases of implementing the HSE model (Check and Act) which will address the areas which still require improvement.  The improvements required are detailed below and more fully in the Audit issues and Management Action plan in section 4 of the report:

3

- the new management arrangements approved by the Council have not currently been subject to audits and inspections by the Health and Safety team. Management have reported that resource has been focused on developing the Management Arrangements which are the standards by which the Council will audit against as a component of the Council's Health and Safety management system;
- there is currently a lack of health and safety management reports and performance indicators as the roll out of the Health and Safety Management System (RIVO) is not yet complete. The first year of data is now in the system which will enable reactive indicator reporting. The proactive indicators will be linked to the item above;
- risk assessments and COSHH assessments are not being regularly reviewed and updated by all services;
- a number of Management Arrangements have not yet been agreed by CMT and some have not been kept up to date;
- Management Arrangements have not been adequately communicated to relevant services, other than through the training courses delivered by the Health and Safety team and their publication on the Council's intranet;
- there is not a centralised system for recording statutory inspections undertaken across the Council which means that any recommendations raising health and safety concerns may not be reported to or be independently monitored by the Health and Safety team;
- training records, risk assessments and COSHH records have not been recorded centrally across the Council prior to the introduction of the Health and Safety Management Information System (RIVO) making it difficult for management / the Health and Safety team to monitor and have oversight of this; and
- there is an inconsistency of reporting of accidents as some areas record all accidents and incidents whereas others only report accidents.  A number of areas are still submitting paper accident forms although this is reducing as the system is rolled out across the Council.

We have on this occasion rated the implementation of the individual elements of the HSE Model within the Council rather than applying an overall assessment as follows (see Appendix 4 for definitions):

| Level of Assurance | • Good – the controls introduced in relation to the 'Plan' and 'Do' phases of the Council's Health and Safety Management System |
|---|---|
| | • Weak – the processes and controls required to be implemented for the 'Check' and 'Act' phases of the system. This reflects the implementation progress of the Council's Health and Safety Management System. |

We have raised a number of recommendations which are detailed in the Management Action Plan and these recommendations have been agreed with management.

4

**4.0  Audit Issues and Management Action Plan**

**4.1 Audits and Inspections**

As part of the Council's developing Health and Safety Management system, audits and inspections will form a key component to confirm if the Council are meeting the Health and Safety regulations requirements. Inspections are undertaken by the Health and Safety team and a number of inspections are undertaken by external companies, authorities and the Council's contractors. Inspection reports are provided to the relevant Service Manager and the Property Maintenance team who are responsible for rectifying maintenance issues reported and have regular meetings with all services across in the Council.  Any major issues identified are required to be reported to the Health and Safety team. Independent external inspections containing critical safety failures are reported directly to the HSE by the contractor.

The following issues were noted during the audit:

- although the Health and Safety team have been undertaking inspections in high risk areas such as Waste Services, there is no formal audit or inspection programme.  Management reported that historically, audits were undertaken to ensure that the Workplace, Health Safety & Welfare Regulations were complied with but they did not include the other 22 aspects of the health and safety laws outlined in the new Health and Safety Management Arrangements. A suite of audits have been developed to enable comprehensive auditing to be carried out. This is supported by a Health and Safety Management Arrangement matrix identifying which Management Arrangement applies to which teams. The Health and Safety team will use this to ensure audit compliance with all of the approved Management Arrangements;
- the new Management Arrangements have not been subject to audits and inspections undertaken by the Health and Safety team which means there is limited assurance that Midlothian Council is complying with the current health and safety laws. Internal Audit testing found a number of hazards in the areas reviewed (eg trip hazards and blocked fire exits) and these may have been identified if audits and inspections were regularly undertaken by the Health and Safety team. However, staff have been trained to identify hazards and take responsibility for rectifying these. The Risk Manager reported that audits have not been undertaken as the focus is currently on developing the Management Arrangements and the health and safety system and the team are developing a range of audit tools;
- from the two Management Arrangements approved in 2014, regular audits have been undertaken for the Fire Safety Management Arrangement but only 2 reviews have been undertaken for the Water Management Arrangement. Water hygiene inspections and maintenance are outsourced to a contractor and Property Facility Services oversee these inspections. The Health and Safety team have only undertaken independent monitoring in two areas although the Risk Manager reported that there is a protocol in place to ensure any serious health and safety concerns identified are reported to the Health and Safety team;
- the current policy does not provide clarity on the differences between an inspection and an audit;

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- there is no standard formal reporting of inspections. Each inspection that has been reported to date has not been reported in a consistent format. Some reports had a checklist and other reports had information on issues identified;
- there is not a centralised system to hold all the external inspections undertaken across the Council and engineering items and recommendations raising health and safety concerns. This contributes to the challenges for the Health & Safety team to independently monitor these. The Property Maintenance Team has access to 3 of the contractors' systems to review inspection reports but other reports are filed in the areas via paper files. Internal Audit noted that a chair lift inspection undertaken by a contractor reported that a number of concerns were highlighted but no action was taken on items over a 29 month period. Management reported that a process is in place with one of the main contractors to ensure critical safety failures are immediately rectified and will investigate whether there is similar process in place with the contractor that inspects the chair lift;
- an ongoing program of fire risk inspections was undertaken by the Health and Safety team as part of the Fire Risk Assessment periodic review process, however it was found that there was a delay in completion of the emergency lighting issues identified in these fire risk inspection reports. These were reported to the Property Maintenance team but were not rectified immediately. The Property Maintenance team advised that there were issues with the contractor inspection reports which made it difficult to rectify the issue but this has now been resolved. The Risk Manager reported that actions from the fire risk assessments are now being recorded on the RIVO system and this will be used to track tasks allocated to Council staff and services;
- services manually record fire tests that are undertaken and in some areas, not all fire test records were retained. Management reported that as the Health and Safety Management System has been rolled out with over 500 members of staff trained to use it, a recurring task can be set on the RIVO system to undertake fire tests which will be recorded on the system. This will be progressed by the Health and Safety team in conjunction with Council Services; and
- following an incident at a nursery, the Health and Safety team undertook an inspection and provided appropriate advice. However, there was no documented information on how the enquiry was dealt with and how the inspection was undertaken. The Risk Manager reported that the Health and Safety team can be asked to provide advice on a wide range of topics and the areas where services seek advice normally relate to items where the Council has not provided written guidance (usually because the item has not been identified before or is very specific to a single or limited area of a Service). The Risk Manager did note that the team have an enquiries database to record tasks that are outstanding but they do not record queries which were received and completed on the same day.

| No | Recommendation | Priority | Manager | Target Date |
|----|----------------|----------|---------|-------------|
| 1 | A Health and Safety audit and inspection programme should be implemented.<br><br>**Management Comment:**<br>Inspection workplace is based on high risk areas and therefore these premises will be | High | Risk Manager | 31/12/17 |

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| No | Recommendation | Priority | Manager | Target Date |
|----|----------------|----------|---------|-------------|
|  | inspected more frequently than others. The RIVO system has an audit application which is a tool that will be used to support the auditing approach taken by the Council. This will include self audits completed by Managers and independent audits undertaken by the Health and Safety team.<br><br>The old audits and inspections undertaken were constrained in the areas they covered, providing limited assurance to the organisation on statutory compliance, therefore the Council, on the advice of the Risk Manager, required to develop appropriate audit and inspection tools. This work could not be completed in isolation and required to follow the development and approval of the Health & Safety standards managers were to be measured against. The development of auditing arrangements have been a planned element of the Council's Health & Safety Management system from the outset and will be developed and implemented as planned, utilising the new RIVO system. |  |  |  |
| 2 | The difference between an inspection and an audit needs to clarified and documented.<br><br>**Management Comment:**<br>The Health and Safety team are planning to implement a Management Arrangement on the Audit and Inspection approach which will highlight the difference. This Management Arrangement will be reported to Council Management Team for approval. | Low | Risk Manager | 31/12/17 |
| 3 | A standard health and safety reporting format should be used to ensure all health and safety inspection reports are consistent and complete (eg standards assessed, areas reviewed, issues identified etc).<br><br>**Management Comment:**<br>The Health & Safety team have prepared a standard workplace inspection form as part of the development of the Audit and Inspection Management Arrangement. | Low | Risk Manager | 31/12/17 |
| 4 | As part of the audit process, the Health and Safety team should select a sample of external inspections undertaken in the area to ensure any issues containing critical defects are actioned. | High | Risk Manager | 31/12/17 |

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| | **Management Comment:**<br>The Risk Manager recognises the need to provide adequate assurance through the newly developed audits and will ensure that work equipment and lifting equipment based audits will include an element of checking independent inspections are taking place and that items requiring attention are responded to. The Risk Manager will report audit findings to Divisional Consultative Groups, and the Council Management Team as part of the performance reporting approach within the Council's new Health & Safety Management System. | | | |
| 5 | All fire tests undertaken within properties operated by Midlothian Council and issues reported from the fire inspections should be recorded and monitored on the RIVO system.<br><br>**Management Comment:**<br>The Health & Safety team plan to work with Council Services to set up scheduled tasks on the RIVO system which are required to be completed. Before rolling this approach out, it was necessary to train the 500 users which has been the focus of the team's activity in the past year along with the other support they provide. | Medium | Risk Manager | 31/03/18 |
| 6 | All enquiries received and actioned by the Health and Safety team should be recorded.<br><br>**Management Comment:**<br>Information from the enquires database will be used to review areas where services require advice over and above the training, Management Arrangements, and guidance provided to identify potential developments in training content and available guidance. The Health and Safety team are supporting service managers to be capable of managing health and safety themselves on a day to day basis with a sound knowledge base. | Medium | Risk Manager | 31/12/17 |

**4.2 Management Arrangements and Health and Safety Guidance**

The Council's Health and Safety policy was updated in 2013 and CMT approved to develop and update additional specific health and safety policies which are known as Management Arrangements. The report noted the applicable legislation requirements and it was agreed to update the policies in place at that time shown and to develop new policy arrangements to address the policy gap in the Council's Health and Safety Management system. A Management Arrangement describes the measures the Council needs to take to comply with legal requirements in

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ensuring that a safe working environment is in place. Management Arrangements have been developed and consulted on through the three Divisional Consultative Groups and the key stakeholders, senior management and trade unions have been involved in the development of these. Health and Safety guidance is also available which complements the Management Arrangements. Testing by Internal Audit identified the following:

- some of the Management Arrangements approved by CMT are out of date and a number are yet to be approved by CMT;
- the Divisional Consultation Group meetings do not minute that Management Arrangements were consulted on but it was reported that discussions with Divisional Consultative Groups were held before taking Management Arrangements to CMT for approval;
- the health and safety policy requires updating as it has not been updated since 2013 (eg the old policy does not state that managers must display the approved H&S poster or provide each employee with access to the approved H&S leaflet);
- there is a lack of clarification / policy explaining the difference between a Management Arrangement and Health and Safety guidance which could cause confusion and result in staff mistaking guidance for a Management Arrangement. The Risk Manager advised that Management Arrangements highlight the specific risks and the systems in place within the Council which is part of the Health and Safety overarching policy. Guidance is in place to assist service managers in carrying out their duties which is linked to Management Arrangements. The Risk Manager advised this position will be clarified in the revision of the Health and Safety Policy; and
- Management Arrangements approved in November 2016 were not updated on the Council's Intranet until January 2017 (one Management Arrangement has still not been updated) and have not been communicated to relevant services, other than through the training courses delivered by the Health and Safety team and their publication on the Council's intranet.

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 7 | Management Arrangements identified in April 2013 should be implemented and embedded in the Council. Any approved Management Arrangements should be reviewed and updated. Outstanding Management Arrangements reported as 'under consultation' should be concluded and submitted for approval to CMT.  The Health and Safety policy should be updated to reflect current practice.<br><br>**Management Comment:**<br>A report will be presented to CMT and the Risk Manager will also update and inform CMT of any new Management Arrangements proposed. The Risk Manager is also planning to update the 2013 Health and Safety policy. | High | Risk Manager | 31/12/17 |
| 8 | The Risk Manager should retain an audit trail of the discussions and consultations that are held | Medium | Risk | 31/12/17 |

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
|  | on the draft Management Arrangements.<br><br>**Management Comment:**<br>Divisional Consultancy Group minutes are written by Business Support or by the Directors' PAs. In future a covering report will be presented to the Divisional Consultancy Group with the draft Management Arrangement proposed. The report will demonstrate the regulation background, Performance Indicators and the appropriate application. The comments received will be accumulated in the draft report sent to CMT for approval. |  | Manager |  |
| 9 | A policy should be in place which explains the difference between a Management Arrangement and Health and Safety guidance.<br><br>**Management Comment:**<br>The Risk Manager will reflect this in the new Health and Safety policy. | Low | Risk Manager | 31/12/17 |
| 10 | All approved Management Arrangements should be promoted to relevant services and made available on the Intranet.<br><br>**Management Comment:**<br>A number of Management Arrangements are now available on the Intranet. Appropriate ownership implementation is required by the Directors in respective areas and annual reviews undertaken to note the progress and impact on the implementation. This will be monitored in Divisional Consultancy Group meetings and training needs to be clarified.<br><br>All Heads of Service have a service manager meeting and normally cascade information from CMT/DMT and Divisional Consultancy Group to their service managers. Trade Unions can also present information from the Divisional Consultancy Group meetings. | Medium | Risk Manager | 31/12/17 |

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**4.3 Risk and COSHH (Control of Substances Hazardous to Health) Assessments**

The Council is required to make an assessment of the health and safety risks arising from their activities and implement controls to protect people from harm. The COSHH Management Arrangement states that COSHH assessments should be undertaken on a regular basis and following any significant change in working practice, plant and equipment and/or any incident or near miss. Both Risk and COSHH assessments involve the process of identifying the level of risk associated with a product, work activity or substance.

HSE guidance states that there is no set frequency for carrying out a risk assessment review but it should be undertaken if it is no longer valid and there has been a significant change. However, as good practice, the Council's Risk Assessment Management Arrangement requires services to review risk assessments on an annual basis to ensure they remain current and relevant to the operations carried out in the workplace.

Both Risk and COSHH assessments can be updated and accessed on the RIVO system or from the service via the service directory. A sample of Risk and COSHH assessments reviewed identified the following issues:

- Risk and COSHH assessments are not regularly reviewed and updated by services. This may be because some risk assessments are still on paper format or are saved on a word document. This has historically made it difficult for the Health and Safety team and the Service to review a risk assessment to ensure it is still appropriate as they are not recorded on a centralised system. The Health and Safety team can't identify the number of overdue risk assessments if it is paper based or the word document is saved on the service directory. However, during the audit review some services started migrating their risk and COSHH assessments onto the Health and Safety Management Information System introduced by the Health and Safety Team (RIVO);
- one high risk area was given significant resource to update risk assessments by the Health and Safety team but these have not been kept up to date by the Service;
- some areas don't have COSHH assessments but are required to maintain a list of all substances hazardous to health for their areas of responsibility; and
- it was reported that first aid risk assessments may require to be reviewed and updated to meet the new First Aid Management Arrangement which was approved in 2016. Service areas are required to regularly record, review and update their first aid provisions in relation to changes in their work activities or personnel. Internal Audit found a lack of first aid stock records which should be recorded on the first aid risk assessments. There was a lack of audit trails to confirm that service management have been undertaking checks to ensure that the first aider has the appropriate first aid equipment.

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 11 | All Risk and COSHH assessments must be input into the RIVO system and services should be reminded of their responsibility of maintaining these. The Health and Safety Team should provide regular reports to the Divisional Consultancy Group and CMT on the status of risk and COSHH assessments within services.<br><br>**Management Comment:**<br>Training courses rolled out across the Council educates users how to input Risk Assessments into the RIVO system. | High | Risk Manager | 31/03/18 |
| 12 | The Health and Safety team should ensure that service areas have the appropriate updated Risk and COSHH assessment in place.<br><br>Checks should be undertaken to ensure that the first aid risk assessment is reviewed and equipment is in the first aid box as detailed in the first aid risk assessments.<br><br>**Management Comment:**<br>This will be reviewed and checked as part of the audit and inspection process.<br><br>There are benefits to Midlothian Council by sharing COSHH assessments with neighbouring councils as councils tend to use the same products. | High | Risk Manager | 31/03/18 and thereafter annually |

**4.4 Training**

The Council is required to provide training, information, instruction and supervision as stated in the Health and Safety at Work Act 1974 and Management of Health and Safety at Work Regulations 1999. East Lothian and Midlothian Council have been delivering a joint health and safety training programme and a training brochure details the range of courses available. Emails are sent to employees from the Health and Safety team highlighting available courses where the full capacity has not been booked up. Checks are undertaken to ensure employees are maintaining their first aid qualification. The following issues were noted:

- a training strategy is in place which details the courses delivered by the Health and Safety team. However, there is lack of guidance on the health and safety training required for employees, agency staff and Councillors. There is a Council framework for workplace

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induction for new employees to work through with their line Manager but this is not monitored beyond the line manager to ensure it has been completed;

- there is not a centralised Health and Safety training record as training records for training arranged locally are recorded locally in services. A number of training records were found to be out of date and were not recorded in a consistent manner (eg some areas recorded training records in employees' files and others recorded information on a spreadsheet). The accurate recording of health and safety training is essential as it can be required by insurers to enable the Council to refute claims.  The Risk Manager reported that all training courses provided by the Health and Safety team will be centrally recorded on the RIVO system and any job specific training will be managed and recorded by the Service (there is a facility to record this on the RIVO system as this was a weakness recognised by the Health and Safety team); and
- an in-house first aid training programme (which is SQA credited) is provided by the Health and Safety team. However, a number of Health and Social Care services choose to undertake training externally which the Risk Manager has estimated is costing the Council approximately £10K per annum. The Health and Safety team are currently discussing this issue with the Health and Social Care Service.

With the exception of first aid training, all courses provided by the Health and Safety team are not currently recharged to services. An initiative to generate income for the section is being considered as part of the Delivering Excellence Framework, and is likely to include providing and charging for training courses delivered to third parties and recharging services for training courses provided.

Training reminders via email (which are now reported to be automated) are only sent out to staff trained on first aid and the IOSH Managing Safely Course (not for other Health and Safety courses). The training module on RIVO can be used as a tool by the Health and Safety team and by managers to identify when training certificates require to be revalidated. Management reported that the training section on RIVO has not been rolled out fully to services as the initial focus has been on using the incident reporting, risk assessment and task elements of the system. One of the Health and Safety team's future plans is to have online training records that can be accessed by line managers and used to send out training reminders.

Feedback has been provided on training courses and the Health and Safety team are re-vamping the IOSH training courses to suit the service manager's needs. A new course will be SQA credited and will be discussed with CMT prior to making any material change to the approach to management development.

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 13 | The Health and Safety team need to ensure relevant Health and Safety information is available to Heads of Service to enable them to identify training needs required in their areas.<br><br>**Management Comment:**<br>As part of embedding the Management Arrangements, the Health and Safety team will highlight and advise service managers what skills are required in their area and ensure they have identified and then train members of staff (eg for the Risk Assessment Management Arrangement the service area manager will need to check if they have appropriate trained risk assessors).<br><br>The information from the service teams will be collated and the training strategy will be updated and reported to CMT. Divisions will be expected to report annually on future H&S training needs within their Service, taking account of workforce planning and any service redesign. | High | Risk Manager | 31/03/18 |
| 14 | Training records, including job specific training records, that relate to Health and Safety should be accurately recorded and held centrally, preferably on the RIVO system. The Health and Safety team should liaise with services to ensure this is undertaken.<br><br>**Management Comment:**<br>All training records that are delivered by the Health and Safety team are recorded on the RIVO system but any job specific skilled training will depend on the service manager. The Health and Safety team will promote the benefits of recording and maintaining training records on the RIVO system. | Medium | Risk Manager | 31/03/18 |
| 15 | The Health and Safety team should continue liaising with the Health and Social Care Service and other services that are using external training providers and asses if health and safety related training can be provided by the Health and Safety team.<br><br>**Management Comment:**<br>Discussions have been held but the Health and Social Care Service continues to go to an external provider. A survey is currently underway with Resources Service Managers to identify additional in-sourcing opportunities. | Medium | Risk Manager | 31/03/18 |

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**4.5 RIVO system**

The roll out of the RIVO system has resulted in over 500 users being trained across all services in the Council. Audit testing identified a number of services using paper based forms to record accidents as training was being rolled out. Accidents and incidents are recorded on the RIVO system and can be reported by any member of staff via a web portal on the Council's intranet. Accidents can also be reported via the trained staff at the Contact Centre.

A number of issues in relation to the system were noted as follows:

- it was noted that some employees, who have been trained on the system, are not fully taking advantage of the system (eg management are not using the reporting tool on RIVO to review the number of incidents/accidents occurring in their area or are advising another member of staff to record the accident). Internal Audit testing identified that in some areas, only one member of staff is using the RIVO system to record accidents;
- system users configuration checks undertaken by the Health and Safety team identified a member of staff who had access to 15 areas which were not all managed by the employee. The issue was rectified by the Health and Safety team;
- one accident occurred in Vogrie but was reported under Midlothian house and 3 reported accidents have not been allocated to any area; and
- currently the Health and Safety team do not have a control in place to ensure any system users who have left the Council are deleted from the system.

System security issues with the RIVO system have been discussed with the Council's Information Security Officer and have been referred to the supplier to rectify. Issues identified included:

- the Council's password complexity standard is not being adhered to and the system does not request the user to change their password when they first login. The Risk Manager reported that the RIVO system doesn't have the functionality to comply with the Council's standard;
- access to the system is not restricted to Midlothian Council computer IP addresses and the system can be accessed from a personal mobile device; and
- the RIVO system does not time out after a period of inactivity.

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 16 | Training on the RIVO system needs to be rolled out across the Council and the Health and Safety team should monitor the system user activity to ensure the system and its features are being used by all employees who have been trained.<br><br>**Management Comment:**<br>The Council needs to move away from using papers forms as much as possible. The Health and Safety team will review the use of the system to ensure the Council are obtaining best value for money. This information will be collated and reported back to the Divisional Consultancy Group. | High | Risk Manager | Complete |
| 17 | System users should be reminded that when reporting accidents, it is a requirement to accurately document the area where the accident occurred.<br><br>**Management Comment:**<br>Recurring tasks can be set on RIVO to ensure incidents are reviewed and reported from the correct area. Risk area is now selected for every incident. | Medium | Risk Manager | Complete |
| 18 | A leavers' report should be obtained from Human Resources and checked on a regular basis to ensure that leavers are deleted from the system.<br><br>**Management Comment:**<br>The leavers' report will also highlight to the Health and Safety team leavers who are first aiders so they can ensure the service area appoints a new first aider or undertake a new risk assessment. The Risk Manager is planning to discuss with Human Resources to ensure that information can be shared. | Medium | Risk Manager | 31/12/17 |
| 19 | The security of the RIVO system requires improvement to ensure Council password standards are used, access is restricted to the Council's IP address, the system times out after a period of inactivity and employees have the appropriate system user rights.<br><br>**Management Comment:**<br>Health and Safety are currently reviewing all employees' user access and liaising with the supplier regarding limiting access to Council devices, enabling full adherence with all Council | High | Risk Manager | 31/12/17 |

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| | policy requirements. | | | |

### 4.6 Management Information, Reporting and Risk Registers

Measuring performance is part of the ISO 18001 standard and the HSE model for the successful management of Health and Safety. The Council can monitor its health and safety performance by producing regular information reports (eg the number of accidents in Council premises, accidents being investigated, areas audited and inspected etc). The following issues were noted during the Audit:

- a lack of management information reports are currently generated. The Health and Safety Improvement Action Plan (2013 - 2016) indicated that the Health and Safety team will provide annual reports to CMT which were not delivered. A small number of inspections have been undertaken by the Health and Safety team but the results from these were not reported to CMT or any Council Committees. One of the objectives in the Health and Safety Improvement Plan is to provide information to senior management teams on the Health and Safety performance of the Council Services. Management reported that they had a lack of confidence in the old data system and did not find the data reliable, given large quantities of incident reports identified which had not been entered into previous systems. The Risk Manager has addressed this for the benefit of historical comparison. The new RIVO system reduces the use of paper forms and enables accident data and other information to be collated on the system which will allow the Risk Manager to produce more meaningful management reports and performance indicators. Management will commence reporting information from the new system once it is fully embedded in the Council. This is also part of the new Health and Safety Improvement plan which is currently in draft;
- there are a lack of Health and Safety performance indicators (PIs) such as the number of RIDDOR incidents (Reporting of Injuries, Diseases and Dangerous Occurrences) reported to the HSE. A PI on the number of planned Health and Safety Audits completed successfully was recorded as 75% completion in 2016/17 for Q3 but there have only been audits undertaken on Fire Safety and Water Hygiene. Management reported that the previous PIs generated were meaningless and not reliable as they reported on reactive indicators only and did not provide the organisation with a sense of progress implementing its stated policies and their impact on incident reduction. New and improved PIs will be generated when the RIVO system is fully implemented in the Council, reflecting the requirements of the Management Arrangements set by the organisation with the purpose of confirming how well the organisation is doing with implementing its stated controls and using reactive indicators to confirm the impact of the same;
- the Commercial Services risk register indicates that the Council is developing Health and Safety Management Arrangements and it is intended that this will improve the Health and Safety culture in the Council. However, it doesn't highlight the risk that currently the new Management Arrangements have not been subject to audits and inspections undertaken in the Council;

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- the 2016/17 Q1 Performance Review and Scrutiny report states the progress made on the implementation of Management Arrangements but the progress was not reported in the 2016/17 Q2 report. However, the 2016/17 annual performance report states that Final Management Arrangements are being consulted on; and
- a health and safety user group has been set up at Stobhill depot which gives employees working in higher risk areas an opportunity to discuss and raise issues. This group meets on a quarterly basis however minutes recorded from this meeting were not produced on a timely basis.

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 20 | All health and safety inspection and audit reports should be reported to CMT which will improve the quality of information reported to the senior management team.<br><br>**Management Comment:**<br>Inspections and Audits undertaken will be reported to the Divisional Consultancy Group and CMT and then may report to Committee if there are significant audit findings. May raise a recommendation to CMT to raise to Committee or take advice from CMT. | Medium | Risk Manager | 31/03/18 |
| 21 | The draft Health and Safety Improvement Action plan (2017-2021) should be consulted on and approved as soon as possible.<br><br>**Management Comment:**<br>Currently under review and receiving comments from key stakeholders. | Medium | Risk Manager | 31/03/18 |
| 22 | Relevant and accurate Health and Safety PIs should be generated and reported.<br><br>**Management Comment:**<br>The Health & Safety Team have developed a suite of audit tools to reflect the Management Arrangement suite developed. PIs from these will be reported to Divisional Consultancy Groups and CMT as part of future performance reporting. | Medium | Risk Manager | 31/12/17 |
| 23 | The risk register should be updated to include the risk of not undertaking audits and inspections and the risk of failing to identify and rectify non compliance with Health and Safety regulations. | Medium | Risk Manager | 31/12/17 |
| 24 | Progress made on the implementation of Management Arrangements, and the health and safety RIVO system should be reported on a quarterly basis to the Council Management Team. | Medium | Risk Manager | 31/12/17 |

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| | Any other relevant information should also be reported. | | | |
| 25 | Minutes from the Health and Safety Stobhill user group meeting should be available on a timely basis. | Low | Head of Property Facilities Management | 31/12/17 |

**4.7 Accident and Reporting Management Arrangement**

The new Accident and Reporting Management Arrangement, approved in November 2016 and structured around the HSE guidance, documents the requirement to submit reports under the Reporting of Injuries and Diseases and Dangerous Occurrence Regulations. It states that all accidents, no matter how minor, should be recorded. Historically, accident reporting was paper driven and completed forms were input onto an Access Database developed by Midlothian IT Service and maintained by the Council's Health and Safety team. When accidents are reported on the RIVO system, management receive automated notifications and when serious incidents are reported automated email alerts are sent to senior management and the Health and Safety team. An accident requiring further investigation is allocated to an investigator who must report the outcome on the system. The following issues were identified:

- paper accident forms are still being completed in a reducing number of areas as training on the new system is rolled out. This continues a reducing risk of forms being misplaced, incomplete data being received and a risk of delays inputting accidents onto the system;
- there is an inconsistency of reporting of accidents as some areas record all accidents and incidents whereas other areas only report accidents. Management reported that the Health and Safety team are planning to promote the Accident and Reporting Management Arrangement requirements which will address what needs to be reported, this will be reinforced through planned auditing; and
- some records were found to be incomplete (eg don't detail if medical treatment was provided). This indicates that there is a need for further instruction to those completing incident details on the RIVO system. Management reported this has been a longstanding issue with paper based reports, highlighting the benefits the Health and Safety Management Information system brings to be able to allocate a task back to the system user to add specific details which have been omitted or not available at the original point of reporting.

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 26 | Awareness of the requirements of the Accident Reporting Management Arrangement should be promoted to all areas of the Council. This should include the requirement to report all incidents | High | Risk Manager | Complete |

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| | and accidents directly on to the RIVO web portal via the Intranet. | | | |
| 27 | All incidents recorded on RIVO should be reviewed to ensure appropriate action was undertaken and the necessary information such as medical treatment has been recorded. <br><br>**Management Comment:** <br>The Health and Safety team have introduced a system of ensuring all incidents reported are reviewed and any information quality matters addressed. 1509 incidents were reported in the last financial year and the Health and Safety team review incidents as they come in and issue tasks or request additional information. | Medium | Risk Manager | Complete |

**4.8 Health and Safety law poster**

Employers have a legal duty under the Health and Safety Information for Employees Regulations (HSIER) to display an approved poster in a prominent position in each workplace or to provide each worker with a copy of the approved leaflet that outlines British Health and Safety law. Management reported that they do not display the Health and Safety poster because the Health and Safety leaflet is available to employees on the Intranet. However, Internal Audit noted that a number of Midlothian Council employees may not have access to the Intranet and it was difficult to locate the leaflet on the Intranet. The Risk Manager reported that the new Health and Safety policy will include the requirement that managers must display the approved poster or provide each employee with the approved leaflet either through the Intranet or in print for those without computer access. The Health and Safety team will review this in their cycle of inspections.

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 28 | Managers should be reminded of the requirement to ensure that the Health and Safety leaflet explaining the responsibilities of employers and employees is made available to all employees within their services. <br><br>**Management Comment:** <br>This will be advised and reflected in the new Health and Safety policy and the Health and Safety team will review this in their cycle of inspections. | Low | Risk Manager | 31/03/18 |

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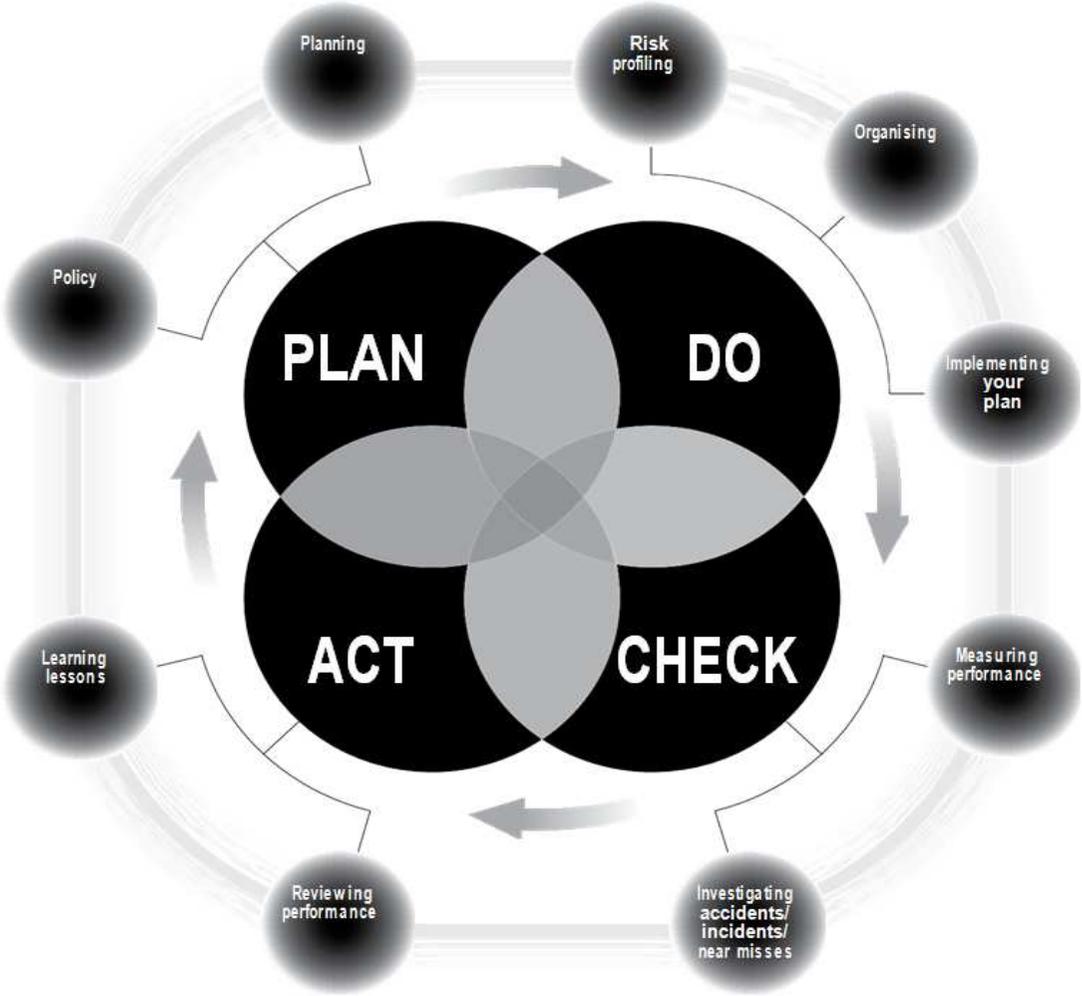
**Appendix 2:  Revision of Policies identified in 2013**



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**Appendix 3 – Management Arrangements Approved and Under Development**

**Management Arrangement approved in 2013**

| | |
|---|---|
| 1 | Health and Safety policy |

**Management Arrangements approved in 2014**

| | |
|---|---|
| 1 | Fire Safety Management |
| 2 | Water Management (Hot and Cold Water Systems) |

**Management Arrangements approved in 2016**

| | |
|---|---|
| 1 | Management of Vibration |
| 2 | Smoke Free Working |
| 3 | Manual Handling |
| 4 | Control of Substances Hazardous to Health (COSHH) |
| 5 | Display Screen Equipment |
| 6 | Personal Protective Equipment |
| 7 | Construction Design and Management |
| 8 | Accident Reporting and Investigation |
| 9 | First Aid at Work |
| 10 | Work Related Violence and Unacceptable Behaviour |
| 11 | Provision and Use of Work, Equipment, Lifting Equipment and Lifting Operations |
| 12 | Lone Working |
| 13 | Management of Stress |
| 14 | Management of Contractors |
| 15 | New and Expectant Mothers |
| 16 | Young Persons |

**Management Arrangements approved in February 2017**

| | |
|---|---|
| 1 | Working at Height |
| 2 | Health and Safety within the Workplace |
| 3 | Confined Spaces |
| 4 | Pressure Systems |
| 5 | Assessing Risks |
| 6 | Management of Noise at Work |

**Management Arrangements under Development**

| | |
|---|---|
| 1 | Control of Lead |
| 2 | Electricity at Work |
| 3 | Asbestos |
| 4 | Gas Safety |
| 5 | Management of Radiation |
| 6 | Health and Safety at Special Events |

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APPENDIX 4

**Definitions of Ratings**

**Audit Opinion**

| Level of Control | Reason for the level of Assurance given |
|---|---|
| Excellent | The control framework is of a high standard with no unacceptable risks identified. |
| Good | The control framework is of a good standard with only minor elements of risk identified which are either accepted or being dealt with by management. |
| Average | The overall control framework is of an average standard.  Some weaknesses have been identified in the controls and improvements are possible. |
| Weak | The control framework is weak and requires improvement as significant issues exist with the adequacy and effectiveness of the Internal Control arrangements. These control deficiencies could result in financial loss or reputational damage to the Council. |
| Poor | The control framework is inadequate or ineffective and the issues identified require immediate attention to prevent financial loss or reputational damage to the Council. |

**Recommendation Rating**

| Priority | Risk Definition |
|---|---|
| High | Legal / regulatory issues would normally be regarded as high risks.<br><br>Strategic risks would normally be regarded as high risks.<br><br>Financial impact - £50K plus and / or national press interest |
| Medium | £5K - £49K and / or local press interest |
| Low | Under £5K and / or no press interest. |

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**Distribution**

- Members of the Audit Committee
- Kenneth Lawrie, Chief Executive
- John Blair, Director of Resources
- Ricky Moffat, Head of Commercial Operations
- Garry Sheret, Head of Property and Facilities Management
- Chris Lawson, Risk Manager
- Ernst and Young, External Audit

**Audit Team**

Author:        Amber Ahmed, Auditor
Reviewer:    Elaine Greaves, Internal Audit Manager

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| **TERMS OF REFERENCE:** |
|---|
| **Audit Objective**<br><br>To review the adequacy of the control framework designed by management to demonstrate compliance with Health and Safety legislation.<br><br>**Scope of the Audit**<br><br>The review will focus on the following areas:<br><br>1. governance arrangements for Health and Safety within the Council which allow compliance with Health and Safety legislation;<br>2. Council wide Health and Safety policies and management arrangements, and their dissemination to and application within each directorate;<br>3. arrangements in place for Health and Safety audits, risk assessments and inspections;<br>4. adequacy of recording of Health and Safety incidents, accidents, near misses and response to incidents and actions taken to prevent similar events occurring in the future;<br>5. controls in place to ensure adequate staff training is provided and evidenced (including induction);<br>6. the adequacy of reporting and management information relating to Health and Safety; and<br>7. access to the RIVO software system is controlled effectively.<br><br>**Exclusions  and Limitations**<br><br>Health and Safety resource provided to East Lothian Council. |
| Potential Risks |
| The main risks associated with Health and Safety are:<br><br>• death or injury to employees or members of the public by failing to comply with legislative requirements;<br>• risk of prosecution or criminal proceedings against the Council or officers through Health and Safety procedural or control failures;<br>• key responsible officers are not aware of their responsibilities; and<br>• increased level of employee absence due to poor workplace environment and inability therefore to achieve Council objectives. |

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| Audit Approach |
|---|
| The audit approach consists of:<br><br>• fact finding interviews with key employees;<br>• review of appropriate documentation which includes any risk or best value reviews that have been conducted and risk registers that are in place;<br>• interrogation of any relevant systems and sample testing as required;<br>• closure meeting with local management to discuss the findings and recommendations of the review; and<br>• reporting. |

| Timescales & Reporting |
|---|
| The audit will commence in October 2016 and is anticipated to be reported to the March 2017 Audit Committee.<br><br>Any issues arising will be communicated directly to local management as they are identified during the course of the audit. A formal audit report will be produced summarising the findings and recommendations of the review. |

| Information Requirements |
|---|
| Access to all relevant systems, documentation and employees. |

| Audit Staff |
|---|
| Auditor:       Amber Ahmed<br>Reviewer:    Elaine Greaves |

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**Internal Audit Report**

**Monitoring of External Care Homes**

**Issued: November 2017**

**Final**

| Level of Assurance | **Average -** The overall control framework is of an average standard. Some weaknesses have been identified in the controls and improvements are possible. |
|---|---|

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| Page 1 | Executive Summary |
| Page 5 | Audit Issues and Management Action Plan |
| Page 12 | Definitions of Ratings and Distribution List (Appendix 1) |
| Page 14 | Terms of Reference (Appendix 2) |

**Executive Summary**

## 1.0  Introduction

The integration of health and social care services is required under statute to provide care and support services to those who are assessed as being in need. When a referral for support is received a Social Worker from the Council undertakes an assessment to determine the level of care and support required and submits an application to the Resource Panel to agree the funding.  The Midlothian Strategic Plan (2016-19) outlines Directions for the development of health and social care services in Midlothian and one of these is to reduce reliance on care homes through strengthening Primary Care and community based services such as care at home.  A long term stay in a care home is approved if living at home is no longer practical. Care homes for older people are provided by the Council and external providers in Midlothian.  The Council will ensure that resident's preferences and needs are met and will take account of family circumstances and future care needs.

This audit focused on care homes covered by the National Care Home Contract which provides high quality care for older people (normally over 65 years of age). Midlothian Council has a National Care Home Contract with 9 local providers who provide nursing and residential care. The Council currently runs 1 care home and one intermediate care service. These were excluded from the scope of the audit as the audit focused on the externally commissioned care home providers. In 2016/17, the Council paid approximately £5.5m (net of resident contributions) to the 9 external care home providers.  The Council pays net of resident contributions as care homes are responsible for collecting the resident's contribution.  Resident contributions amounted to approximately £1.4m, making the gross amount paid to care home providers £6.9m.

The Council has a duty of care to residents and employs a Quality Assurance Officer who carries out quality monitoring audits at each partner care home to determine whether the provider continues to meet the Council's standards and is complying with the National Care Home contract. The external care home providers must be registered with the Care Inspectorate and the Care Inspectorate will also carry out, normally, annual inspections. As part of the Health and Social Care Partnership, a Care Home Nurse Manager has been appointed and provides clinical support to care homes. Both the Quality Assurance Officer and Care Home Nurse Manager have a role and work is allocated between the Care Home Nurse Manager and the Quality Assurance Officer depending on the issues.

The National Care Home contract sets out the cost to councils of care home placements into private or third sector care home contracts and includes an additional payment for care homes doing well in Care Inspectorate assessments, with penalties for poorly performing homes which will trigger a large scale investigation. COSLA negotiates the fee structure annually with the representative bodies for private and third-sector providers in Scotland. These bodies are Scottish Care and the Coalition of Care and Support Providers in Scotland. COSLA, Scottish Care and

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other partners last reviewed the National Care Home contract in 2013 but annual changes have been identified in a minute of variations which has been reviewed by the Council's procurement and legal sections. A further review is currently underway.

A social work case management and finance system (Mosaic) is used within the service to record details of all care home residents.

## 2.0 Objectives of the Audit

The objective of the audit was to provide an opinion on the adequacy of Midlothian Council's monitoring arrangements over the third party suppliers it has appointed to provide care home services. A copy of the terms of reference for the review is attached at Appendix 2.

## 3.0 Conclusion

During the audit we focused on the Council's monitoring arrangements over externally commissioned care home providers and reviewed the processes in place to ensure compliance with the National Care Home Contract.  A number of care homes have been under large scale investigation which has impacted on the routine quality assurance monitoring as resource has been diverted to assist with the investigations. However, there is a wider network of visits to care homes undertaken by other officers such as Social Workers, Occupational Therapists and the Care Home Nurse Manager and any concerns over the quality of care provided would be reported and acted upon.  In October 2017, a care home closed in Edinburgh and Midlothian Council is identifying residents in the care home that will be affected.

A number of key controls were seen to be operating and these include:
- a national contract is in place with all 9 external care home providers which detail the required quality assurance routines. Variation letters, which highlight annual changes, are sent out by the Procurement section to the care homes when required;
- there is a dedicated Quality Assurance Officer who undertakes: performance reviews of the external providers; discusses with residents the quality of service provision; and reviews and follows up any concerns raised relating to care homes. A number of recruitment and medical issues were raised from the Quality Assurance Officer audits which has resulted in further investigation;
- the quality of care provided in care homes continues to be supported by a Care Home Nurse Manager;
- the Council has a close working relationship with the external care home providers;
- there is a close working relationship with the Care Inspectorate who have a statutory duty to register and inspect the service providers;
- the Council's Procurement Section undertake annual fitness checks on the external care home providers;
- there is an updated incident /accident reporting protocol in place within Midlothian Council;

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- the Public Protection Committee meets on a quarterly basis which allows the Care Inspectorate, East Lothian and Midlothian to share information. East Lothian and Midlothian Public Protection Committee have an Adult Support Protection (ASP) procedure in place for protecting adults at risk of harm. Where it is known or believed that an adult living in a care home is at risk of harm then this may lead on to a large scale investigation. There is also a large scale investigation protocol in place;
- the Council's new Social Work Complaints Procedure has been updated to highlight the requirement to comply with the new Social Work Model Complaints Handling Procedure implemented by the Scottish Public Services Ombudsman which took effect from April 2017;
- care home manager meetings are held quarterly;
- the Services Manager meets with the Quality Assurance Officer and the Care Home Nurse Manager every 6-8 weeks to prioritise workloads;
- monthly performance reports, including Care Inspectorate Grades, are provided to the Joint Management Team. The Joint Management Team includes the Director and Heads of Service and third tier managers in Health and Social Care Service; and
- video conferencing facilities have been implemented in care homes and this has enabled a training programme to be provided by the Council (commenced in February 2017).

We have made recommendations where control issues were identified and these are also noted within the Management Action Plan but briefly relate to:
- there is no strategy in place detailing what monitoring will be undertaken by the Service and the subsequent reporting detailing the outcomes of the work undertaken;
- only 4 formal audits were reported in 2015 and 2016 by the Quality Assurance Officer. Management reported that audits are conducted on a sampling basis and that resource had been diverted to the large scale investigations thus reducing the time available for routine quality control checks over the external care home providers. This has now improved and a total of 11 audits have been undertaken in 2017 (however it was noted that one of the Council's 9 contracted care homes has not been formally audited since 2015, although this care home has received high grades from the Care Inspectorate);
- care homes are required, under the contract, to provide a monthly performance report to the Council. However, audit testing noted that the monthly performance reports were rarely completed and were sent on an ad hoc basis (only 4 reports were received over a 2 year period in 2015 and 2016).  It has been reported that care home providers are now submitting their performance reports on a monthly basis;
- issues are noted in the audit reports undertaken by the Quality Assurance Officer but there are no specific recommendations or action plans with targets, responsibility assigned, management comments etc and there is a lack of information on whether the issues were resolved;

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- complaints are not being adequately recorded and reported as required by the new Social Work Model Complaints Handling Procedure. The complaints process in Health and Social care is currently under review;
- building and contents insurance, along with ensuring adequate policies and procedures are in place as required by the National Contract are not checked by the Council;
- the monthly performance reports and incident reports submitted by the external care home providers were not always sent through the Council's secure email system (Egress); and
- a lack of functionality within the Mosaic system has resulted in staff being unable to add case notes relating to care home providers or have workflow notifications attached to the care homes.

As noted above, some weaknesses have been identified in the controls and improvements are possible. Therefore we have on this occasion rated the review as average as per the definitions on page **12.** We have raised a number of recommendations which are detailed in the Management Action Plan to reduce risk further and these recommendations have been agreed by management.

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**4.0  Audit Issues and Management Action Plan**

**4.1     Service Objectives and Quality Assurance checks**

The Quality Assurance Officer for care homes has a key role in monitoring the service provided by the external care homes and the Council owned care homes.  Duties include: carrying out a programme of visits to care homes which involves assessments on the quality of service delivered and checking that care plans and other documentation are in place (such as the resident's medication records); reviewing the external care home providers' performance targets in the monthly return reports; liaising with the care home manager where there are issues; managing complaints and incidents reported directly to the Council; and undertaking an audit of each external care home provider on a regular basis. The Care Home Nurse Manager provides clinical support to care homes. These checks are designed to avoid duplicating the checks already undertaken by the Care Inspectorate.  The following issues were noted:

- there is no strategy in place detailing what monitoring will be undertaken by the Service and subsequent reporting detailing the outcomes of the work undertaken. Testing revealed that only 4 formal audits were undertaken in 2015 and 2016 by the Quality Assurance Officer. Management reported that audits are conducted on a sampling basis and that resource had been diverted to the large scale investigations thus reducing the time available for routine quality control checks over the external care home providers.  This has now improved and a total of 11 audits have been undertaken in 2017, however one care home which has received high grades from the Care Inspectorate has not been audited since 2015;
- issues are noted in the audit reports but there are no specific recommendations or action plans with targets, responsibility assigned, management comments etc, and there is a lack of information on whether the issues were resolved. Management reported that they are planning to revamp the audit template to include feedback from the external care home providers;
- the external care providers are required, under the contract, to provide a monthly performance report to the Council. However, audit testing noted that monthly performance reports were rarely completed and were sent on an ad hoc basis (only 4 reports were received over a 2 year period in 2015 and 2016).  It has been reported that care home providers are now submitting their performance reports on a monthly basis; and
- business continuity arrangements and various procedures listed in the National Care Home contract (eg Data Protection Act, Whistle Blowing etc) have not been formally checked to ensure they have been implemented in the care homes.

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| No | Recommendation | Priority | Manager | Target Date |
|----|----------------|----------|---------|-------------|
| 1 | A strategy should be created detailing the monitoring and reporting that will be undertaken by the Service. The strategy should include the expected level of monitoring of care homes, the frequency and timing of audits, which care homes are covered under the National Care Home contract and this should be reported on a regular basis to senior management.<br><br>**Management Comment:**<br>This will be reported to the Quality Improvement Team (QIT) which monitors care and support, quality issues and will also monitors complaints, compliments etc. Formal reporting to QIT is due to commence in the near future. | High | Service Manager | 31/03/2018 |
| 2 | The Quality Assurance audit report should include a plan with specific recommendations, agreed expected completion dates, management comments and feedback from the care home providers. The recommendations agreed with care home providers should be followed up by the Quality Assurance Officer to ensure they have been implemented.<br><br>**Management Comment:**<br>The Council has a partnership relationship with care homes.  The Quality Assurance Officer role is focused on sharing best practice / working alongside providers and the Council cannot enforce recommendations to be accepted if the care home is complying with applicable legislation. | Medium | Service Manager | 31/03/2018 |
| 3 | Management should ensure that the management reports are submitted by the care home providers on a monthly basis. The reports should be regularly reviewed by the Quality Assurance Officer and any significant issues and / or non receipt of reports should be escalated to management. | Medium | Service Manager | Complete |
| 4 | Management should ensure that all external care home providers have adequate business continuity arrangements and relevant policies and procedures are in place. | Medium | Service Manager | 31/03/2018 |

## 4.2     Data Protection

The Data Protection Act 1998 states that personal information should be protected against unauthorised access and should be held securely. Occasionally, the external care home provider details residents' names in the monthly performance reports and in the accident / incident forms

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but these were not always sent through the Council's secure email system (Egress).  There is therefore a risk that sensitive information may be disclosed to third parties thus breaching the Data Protection Act. Management reported that care homes have been advised to use Egress but this is not enforced stringently.

A similar recommendation was raised in the Care at Home audit (re-issued recommendation in the follow up audit report) and there is a risk that this issue may be occurring in other areas within the Health and Social Care Service.

| No | Recommendation | Priority | Manager | Target  Date |
|---|---|---|---|---|
| 5 | Care home providers should be reminded that the monthly performance reports and accident / incident reports should be sent through the Council's secure email system (Egress). | High | Head of Adult Services | 31/12/2017 |
| 6 | As there is a risk of personal information not being communicated securely in other areas within the Health and Social Care service, management should consider providing additional training to staff to highlight the importance of complying with the Data Protection Act.<br><br>**Management Comment:**<br>There is a local team within the Health and Social Care service that is looking at Data Protection Act. | Medium | Head of Adult Services | 31/03/2018 |

### 4.3    Complaints

Concerns over the Social Work Complaints process were reported in the Care at Home 2016 internal audit report which highlighted that the complaints system was not compliant with the Scottish Public Services Ombudsman (SPSO) Act 2002 and it was not clear whether these complaints were included within the Council's complaint reporting system which monitors performance in dealing with complaints within certain pre-defined timelines. The Social Work complaints procedure has been updated to highlight the requirement to comply with the new Social Work Model Complaints Handling Procedure implemented by the SPSO which took effect from April 2017.  The compliance self assessment forms were completed separately for Midlothian Council and for the Integration Joint Board. Feedback obtained required amendments to be made to the presentation of the Council's Social Work form and required the procedure to explain the roles of and responsibilities of all staff involved in complaints handling. The new Social Work Compliant Handling Procedure requires the Council to report their complaints handling

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performance against the SPSO performance indicators. This will help to facilitate continuous improvement through the benchmarking of performance within and across sectors. It will help local authorities and health and social care partnerships in providing coordinated responses to complaints that cover more than one service.

Complaints relating to care homes may be reported directly to the external care home provider, to the Council or to the Care Inspectorate. Management advised that a low number of care home complaints are reported to the Council however they mainly deal with incident reporting and Adult Support Protection concerns. The following issues were identified with the current complaints process:

- first level complaints are not being adequately recorded and reported as required by the new Social Work Model Complaints Handling Procedure.  Management have advised that the complaints process in Health and Social care is currently under review; and
- Midlothian Council is responsible for ensuring that care homes meet the required standard of the Social Work Model Complaints Handling Procedure and the National Care Home contract states that care homes' complaints procedures needs to meet the requirements of the SPSO. The number of formal complaints received and resolved are reported in the monthly performance reports but there is no information detailing whether the complaints were resolved within the stipulated timescales. There are no mechanisms in place to review the care home providers' internal processes for recording, managing and reaching decisions on the different types of complaints or for approving extensions to timescales. It was advised that most complaints relate to issues that have an immediate solution at the point of delivery, and are therefore not to a level that requires formal reporting or investigation.

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 7 | Complaints should be recorded and reported as required by the new Social Work Model Complaints Handling Procedure.<br><br>**Management Comment:**<br>The complaints process in Health and Social care is currently under review. | Medium | Head of Adult Services | 31/03/2018 |
| 8 | Monitoring of care homes should be undertaken to ensure they are complying with the new Social Work Model Complaints Handling Procedure.<br><br>**Management Comment:**<br>More information regarding the type and outcome of the complaints will be included in the monthly performance reports. | Medium | Service Manager | 31/03/2018 |

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**4.4	Annual Fitness checks**

The Procurement team carry out annual fitness checks which include monitoring the financial stability of care home providers in addition to checking whether the provider still has valid insurance policies in place. The following issues were identified with the current procedures:
- the external care home renewal insurance certificates are obtained on an annual basis however one of the external care home providers has not submitted their documents; and
- building and contents insurance is not checked as part of the annual fitness checks which is a required by the National Care Home Contract.

| No | Recommendation | Priority | Manager | Target  Date |
|----|----------------|----------|---------|--------------|
| 9 | Obtain up to date insurance documents from the external care provider.<br><br>**Management Comment:**<br>3 reminders have been sent to the provider. An alert will also be sent to COSLA if no response is received. | Medium | Procurement Manager | 31/03/2018 |
| 10 | Building and contents insurance for care home providers should be checked annually by the Council, as stipulated in the National Care Home contract. | Medium | Procurement Manager | 31/03/2018 |

**4.5	System Issues**

The delivery and support of the Mosaic system in Midlothian is managed by a dedicated Mosaic team within Financial and Integrated Service Support and reports generated from the system are managed by the Performance and Improvement team within the Health and Social Care service. The following issues were found:

- due to the inability to create case notes or have workflows notifications attached to an organisation (care homes) in Mosaic, staff cannot record specific issues relating to the care home.  Information currently has to be recorded on a client which is not always appropriate. This also has an impact on the Quality Assurance Officer reporting their audit findings to alert issues of the care home to other members of staff who may be working with a resident in the care home. The Mosaic team suggested that it will be better to send workflow notifications relating to a care home rather than adding case notes against the organisation and it was advised that the ability to create workflows on organisations is due for release towards the end of 2018; and

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- when the Quality Assurance Officer searches for residents in a care home the results include deceased residents and the system does not allow the Quality Assurance Officer to return back to their original search results. The Mosaic team advised that deceased clients will always appear under their last address which in some cases may be the care home.

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 11 | The system should be updated to allow staff to send work flow notifications relating to the care home. | Medium | Business Applications Manager | 31/12/2018 |
| 12 | The Performance and Improvement team should set up a report template on the system which will allow the Quality Assurance Officer to undertake more efficient searches when identifying residents in a care home. | Medium | Performance and Information Lead Officer for Health and Social Care | Complete |

**4.6    Care Plan Reviews**

Although out-with the scope of this audit review, the following issues were noted in relation to care plan reviews:

- Midlothian Council charges £250 for undertaking a care plan review on behalf of another local authority resident placed in a care home within Midlothian. However, this is an informal agreement made by the former Service Manager. There is a lack of documentation detailing how the charge was agreed and there is no formal information on the charge the Council pays to other local authorities for undertaking reviews (it was advised that we may have not been charged);
- there is a lack of monitoring over the invoices raised to local authorities for undertaking care reviews. There is a risk that Midlothian Council is undertaking a number of reviews but is not raising an invoice or checking if the invoice was paid; and
- care home periodic reviews have not been undertaken due to the number of care homes under investigation.  As at November 2017, 70 cases were sitting as outstanding. It was advised that all Care Plans are reviewed when a care home is under a large scale investigation and a number of these outstanding cases were reviewed at the time of the investigation.

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| No | Recommendation | Priority | Manager | Target  Date |
|----|----------------|----------|---------|--------------|
| 13 | Management should:<br>• review and formalise the charges for undertaking a care plan review on behalf of another local authority and the charges for another local authority undertaking a care plan review on behalf of Midlothian Council;<br>• improve the monitoring checks in place to ensure that for every care plan review the Council raises an invoice for this and receives the appropriate payment; and<br>• ensure adequate resource is in place to undertake periodic care home reviews. | Medium | Head of Adult Services | 31/03/2018 |

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**Definitions of Ratings**

**Audit Opinion**

| Level of Control | Reason for the level of Assurance given |
|---|---|
| Excellent | The control framework is of a high standard with no unacceptable risks identified. |
| Good | The control framework is of a good standard with only minor elements of risk identified which are either accepted or being dealt with by management. |
| Average | The overall control framework is of an average standard.  Some weaknesses have been identified in the controls and improvements are possible. |
| Weak | The control framework is weak and requires improvement as significant issues exist with the adequacy and effectiveness of the Internal Control arrangements. These control deficiencies could result in delivery of poor service or disruption to service to the residents of Midlothian, financial loss or reputational damage to the Council. |
| Poor | The control framework is inadequate or ineffective and the issues identified require immediate attention to prevent the delivery of poor service or disruption to service to the residents of Midlothian, financial loss or reputational damage to the Council. |

**Recommendation Rating**

| Priority | Risk Definition |
|---|---|
| High | Legal / regulatory issues would normally be regarded as high risks.<br><br>Strategic risks would normally be regarded as high risks.<br><br>Financial impact - £50K plus and / or national press interest |
| Medium | £5K - £49K and / or local press interest |
| Low | Under £5K and / or no press interest. |

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**Distribution**

- Kenneth Lawrie, Chief Executive
- John Blair, Director, Resources
- Allister Short, Director of Health and Social Care
- Gary Fairley, Head of Finance and Integrated Service Support
- Alison White, Head of Adult Services
- Dawn Barrett, Service Manager
- Jacqui Dougall, Business Services Manger
- Iain Johnston, Procurement Manager
- Mike O'Rourke, Business Applications Manager
- Jamie Megaw, Midlothian Health and Social Care Partnership Strategic Programme Manager
- Zoe Graham, Performance and Information Lead Officer for Health and Social Care
- Ernst and Young, External Auditors

**Audit Team**

Author:        Amber Ahmed, Auditor
Reviewer:     Elaine Greaves, Internal Audit Manager

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**APPENDIX 2**

| TERMS OF REFERENCE: |
| --- |

**Audit Objective**

The objective of the audit is to provide an opinion on the adequacy of Midlothian Council's monitoring arrangements over the third party suppliers it has appointed to provide care home services.

**Scope of the Audit**

The review will focus on the governance arrangements over the management of the external care home providers including: contracts, monitoring performance against the contract, risk management, complaint handling and follow up mechanisms where the care home provider fails to deliver to the appropriate national care home standards.

**Exclusions and Limitations**

- care homes run by the Council as this will be subject to a separate review;
- the assessment of the suitability of the care home placement; and
- the residents' financial assessment and funding of placements.

Potential Risks

Potential risks include:

- failure to adequately monitor the performance of the care home provider resulting in vulnerable residents being placed at risk, reputational damage and financial loss;
- failure by the provider to comply with legal / regulatory requirements resulting in reputational damage;
- failure to monitor the ability of the care home provider to continue to provide the service resulting in vulnerable clients being placed at risk and reputational damage to the Council;
- lack of monitoring of Midlothian Council residents who are placed in other local authorities' care homes; and
- care home providers failing to adequately report issues, complaints and accidents to the Council.

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|---|
| **Audit Approach** |
| The audit approach consists of: <br> • fact finding interviews with key employees; <br> • review of appropriate documentation which includes any risk or best value reviews that have been conducted and risk registers that are in place; <br> • interrogation of any relevant systems and sample testing as required; <br> • closure meeting with local management to discuss the findings and recommendations of the review; and <br> • reporting. |
| **Timescales & Reporting** |
| The audit will commence in March 2017 and is anticipated to be reported to the June 2017 Audit Committee. <br><br> Any issues arising will be communicated directly to local management as they are identified during the course of the audit. A formal audit report will be produced summarising the findings and recommendations of the review. |
| **Information Requirements** |
| Access to all relevant systems, documentation and employees. |
| **Audit Staff** |
| Amber Ahmed, Internal Auditor <br> Elaine Greaves, Internal Audit Manager |

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# Internal Audit Report

# Tyne Esk LEADER

## Issued: November 2017
## Final

| Level of Assurance | Objectives | Rating |
|---|---|---|
| | 1. Review of the governance, management processes, and administration for Tyne Esk LEADER to ensure that adequate arrangements are in place to cover the terms of the SLA, and any associated European Union Regulations. | **Good** |
| | 2. Review of processes for consideration of project and funding applications: handling of enquires; consideration of expressions of interest; any initial project application development; scoring and decision making processes by the LAG; and the adequacy of the framework for monitoring the performance of grant recipients. | **Average** |
| | 3. Review of the LEADER administration grant claim processes, to include adequacy of:<br>a. information and evidence compilation;<br>b. records management systems;<br>c. separation of duties;<br>d. compliance with grant claim regulations;<br>e. effectiveness of communications between the Accountable Body and the Scottish Government team. | **Good** |

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**Executive Summary**

## 1.0  Introduction

This report has been prepared following an internal audit of the Tyne Esk LEADER (Liaison Entre Actions de Developpement de l'Economie Rurale) Programme.  This report covers the work of the Tyne Esk LEADER programme from 16 October 2016 to 15 October 2017.  The Service Level Agreement (SLA) requires that Internal Audit undertake an assessment annually of the extent of observance by the Accountable Body (Midlothian Council) of the requirements of the SLA.

The Tyne Esk LEADER Programme is part of the Scottish Rural Development Programme (SRDP) aimed at promoting economic and Community development within rural areas in Midlothian and East Lothian.  The SRDP is part of the EU Common Agricultural Policy and is funded by the European Commission and the Scottish Government.  There are a total of 21 LEADER programmes established throughout Scotland, and each of these is governed by a separate Local Action Group. LEADER is a bottom-up method of delivering support to communities for rural development. Grants are awarded by Local Action Groups (LAGs) to projects that support delivery of a Local Development Strategy. For each LAG there is an Accountable Body to support the administration of the programme.

Midlothian Council is the Accountable Body for the 2014-2020 Tyne Esk LEADER Programme.  As the Accountable Body, Midlothian Council has delegated responsibility for a range of processing, payment, and administration functions as set out in the SLA. This includes all aspects associated with the implementation of the approved Local Development Strategy, such as the presentation, assessment and clearance of applications through the LAGs, and the subsequent approval and post approval case management functions.

The Tyne Esk Local Action Group for the 2014-2020 programme has 13 individual members (maximum size of 16) and these were selected through a competitive process.  The LAG has to have a minimum 51-49% split between public sector and non-public sector in line with Scottish Government guidance, The Tyne Esk LAG currently has a 31-69% split. The chair and vice chair have been elected through a democratic process. In order for the LAG to be quorate there must be a minimum of 7 members, with at least 4 drawn from the private sector or third sector.

Midlothian Council has received a funding allocation from the Scottish Government of £3,490,769 to administer a LEADER Programme throughout the rural areas of Midlothian and East Lothian, and funding is reclaimed from the Scottish Government after it has been defrayed. This programme will deliver the priorities set in the Tyne Esk LEADER Local Development Strategy (LDS).

The application process for LEADER is as follows:

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- the applicant will submit an Expression of Interest form through the Scottish Rural Network website. Through this website the applicant will select their LAG area (eg Tyne Esk);
- the person who submitted the Expression of Interest will attend a workshop held by the staff team fortnightly to go over the processes and requirements of a LEADER application;
- a member of the LEADER staff team will then meet with the applicant to discuss the project in more detail;
- a summary of the Expression of Interest will be sent to the LAG for initial evaluation;
- the LEADER team will provide further guidance to the applicant to enable the applicant to prepare a full application to the LAG;
- the LEADER team will provide a username and password to the applicant to the Local Actions in Rural Communities system (LARCs). LARCs is the grants management system provided by the Scottish Government which covers the process of applying for LEADER funding and for the completion of claim forms for the drawdown of funds;
- the applicant will then complete their application and provide to the LEADER team appropriate information as required by the guidance (eg financial accounts or planning permission where relevant);
- LEADER staff will work with the applicant to develop the project before submitting to the LAG for an assessment and decision;
- the project will be submitted to the LAG for approval;
- the applicant will complete any necessary conditions for funding included in the grant letter, for example to seek appropriate planning consents, and will submit evidence of this to the LEADER team;
- a start date for the project will be agreed with the applicant when the applicant signs and returns the grant acceptance letter;
- the applicant will submit relevant invoices, bank statements, and progress reports to the LEADER team and LEADER will then pay the applicant for the proportion of the costs eligible for grant aid at the achievement of the appropriate pre-agreed project milestones; and
- LEADER may carry out interim inspections while the project is underway, but these are not mandatory in the guidance.  A final comprehensive 'In Situ' inspection will be completed prior to paying the final grant claim to the applicant. In Situ inspections are mandatory and include more detailed analysis of project completion and will be supported by photographic evidence.  These may be completed close to the end of the project, but LEADER may do more than one inspection at an earlier stage for very large projects.

As at October 2017, a total of 114 Expression of Interests have been received for the Tyne Esk Leader Programme.  There is 1 completed project, 11 live projects, 3 projects awaiting start, 1 approved project awaiting the return of grant acceptance form, 4 projects at Decision in Principle stage, and 17 projects at application development stage.  2 projects have been rejected by the LAG, and 1 project was approved by the LAG but the project was later withdrawn by the applicant.

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## 2.0  Objectives of the Audit

The audit objective is to provide assurance on the adequacy of the internal controls in place for the administration of the Tyne Esk LEADER Programme. A copy of the terms of reference for the review is attached on page **16.**

## 3.0  Conclusion

Our audit identified that management implemented a number of systems, internal controls, and procedures for the Tyne Esk LEADER Programme. During the course of the audit we noted the following strengths:
- adequate arrangements have been established to ensure that compliance with the SLA is monitored;
- clear governance arrangements have been established for the Council and the LAG;
- satisfactory arrangements are in place for reviewing funding applications, handling enquiries, and initial project application development;
- the projects fit with the aims of the Local Development Strategy ; and
- appropriate processes are in place for the processing of LEADER administration grant applications and claims, including information and evidence compilation, records management, separation of duties, compliance with grant claim regulations, and communication with the Scottish Government team.

Some areas were identified with scope for improvement. These included:
- LEADER should review their approach to obtaining quotes to ensure sufficient evidence of quotes/tenders is obtained at the project application stage;
- reasonableness of costs forms should be completed and signed off in all cases, and process improvements were identified for the reasonableness of costs form;
- a standard process should be introduced for all applicants to provide confirmation that the quotes provided for assessing reasonableness of cost are not from businesses connected to the applicant;
- although it is noted that applicants must confirm within LARCS that their project is in the eligible LAG area, LEADER should upload evidence that confirms this particularly as some projects may not be based in the LAG area but have their market in the LAG area;
- all relevant project evidence in the paper file should be uploaded to the LARCS system;
- a process should be further developed to evidence the comparison between the project application cost description and the claims cost description to support the prepayment checklist and ensure that the breaches and penalties rules do not need to be applied; and
- the LEADER team should endeavour to comply with the SLA's requirement to submit claims to the Scottish Government within 20 working days.

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As noted above, a number of strengths were identified, but also some weaknesses have been identified and improvements to these are possible. We have in this instance rated this audit by the individual control objectives in accordance with the table on the front page.  We have raised a number of recommendations which are detailed in the Management Action Plan to reduce risk further and these recommendations have been agreed by management.

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**4.0  Findings**

**4.1      Demonstration of Project Costs**

<u>Receipt of quotes for project costs at claims stage</u>

As part of the LEADER grants process, applicants are required to submit evidence that demonstrates how they have arrived at costs and in doing so, consider the costs to be reasonable.  In most cases applicants will submit quotes to confirm the reasonableness of costs as part of their application.  For significant projects with more than £50k of project costs to a single supplier, LEADER may include as a requirement in the grant letter for a full competitive tender to be completed for the project and for all relevant information on this tender to be submitted to LEADER (though this will vary project to project and the judgement of the LAG).  For organisations subject to the 2012 Scottish Public Procurement Regulations, (eg Local Authorities, National Park Authorities etc), public sector procurement rules apply for the purchase of any goods and services funded under LEADER.

The policy established by Tyne Esk LEADER has been to allow applicants that do not have to apply the 2012 Scottish Public Procurement Regulations to be accepted on the basis of 1 quote at application stage provided 3 quotes for project costs are provided justifying the costs at project claims stage (ie for quotes to be submitted when the applicant submits invoices to LEADER for project costs requesting payment by the Council).  However, it is noted that some applicants do still provide multiple quotes at application stage, and for very large complex projects, the grant will be awarded with the condition that a full tender process is completed and evidence submitted to LEADER.

A review of LEADER documentation suggests that it is preferable for quotes to be received at the application stage rather than at the claims stage.  There were specific issues noted during the audit review in relation to the receipt of quotes that were potentially exacerbated by the current approach:

- for 1 project reviewed, the applicant had already proceeded in engaging with suppliers for the project before submitting evidence of 3 quotes to confirm reasonableness of costs to the LEADER team.  The information initially submitted by the applicant did not provide a full breakdown of the quotes for the selected suppliers, and one of the quotes for a supplier that was not selected was not on headed paper meaning the supplier was not identifiable;
- for another project reviewed the applicant submitted 3 quotes, but the quotes were not comparable due to changes in the specification between 1 quote being received at application stage and the 2 other quotes being received at claims stage. This gave the impression of the most expensive quote being accepted by the applicant, although the LEADER Programme Coordinator notes that this is not the case and is mainly due to changes in the project's specification.  The LEADER Programme Coordinator is awaiting further evidence from the applicant to clarify this; and

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- for 2 projects that both received three quotes, it was noted there was insufficient analysis provided by the applicant as to why they had selected their chosen supplier.

Receiving quotes at application stage rather than at the claims stage provides LEADER with additional assurance that the costs supplied are reasonable before the applicant has engaged with any suppliers.  With the current procedure, there is a risk that the applicant may have already engaged with a supplier before LEADER has had an opportunity to review the quotes in detail to confirm their adequacy (eg to confirm that the quotes are on headed paper with VAT number, sufficiently detailed, and comparable).  LEADER may not fund applications if insufficient evidence demonstrating reasonableness of project costs is submitted to LEADER, therefore, ensuring the quotes are adequate at an earlier stage helps mitigate this risk for the applicants.

Review of reasonableness of costs

At the application stage, a Value for Money / Reasonableness of Costs (RoC) assessment is completed by the member of LEADER staff responsible for developing the application to confirm the costs included in the project application are reasonable and to evidence this process.  Additionally, this form allows for robust review of the project for any eligible/ineligible expenditure, but it is noted that this is also reviewed as part of the applicant's application form.  Once completed, this assessment is signed by the member of LEADER staff developing the application and then uploaded into the LARCS system.

Testing of a sample of 13 projects, identified that for 3 projects this assessment had not been completed, and for 4 projects the unsigned version of the RoC had been uploaded to LARCS (admin error).  It has been advised that the reason for non-completion of the 3 RoCs was that the LEADER Programme Coordinator and the LAG were satisfied with the quotes received and felt it was not necessary to complete a RoC assessment for these projects.  However, if the RoC is not completed then it is not evidenced in LARCS that this assessment has been made.

A review of RoCs identified that there is a focus on price within the RoCs, and they would benefit from expanding this to include more detail on quality particularly when comparing different quotes.  For higher value projects, LEADER should obtain assurance from the applicant that the selected supplier is financially stable.  The RoC did not always clearly indicate which supplier had been selected.  LEADER should review whether a separate note can be added in LARCS at a later stage if the selected supplier and reasoning for selection is not detailed in the RoC.

The guidance recommends that the LAG should engage independent technical expertise where appropriate to help in assessing applications when expertise is not available in the LEADER team or the LAG.  It was noted during the review that this has been used rarely given the expertise within the LAG (the LAG up until recently included a Civil Engineer).  It was noted that LEADER has consulted the Council's own Building Standards team for advice in confirming reasonableness of costs for some projects. We recommend LEADER should expand on this

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process to ensure appropriate external advice is obtained where appropriate for larger and complex projects.  This is particularly important for guidance on the difference between a 'repair' (which is ineligible under LEADER guidance) and 'enhancements' and 'renovations' (both allowable under LEADER guidance).

Risk applicant is connected to the supplier

The LEADER General Applicant Guidance states that:

'Multiple Quotes or tenders must come from:
- different suppliers that trade as standalone businesses and are not linked through shared ownership; and
- a business that's independent from the applicant or their business.'

Currently, applicants are not required to submit a confirmation that they are not connected to any of the businesses that quotations or tenders have been obtained from.  During audit fieldwork, 2 projects were noted as submitting quotes from companies they are connected to. 1 project did not use the connected company.  The other project proceeded with the connected company, but only after a full tendering exercise attended by LEADER staff was carried out to confirm value for money.  This process was clarified with the Scottish Government before proceeding.

In the first example, the applicant provided the quote along with the 2 other quotes and noted that the business was connected – in this case LEADER advised the applicant to provide an additional quote at claims stage to evidence value for money as the quote from the connected company was not acceptable.  In the second example, LEADER only identified that the business was connected through review of the applicant's bank statements when evidencing match funding at the project application stage.  LEADER should introduce a standard process for all applicants to provide confirmation that the quotes provided for assessing reasonableness of cost are not from businesses connected to the applicant.

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 1 | LEADER should obtain the appropriate number of quotes / tender information at application stage in order to ensure there is sufficient evidence of reasonableness of costs / value for money.  Quotes should be sufficiently detailed and comparable.<br><br>This approach should be set out in an approved LAG procedure and all relevant | High | LEADER Programme Coordinator | 31/03/2018 |

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| | applicants should be advised of the revised procedure. | | | |
| 2 | Reasonableness of Costs / Value for Money statements should be completed for all projects and the final signed version of this document should be uploaded to LARCS. | Medium | LEADER Programme Coordinator | 31/03/2018 |
| 3 | The Reasonableness of Costs / Value for Money statement should be expanded to include more detail on quality particularly when comparing different quotes.<br><br>LEADER should review whether a separate note can be added in LARCS at a later stage noting the selected supplier and the reasoning for this if reasoning for the selected supplier is not detailed in the RoC.<br><br>For higher value projects, LEADER should obtain assurance from the applicant that the selected supplier is financially stable. | Medium | LEADER Programme Coordinator | 31/03/2018 |
| 4 | LEADER should ensure that appropriate external advice is obtained for the LAG, where appropriate, for larger and complex projects. This is particularly important for guidance on the difference between a 'repair' (which is ineligible under LEADER guidance) and 'enhancements' and 'renovations' (both allowable under LEADER guidance). | Medium | LEADER Programme Coordinator | 31/03/2018 |
| 5 | LEADER should ensure all applicants provide confirmation that the quotes provided for assessing reasonableness of cost are from businesses that are independent from the applicant or their business.<br>Additionally, LEADER should evidence confirmation from the applicant that the quotes received are different suppliers that trade as standalone businesses and are not linked through shared ownership. | High | LEADER Programme Coordinator | 31/03/2018 |

**4.2     Payment of Project Costs**
It was noted during the review that more workings could be provided to evidence that the applicant's claims have been compared to the quotes provided, as is required by the prepayment checklist.  This is important as differences between the applicant's awarded grant and the invoice claim are in effect a 'change request', and these are subject to breaches and penalties rules if actual costs are over 10% of the awarded grant. This risk is mitigated by project financial milestones established in LARCS which limit the amount the applicant can claim for each phase of the

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project without applying a change request, but LEADER staff still have to confirm that the items detailed in the invoice agree to the quote to ensure change requests are adequately controlled.  No evidence of claims being above the grant award was noted in the audit review.

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 6 | A process should be developed to evidence the comparison between the project application costs and the claims costs to support the prepayment checklist and ensure that the breaches and penalties rules do not need to be applied. | Medium | LEADER Programme Coordinator | 31/03/2018 |

**4.3     Change Management Procedures**

A change request policy has been established and approved by the LAG.  This policy sets out the authorisation thresholds for project changes.  In summary, the policy outlines that project changes under 3 months and cost changes below 10% can be approved by the LEADER Project Coordinator without being submitted to the LAG.  Requests for changes between 3 and 9 months can be approved by the LAG office bearers without being submitted to the full LAG, and significant changes to project costs and extensions over 9 months require submission to the full LAG.

Our review identified that the process for change management is being adequately documented in LARCS with sufficient detail in most cases.  Additionally, for projects requiring approval above the LEADER Project Coordinator's authority evidence had been uploaded to LARCS that authorisation had been sought from the LAG office bearers and line management as required by the change request policy.  For one project included in the review, it was noted that more detail should have been documented to explain the reason for a minor variance in budget (adequate authority was established for this as it was below 10% of project costs).

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 7 | For significant budget changes in projects, LEADER should upload evidence to clarify the reasoning behind the differences. | Medium | LEADER Programme Coordinator | 31/03/2018 |

**4.4     Application Evidence and Audit Trail**

It was noted during the review that no evidence was uploaded to LARCS or included in the physical file to prove that the project is in the eligible project area.  This is important as it evidences the audit trail of the funding decision.  Additionally there may be projects that are not based in

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the LAG area but has its market in the LAG area the project may be eligible for funding; therefore, this information needs to be recorded in LARCS.

Three projects were noted in the review as being either loss making or having significant liabilities. The LEADER Programme Coordinator notes that the risk of funding these projects was discussed during the LAG meeting and the LAG were satisfied with the level of risk. Additionally, advice was sought from business in a similar sector for one of the applicants to clarify if the level of liabilities was normal for the sector. Given the increased risk of funding projects in a weak financial position, we recommend that a file note should be added to LARCS explaining the LAG's decision with appropriate evidence attached.

For some projects it was noted that evidence of insurance was submitted while for others it was not. We recommend management should develop a standard written approach for collection of insurance information from applicants to follow.

During the audit review it was noted that there has been a delay in uploading all relevant documents to the LARCS system for some projects. The LEADER Programme Coordinator should ensure that LARCS includes all relevant supporting evidence such as confirmation of grant acceptance letters, planning consents, and completion of necessary conditions detailed in the grant letter.

| No | Recommendation | Priority | Manager | Target Date |
|----|----------------|----------|---------|-------------|
| 8 | Evidence should be uploaded to LARCS to confirm that the project is in the LAG area, or if it is not in the LAG area then how it has been assessed that the primary market is in the LAG area. | Medium | LEADER Programme Coordinator | 31/03/2018 |
| 9 | For projects in a weak financial position, we recommend that a file note should be added to LARCS explaining the LAG's decision with appropriate evidence attached.<br><br>**Management Comment**<br>The Technical Check has been expanded to include detail on this. This revised Technical Check has now been used for 2 projects. | Medium | LEADER Programme Coordinator | Complete |
| 10 | We recommend management should clarify within the technical check whether what the applicant has supplied in terms of insurance is acceptable as it is understood that the evidence requirements will vary from project to project. | Low | LEADER Programme Coordinator | 31/03/2018 |
| 11 | LEADER should ensure that all relevant project evidence and audit trail included in the project's physical file is uploaded to LARCS. | Medium | LEADER Programme | 31/03/2018 |

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| No | Recommendation | Priority | Manager | Target Date |
|----|----------------|----------|---------|-------------|
|    |                |          | Coordinator |         |

### 4.5 Monitoring and In Situ Visits

As only 1 project is completed only 1 'In Situ' visit was available to review. The 'In Situ' visit appears to have been completed to a satisfactory standard with photographic evidence of the project saved on file in LARCS with a description of the site visit by the LEADER Finance Support Officer and feedback from the applicant. However, we recommend consideration should be given to providing additional detail on the 'In Situ' form for the officer to confirm she has physically seen a sample of the specific items claimed for. Additionally, consideration should be given to having this form authorised by the LEADER Programme Coordinator.

| No | Recommendation | Priority | Manager | Target Date |
|----|----------------|----------|---------|-------------|
| 12 | Consideration should be given to providing additional detail on the 'In Situ' form for the officer to confirm she has physically seen a sample of the specific items claimed for. Additionally, consideration should be given to having this form authorised by the LEADER Programme Coordinator to confirm that he is satisfied with the inspection and how the project has been completed. | Medium | LEADER Programme Coordinator | 31/03/2018 |

### 4.6 Reclaim of Funds from the Scottish Government

The SLA requires LEADER to submit quarterly returns to the Scottish Government for reimbursement of administration costs of the programme and project costs. No administration errors were noted with the returns submitted to the Scottish Government. However, it is noted that in the SLA it states that returns should be submitted to the Scottish Government within 20 working days of the quarter end. This requirement is currently not being met by LEADER. As at October 2017, only 2 claims have been made to the Scottish Government thus far with the last claim being for the quarter ended September 2016. LEADER has reclaimed £49,901 for 2 claims and are due to reclaim £142,036 for 3 claims. LEADER note that they will start making claims soon, but the team have had competing priorities.

| No | Recommendation | Priority | Manager | Target Date |
|----|----------------|----------|---------|-------------|
| 13 | The LEADER team should endeavour to comply with the SLAs requirement to submit claims to the Scottish Government within 20 working days. | Medium | LEADER Programme Coordinator | 31/03/2018 |

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**4.7      LAG Scoring and Evidence of Quorum**

The LAG have introduced processes to confirm the LAG is quorate before the start of each meeting and to monitor this.  However, it is noted that interests are being declared during application stages at the meeting, and some LAG members are leaving during the scoring stages of the meeting.  Therefore, it can be difficult to determine which LAG members have approved an application.

Additionally, it was noted through review of scoring sheets that not all LAG members are scoring projects.  Although scoring is not mandatory, it demonstrates engagement by LAG members and evidence that the LAG view the project as fitting within the Tyne Esk LEADER Local Development Strategy.

| No | Recommendation | Priority | Manager | Target Date |
|----|----------------|----------|---------|-------------|
| 14 | Minutes should be improved to detail the LAG members present for each application to confirm the decision is quorate.<br><br>**Management comment**<br>It will be included in the minutes for each application a list of who was present for the vote.  This can then be checked to the attendance record and declaration of interest form that is prepared at the start of the meeting. | Medium | LEADER Programme Coordinator | 31/03/2018 |
| 15 | All LAG members should be encouraged to score projects where possible. | Low | LEADER Programme Coordinator | 31/03/2018 |

**4.8      Conflicts of Interest and LAG Register of Interests**

It was noted during the review some LAG members are current applicants to the Tyne Esk LEADER Programme.  There is no law or EU requirement that disallows this practice. Before accepting current applicants as LAG members, the LEADER Programme Coordinator clarified this position with the Scottish Government LEADER contact.  Also, it is noted that these LAG members are adequately declaring interests with respect to voting.  However, this may be perceived by outsiders as not being fully independent.  It is noted that the LAG will risk no longer being quorate if current applicants are no longer allowed to be members of the LAG.  Therefore, we recommend recruiting more members to the LAG that are not current applicants to the programme to increase the LAG's perception of independence.

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| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 16 | More members should be recruited to the LAG that are not current applicants to increase the LAG's perception of independence.<br><br>**Management Comment**<br>We have spent a lot of time and effort on recruitment but people are reluctant to get involved given the amount of work.  One new LAG member quit before attending a single meeting due to the amount of reading and work and others have left due to this. | Medium | LEADER Programme Coordinator | 31/03/2018 |

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**APPENDIX 1**

**Definitions of Ratings**

Audit Opinion

| Level of Control | Reason for the level of Assurance given |
|---|---|
| Excellent | The control framework is of a high standard with no unacceptable risks identified. |
| Good | The control framework is of a good standard with only minor elements of risk identified which are either accepted or being dealt with by management. |
| Average | The overall control framework is of an average standard. Some weaknesses have been identified in the controls and improvements are possible. |
| Weak | The control framework is weak and requires improvement as significant issues exist with the adequacy and effectiveness of the Internal Control arrangements. These control deficiencies could result in delivery of poor service or disruption to service to the residents of Midlothian, financial loss or reputational damage to the Council. |
| Poor | The control framework is inadequate or ineffective and the issues identified require immediate attention to prevent the delivery of poor service or disruption to service to the residents of Midlothian, financial loss or reputational damage to the Council. |

Recommendation Rating

| Priority | Risk Definition |
|---|---|
| High | Legal / regulatory issues would normally be regarded as high risks.<br><br>Strategic risks would normally be regarded as high risks.<br><br>Financial impact - £50K plus and / or national press interest |
| Medium | £5K - £49K and / or local press interest |
| Low | Under £5K and / or no press interest. |

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**Distribution**

- Members of the Audit Committee
- Kenneth Lawrie, Chief Executive
- Mary Smith, Director, Education, Communities and Economy
- Ian Johnson, Head of Communities and Economy
- John Anzani, Economic Development Manager (Acting)
- Neil Ramsay, LEADER Programme Coordinator

**Audit Team**

Author:      James Polanski      Auditor
Reviewer:    Elaine Greaves      Internal Audit Manager

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<div align="right">**APPENDIX 2**</div>

| TERMS OF REFERENCE: |
|---|

| **Audit Objective and Scope** |
|---|

**Audit Background:**

The LEADER (Liaison Entre Actions de Developpement de l'Economie Rurale) programme is one element of the Scotland Rural Development Programme 2014-2020 (SRDP) which aims to promote economic and community development within rural areas of Scotland.

On approval from the Scottish Government, Midlothian Council as the Accountable Body for the Tyne Esk LEADER programme has been issued with a Service Level Agreement (SLA). This details the relationship between the Council and the Scottish Government and also the requirements, responsibilities and accountabilities of each for the Programme period 2014-20.

The SLA between the Scottish Government and Midlothian Council requires an annual internal audit of the functions and services undertaken by the Council in fulfilment of its role as the Accountable Body.  This internal audit assessment includes the extent of observance by the Accountable Body of the requirements of the SLA.

In the case of Tyne Esk LEADER, the SLA was signed on 30 December 2015.  The annual reporting date for the SLA is 15 October.  The funding allocation for the Tyne Esk Leader Programme is £3,490,768, with 25% of this budget being for administration of the programme.

**Audit Objective:**

The audit objective is to provide assurance on the adequacy of the internal controls in place for the administration of the Tyne Esk LEADER Programme. The audit will include a review of the following:

4.  Review of the governance, management processes, and administration for Tyne Esk LEADER to ensure that adequate arrangements are in place to cover the terms of the SLA, and any associated European Union Regulations.
5.  Review of processes for consideration of project and funding applications: handling of enquires; consideration of expressions of interest;

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any initial project application development; scoring and decision making processes by the LAG; and the adequacy of the framework for monitoring the performance of grant recipients.
6. Review of the LEADER administration grant claim processes, to include adequacy of:
   a. information and evidence compilation;
   b. records management systems;
   c. separation of duties;
   d. compliance with grant claim regulations;
   e. effectiveness of communications between the Accountable Body and the Scottish Government team.

A sample of completed grant files on the LARCS system – (Local Action in Rural Communities System) will be reviewed as part of the audit to check for compliance with the LEADER guidance.

Exclusions and Limitations

 No specific exclusions.

## Potential Risks

Potential risks include:
- non-compliance with the EU monitoring requirements resulting in fines, non-payment of grant, or reputational damage;
- grants are awarded to organisations that fail to meet their planned objectives; and
- lack of effective controls may lead to errors or irregularities occurring.

## Audit Approach

The audit approach consists of:
- fact finding interviews with key employees;
- review of appropriate documentation which includes any risk reviews that have been conducted and risk registers that are in place;
- interrogation of any relevant systems and sample testing as required;
- closure meeting with local management to discuss the findings and any recommendations from the review;
- draft and final reporting; and
- presentation of the final report to Midlothian Council's Audit Committee; and
- submission of the final report to the LAG and the Scottish Government.

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The Internal Audit Report will be expected to inform:
- the LAG in its responsibility for delivering the Tyne Esk LEADER programme;
- Midlothian Council in its role as Accountable Body and in delivering the SLA; and
- the Scottish Government in their management of the SLA.

**Timescales & Reporting**

The Audit will commence in July 2017 and is anticipated to be reported to the December 2017 Audit Committee.

**Information Requirements**

Access to all relevant systems, documentation and employees.

**Audit Resource**

| | | |
|---|---|---|
| **Auditor:** | **James Polanski** | **0131 270 5646** |
| **Reviewer:** | **Elaine Greaves** | **0131 271 3285** |

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# Internal Audit Report

# Follow-up Review of Audit Recommendations

# Issued:  November 2017

# Final

| Level of Assurance | N/A – Follow-up reviews are not rated. |
|---|---|

**Executive Summary**

### 1.0 Introduction

Internal Audit Reports include a section with management actions where recommendations are made to improve upon the existing internal controls and assist the Council achieve best value. These recommendations, following agreement with management, are endorsed by the Audit Committee and are then updated by Internal Audit to the Council's performance management system Pentana Performance (previously named Covalent) with a target completion date set.

Management are responsible for acting on the recommendations by the agreed due date and when complete, closing the issue on Pentana. The Internal Audit plan includes a budget for two follow up reviews in relation to recommendations made. The first reviews management's reported performance in closing issues raised by Internal Audit by the agreed due date (reported in December of each year) while the second looks at a sample of recommendations flagged as closed by management and reviews for the adequacy of the actions taken against each issue. This report addresses the second area.

A sample of **52** audit recommendations were judgmentally selected from the Pentana system which were shown at the 'completed' status and evidence obtained to support the satisfactory completion of each recommendation sampled. This included **16** high priority recommendations, **34** medium priority recommendations, and **2** low priority recommendations.

A sample of recommendations from the following Internal Audits were selected for this review:

| Audit Report | Number of Recommendations Included in Review | High Priority | Medium Priority | Low Priority |
|---|---|---|---|---|
| Business Gateway Contractors | 4 | 4 | 0 | 0 |
| Tyne Esk LEADER | 14 | 6 | 8 | 0 |
| Review of Controls Operating Over Pre-School Provision Partnership Providers | 6 | 0 | 6 | 0 |
| Review of Controls Operating over Tendering of Contracts | 11 | 2 | 8 | 1 |
| Review of Controls Operating over Care at Home | 10 | 4 | 5 | 1 |

1

| Audit Report | Number of Recommendations Included in Review | High Priority | Medium Priority | Low Priority |
|---|---|---|---|---|
| Follow-up Review of Petty Cash | 7 | 0 | 7 | 0 |
| | | | | |
| **Total** | **52** | **16** | **34** | **2** |

## 2.0 Objectives of the Audit

The objective of this follow-up audit was to review a sample of recommendations that have been signed off as complete in 2016/17 to determine whether they had been implemented satisfactorily and thus give assurance over the ongoing improvement of internal control.

## 3.0 Conclusion

We have identified that the majority of audit actions have been completed satisfactorily.  However, we have identified that some actions have not been adequately completed.

From the **52** recommendations tested, **37** (71**%**) were found to have been completed satisfactorily, and 15 (29%) were identified as not being fully complete (full details of these can be found in **Appendix 1**).

As is standard Internal Audit practice, we have not rated this review since it is a follow-up of previously raised audit recommendations.  We have however noted **15** recommendations where we have agreed with management that further improvements can be made.

**Appendix 1 -** This explains the **15** recommendations identified as not being fully completed.

**Appendix 2 -** This outlines the recommendations arising from this review with revised completion dates.

2

**Appendix 1** – **Recommendations identified as not being fully completed**

| No | Audit | Original Recommendation | Priority | Testing Results and Auditor's Comments |
|---|---|---|---|---|
| 1 | Review of Controls Operating Over Pre-School Provision Partnership Providers | The risk register should be reviewed from the perspective of nursery education and whether it requires to be updated. | Medium | It was noted that the update to the Early Years risk register in Pentana was still in 'draft' and had not been fully completed.<br><br>On discussion with the Directorate's Performance Group Leader, it is noted that all Education risks will be subject to a thorough review, and a review of Early Years risks will be included in this. |
| 2 | Review of Controls Operating Over Pre-School Provision Partnership Providers | Consideration should be given to introducing a sample register check, eg to visit the nursery, obtain a copy of the physical register and to check to our own records.  This would help minimise the risk of fraud or error. | Medium | The follow-up audit identified that physical register checks had not yet been incorporated into the standard Quality Assurance (QA) procedures.<br><br>In response to this, Management have now updated the Early Years written procedures to incorporate register checks.  The next round of QA visits will now include this check. |
| 3 | Review of Controls Operating over Tendering of Contracts | Sample checks should be undertaken on the level of adherence to Council policies and procedures in relation to the tendering process. | Medium | A checklist has been prepared for undertaking QA checks by the Procurement Manager. Internal Audit are satisfied with the pro-forma checklist produced, but note that there have been no QA checks undertaken yet. |
| 4 | Review of Controls Operating over Tendering of Contracts | Employees in the evaluation panel should be required by Council policy to complete a declaration of interest form. | Medium | For 2 of the 14 Tenders included in the audit sample, conflict of interest forms were missing for employees in the evaluation panels.<br><br>Management advised that for the 2 tenders reviewed with missing documentation: in one case the documentation had been completed by the employees but was missing; and in the other case the documentation was not completed by the employees on the evaluation panel. |

3

| No | Audit | Original Recommendation | Priority | Testing Results and Auditor's Comments |
|---|---|---|---|---|
| 5 | Review of Controls Operating over Tendering of Contracts | The contract register should be fully populated as soon as is possible (including Framework agreements). | High | The Contract Register on the Intranet was updated in May 2017. However there are a number of contracts listed on the register which have expired. Management reported that the staff member who would normally undertake this activity was on maternity leave resulting in this activity falling behind. This activity has however been transferred to another member of the procurement team with a view to addressing the backlog. |
| 6 | Review of Controls Operating over Tendering of Contracts | The authorised signatories system should be updated to include the authority to open tenders and authorisation should be given to appropriate employees and Elected Members. | Medium | The authorised signatory system has not yet been updated to detail this authority. |
| 7 | Review of Controls Operating over Tendering of Contracts | Procurement feedback should be obtained for lower valued procurements on a sample basis. | Medium | In 9 out of 10 Tenders included in the audit sample there was no procurement feedback form.  The Procurement Manager noted that not enough feedback forms have been undertaken in the year and that this should be further rolled out. |
| 8 | Review of Controls Operating over Tendering of Contracts | The procurement approval form must be signed by two members of staff (budget holder and the project manager).  If exceptions are made then this should be documented on the approval form with an explanation. | Medium | Out of the 14 tenders included in the audit sample, only 10 had procurement approval forms.<br><br>In 2 out of the 10 procurement approval forms, only 1 member of staff signed the procurement approval form instead of 2.<br><br>Management reported that a new procurement approval form template will be implemented which will require more signatures including approval from the Procurement Manager. |

4

| No | Audit | Original Recommendation | Priority | Testing Results and Auditor's Comments |
|---|---|---|---|---|
| 9 | Review of Controls Operating over Care at Home | The outcome of the monthly return reports should be completed and referenced to show an audit trail of how the Council evaluated the external care provider's performance. | Medium | Due to the significant time spent on other critical aspects of the externalised care at home contracts, the QA officer has not been able to meet on a regular basis with all providers and so the performance reports were not always fully evaluated. |
| 10 | Review of Controls Operating over Care at Home | The standard checklist of questions for undertaking spot checks should be reviewed and updated. | Medium | The standard checklist of questions for undertaking spot checks has been reviewed and updated.  The updated spot check form is now available on the Council's Social Care and Financial Case Management System, Mosaic.

However, it was noted that spot checks have not been undertaken for a period of time reflecting the need to focus on other aspects of the contracts and service delivery. |
| 11 | Review of Controls Operating over Care at Home | Strengthen controls with the Data Protection Act in relation to emails and communicating personal information with staff. The monthly reports should be sent through the Council's Egress and client names should not be listed on a display board. | High | The QA officer has been using the Egress system since June 2017. However, it was noted during the audit review that the Council's providers do not always use secure transmission methods when submitting personal information to the Council. |

5

| No | Audit | Original Recommendation | Priority | Testing Results and Auditor's Comments |
|---|---|---|---|---|
| 12 | Review of Controls Operating over Care at Home | Ensure management reports are produced on a regular basis to allow management to monitor the number of hours delivered by the external care providers. | Medium | External care at home reports have stopped due to inconsistencies of the data collected and reported. This has been investigated.<br><br>External care home reports will be produced using Mosaic, the Council's Social Work Financial and Case Management System. Internal care at home hours will be reported from the Council's new Care at Home internal monitoring system, (CM2000) which was introduced in August 2016. These reports were originally produced using Mosaic. The standard reports have not been set up on the new system. This requires training staff on the new system and setting appropriate access levels for relevant staff. |
| 13 | Review of Controls Operating over Care at Home | A breakdown of the hours provided by all key suppliers should be recorded on the management reports. | Medium | The names of the key suppliers need to be updated on the management reports. Internal Audit identified that a current supplier was reported under the previous supplier's name. The Performance and Information Lead Officer for Health and Social Care is planning to have a meeting with the Care at Home manager to discuss the information needs and to confirm the key suppliers and make appropriate updates to the report. |
| 14 | Follow-up Review of Petty Cash | The petty cash top-up claims forms should only be approved by those listed on the Authorised Signatory Database. The Authorised Signatory Database needs to be updated to reflect which managers are authorised to approve petty cash disbursements | Medium | The comparison between declaration form list and bank list is still progressing alongside other priority work which the team have responsibility for.<br><br>The authorisation list will need to be updated on the back of this work.<br><br>The Senior Accountant Projects and Treasury notes this work will be completed by the end of the financial year. |

6

| No | Audit | Original Recommendation | Priority | Testing Results and Auditor's Comments |
|---|---|---|---|---|
| 15 | Follow-up Review of Petty Cash | A further review of petty cash imprest levels should be undertaken to ensure that the level is appropriate for the usage of the service. Given the infrequency of petty cash claims by high schools, consideration should be given to reducing the imprest levels. | Medium | Only one reduction to imprest levels has been made thus far as this was requested by the service.<br><br>A further review still needs to be undertaken to confirm that the imprest levels are appropriate.  Management have advised that this is not a key priority for the team at this point and will be scheduled for completion in due course. |

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**Appendix 2 – Further recommendations arising from this review**

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 1 | Early Years risks should be fully updated and input into the Pentana system. | Medium | Schools Group Manager - Early Years / Head of Education | 31/03/2018 |
| 2 | A sample register check, eg to visit the nursery, obtain a copy of the physical register and to check to our own records, should be incorporated into the Early Years QA procedures. This would help minimise the risk of fraud or error.  Management should try to ensure that 25% of providers are included in a check per annum. | Medium | Schools Group Manager - Early Years | 31/12/2017 |
| 3 | Regular QA checks on the level of adherence to the Procurement policies and procedures should be carried out by Procurement. | Medium | Procurement Manager | 31/03/2018 |
| 4 | Procurement should ensure that in all appropriate tenders, conflict of interest forms are obtained from members of the evaluation panel and filed appropriately. | Medium | Procurement Manager | 31/03/2018 |
| 5 | Procurement should ensure that the contract register on the intranet is updated regularly and expired contracts removed from the register. | High | Procurement Manager | 31/03/2018 |
| 6 | The authorised signatories system should be updated to include the authority to open tenders and authorisation should be given to appropriate employees and Elected Members. | Medium | Procurement Manager | 31/03/2018 |
| 7 | Procurement feedback forms should be obtained for lower valued procurements on a sample basis. | Medium | Procurement Manager | 31/03/2018 |
| 8 | The procurement approval form must be signed by two members of staff (budget holder and the project manager).  If exceptions are made, then this should be documented on the approval form with an explanation. | Medium | Procurement Manager | 31/03/2018 |

8

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 9 | Providers should be met with on a regular basis to ensure that performance reports can be fully evaluated. The outcome of the monthly return reports should be completed and referenced to show an audit trail of how the Council evaluated the external care provider's performance.<br><br>Management Comment:<br>Monthly meetings take place with the QA officer and there are also care at home provider forum meetings approximately every 8 weeks, chaired by the service manager, and supported by the QA officer. | Medium | Service Manager Older People East | 31/12/2017 |
| 10 | The targeted number of spot checks should be completed each month by the QA officer.<br><br>Management Comment:<br>This checklist template has been reviewed and updated and the regular spot checks have been re-established now that there are no care at home providers under large scale investigation. | Medium | Service Manager Older People East | Complete |
| 11 | Strengthen controls with the Data Protection Act to ensure that Adult Services providers use Egress when submitting personal information to the Council.<br><br>Management Comment:<br>All care at home providers are fully aware of their requirement to communicate client information through Egress and this is set up for them. | High | Head of Adult Services | 31/12/2017 |
| 12 | Standard management reports for reporting Care at Home hours need to be established and should be produced on a regular basis to allow management to monitor the number of hours delivered by the external care providers.<br><br>Management Comment:<br>Meetings have been held between the Performance and Information Lead and the Service Manager to agree on the exact reporting information requirements and this is now being implemented. | Medium | Performance and Information Lead Officer for Health and Social Care | 31/12/2017 |

9

| No | Recommendation | Priority | Manager | Target Date |
|---|---|---|---|---|
| 13 | A breakdown of the hours provided by all key suppliers should be recorded on the management reports. Names need to be periodically updated to ensure reports are accurate. | Medium | Performance and Information Lead Officer for Health and Social Care | 31/12/2017 |
| 14 | The petty cash top-up claims forms should only be approved by those listed on the Authorised Signatory Database.  The Authorised Signatory Database needs to be updated to reflect which managers are authorised to approve petty cash disbursements.<br><br>Management comment:<br>This work will be progressed alongside the other priorities of the service. | Medium | Senior Accountant Projects and Treasury | 31/03/2018 |
| 15 | A further review of petty cash imprest levels should be undertaken to ensure that the level is appropriate for the usage of the service. Given the infrequency of petty cash claims by high schools, consideration should be given to reducing the imprest levels.<br><br>Management comment:<br>This work will be scheduled in due course subject to the other priorities of the service.  A review is planned as part of the Purchase to Pay project. | Medium | Senior Accountant Projects and Treasury / Business Applications Manager | 30/06/2018 |

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**Appendix 3** **- Distribution List**

- Members of the Audit Committee
- Kenneth Lawrie, Chief Executive
- John Blair, Director, Resources
- Allister Short, Joint Director, Health and Social Care
- Mary Smith, Director, Education, Communities and Economy
- Gary Fairley, Head of Finance and Integrated Service Support
- Alison White, Head of Adult Services
- Grace Vickers, Head of Education
- Julie Fox, Schools Group Manager – Early Years
- Robert Beal, Early Years Manager
- David Gladwin, Financial Services Manager
- Iain Johnston, Procurement Manager
- Jacqui Dougall, Business Services Manager
- Mike O'Rourke, Business Applications Manager
- Jamie Megaw, Midlothian Health and Social Care Partnership Strategic Programme Manager
- Gary Thomson, Senior Accountant, Projects and Treasury
- Anthea Fraser, Service Manager Older People East
- Zoe Graham, Performance and Information Lead Officer for Health and Social Care
- EY, External Audit

**Audit Team**

| | | |
|---|---|---|
| Author: | James Polanski | Auditor |
| Additional Fieldwork: | Amber Ahmed | Auditor |
| | | |
| Reviewer: | Elaine Greaves | Audit Manager |

11

**Midlothian**

**Internal Audit Recommendations Progress Report**

**Report by Internal Audit Manager**

**1      Purpose of Report**

The purpose of this report is to inform the Audit Committee of the number of recommendations raised by Internal Audit over the last 4 years and the Council's performance in addressing these issues by the agreed implementation dates.

**2      Background**

2.1    Internal Audit suggests recommendations for improving internal control and to assist the Council deliver best value.  Where management and the Audit Committee agree these recommendations, the issues are updated to Pentana Performance (the Council's performance management system, previously named 'Covalent') along with a date by which management should have completed the agreed action.

2.2    Each year, Internal Audit undertakes two follow up reviews on recommendations raised. The first samples recommendations which have been reported as complete and reviews the adequacy of the actions taken (due to be reported to the December 2017 Audit Committee).  The second reports on the progress management have made in completing and closing the recommendations by the expected date (which is the subject of this report).

**3      Performance**

3.1    Over the period 2014/15 to October 2017, Internal Audit has raised a total of 402 recommendations.  324 of these are reported as having been completed (81%), 36 have not yet reached their due date (9%), and 42 are showing as overdue (10%).

3.2    The recommendations that have gone over their expected completion dates are detailed within Appendix 1 along with the current progress made against the action and the latest management update.

3.3    Contrasting this performance to the last Internal Audit report presented to the Audit Committee in December 2016 (covering the period 2013/14 to October 2016), Internal Audit had raised a total of 497 recommendations.  406 of these were reported as having been completed (82%), 57 had not reached their due date (11%) and 34 were showing as overdue (7%).

3.4    There is therefore an increase of 3% in overdue issues compared to last year's report. However, the majority of these recommendations are

well underway and many are almost complete (as detailed in Appendix 1).

## 4    Report Implications

### 4.1    Resource

There are no direct resource implications arising from the report.

### 4.2    Risk

The recommendations made by Internal Audit are directly related to reducing the level of risk that the Council is exposed to.

### 4.3    Single Midlothian Plan and Business Transformation
Themes addressed in this report:

☒ Community safety
☒ Adult health, care and housing
☒ Getting it right for every Midlothian child
☒ Improving opportunities in Midlothian
☒ Sustainable growth
☒ Business transformation and Best Value
☐ None of the above

### 4.4    Key Priorities within the Single Midlothian Plan

Internal Audit reports review internal controls across the Council including those that relate to the key priorities within the Single Midlothian Plan.

### 4.5    Impact on Performance and Outcomes

The report identifies the performance of the Council in closing issues by the agreed implementation date.

### 4.6    Adopting a Preventative Approach

Adoption of the Internal Audit recommendations assists in preventing risks facing Midlothian Council and delivery of best value and therefore provides a preventative approach.

### 4.7    Involving Communities and Other Stakeholders

The results of this analysis have been discussed with the Chief Executive, the Corporate Management Team and the Audit Committee.

### 4.8    Ensuring Equalities

There are no equalities issues with regard to this report.

### 4.9    Supporting Sustainable Development

There are no sustainability issues with regard to this report.

**4.10  IT Issues**

There are no IT issues with regard to this report.

**5       Recommendations**

The Audit Committee is asked to note:
- the content of the report; and
- that Internal Audit will continue to monitor for completion of the outstanding issues and will provide reports to the Audit Committee.

**Date  15 November 2017**

**Report Contacts:**
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**Appendices:**

**Appendix 1** – Outstanding audit issues for Midlothian Council

# Internal Audit Performance Report - Overdue actions

Midlothian

**Status: Overdue 42**

## 2014 Internal Audit of Frameworki

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.FRAMEWORKI.11 | For the Mosaic implementation a more detailed access grid should be developed and maintained by the SWMIS team. The grid should be kept up to date with changes to roles and the Council structure. | 30-Nov-2014 | Medium | ❌ | 90% | **Q2 17/18:** New worker roles in Childrens Services now live. Team structures now require to be set up. Adult Services to be examined following confirmation whether any service review is likely. | Adult and Social Care | Jacqui Dougall; Jacqui - Resources Dougall; Graham Kilpatrick; Mike O'Rourke; Mike - Resources O'Rourke | ASC Performance Officer; ECE Performance Officers |

## 2015 - Payroll

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.PAYR.06b | The use of MiTeam should be developed and promoted throughout the Council and delivered to managers with training provided if required. | 30-Sep-2016 | Medium | ❌ | 75% | **Q2 17/18:** Off Target Guidance documentation on Intranet needs to be updated, comms to be issued in Q3. | Finance and Integrated Service Support | Jacqui Dougall; Jacqui - Resources Dougall; Mike O'Rourke; Mike - Resources O'Rourke | ASC Performance Officer; ECE Performance Officers; Resources Performance |
| IA.PAYR.13 | Business continuity procedures should be developed for the Employment and Reward Team and the Digital Services IT business continuity plan should be updated where relevant by Employment | 30-Apr-2016 | Medium | ❌ | 95% | **Q2 17/18:** Off Target Still to be circulated to Digital Services. | Finance and Integrated Service Support | Janice Kali | ASC Performance Officer; ECE Performance Officers; Resources |

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| | and Reward. | | | | | | | | Performance; Janice Kali |
| IA.PAYR.16 | Employment & Reward should carry out a cost/benefit analysis on whether it would be worthwhile to reclaim the VAT on employee expenses. | 31-Mar-2016 | Low | ❌ | 0% | **Q2 17/18**: Off Target No further progress. | Finance and Integrated Service Support | Janice Kali | ASC Performance Officer; ECE Performance Officers; Resources Performance; Janice Kali |

### 2015 - Review of Controls Operating Over Cashless Catering

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.CCATER.07 | Education Services should review the need for updated procedures to allow common processes to be applied across all Midlothian schools and then liaise with Catering Services to establish relevant procedures. | 30-Sep-2015 | Medium | ❌ | 75% | **Q2 17/18**: Procedures have been standardised and established for unpaid lunch monies and outstanding debt. The refund policy still needs to be established. | Education, Communities and Economy | Sandra Banks | ASC Performance Officer; ECE Performance Officers; Resources Performance; Sandra Banks |

### 2015 - Review of controls operating over commercial lets

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.CLETS.04 | Once K2 has been fully implemented, assistance should be sought from Business Applications in developing debtors reporting which uses data from Integra and K2 to report accurately and more frequently on aged debt in line with the lease's terms. | 31-Jul-2016 | Medium | ❌ | 95% | **Q2 17/18:** Off Target Coding exercise now complete and process currently being tested by finance/property assets prior to going live and enable improved reporting as required. | Property & Facilities Management | Gareth Davies | ASC Performance Officer; ECE Performance Officers; Resources Performance; Gareth Davies |

### 2015 - Review of Controls Operating Over Petty Cash

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.CASH.05 | As part of the Purchase to Pay Project, electronic petty cash forms and the scanning and attachment of receipts / vouchers to claims should be implemented across the Council (for areas with a petty cash imprest account). | 31-Oct-2015 | Medium | ❌ | 75% | **Q2 17/18**: Off Target Testing of E-Form uncovered issue with attachments. To be raised with Capita. | Finance and Integrated Service Support | Jacqui Dougall; Jacqui - Resources Dougall; Mike O'Rourke; Mike - Resources O'Rourke | ASC Performance Officer; ECE Performance Officers; Resources Performance |

## 2015 - Review of Controls Operating Over Purchase to Pay

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.P2P.02 | Functions of the Authorised Signatory System be migrated to Integra including allowing Senior Managers to electronically set their own team's authorisation limits with an audit electronic trail recording their decision. | 31-Dec-2015 | Medium | ❌ | 0% | **Q2 17/18**: Off Target No further progress due to other project priorities. | Finance and Integrated Service Support | Jacqui Dougall; Jacqui - Resources Dougall; Mike O'Rourke; Mike - Resources O'Rourke | ASC Performance Officer; ECE Performance Officers; Resources Performance |

## 2016 - Devolved School Management Scheme

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.DSMS.05 | As part of developing an updated scheme Elected Members, schools, parents and parent councils should be involved in approving the scheme criteria. | 30-Sep-2017 | High | ❌ | 75% | **Q2 17/18**: On Target. | Education | Sandra Banks | ASC Performance Officer; ECE Performance Officers; Resources Performance; Sandra Banks |
| IA.DSMS.06 | Risk Registers should be updated to reflect the requirements of the 2012 guidelines on DSM and actions recorded against the risk to allow the Council to become compliant. | 30-Sep-2017 | High | ❌ | 75% | **Q2 17/18**: Off Target The whole of the Education Risk register is undergoing review and will be in place for Q3. | Education | Sandra Banks | ASC Performance Officer; ECE Performance Officers; Resources Performance; Sandra Banks |

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.DSMS.08 | Officers within Education and Financial Services should review the current Education Risk Registers for any areas where Education require input from Financial Services to support the mitigation of financial risks. | 30-Sep-2017 | Medium | ❌ | 75% | **Q2 17/18**: Off Target The whole of the Education Risk register is undergoing review and will be in place for Q3. | Education | Sandra Banks | ASC Performance Officer; ECE Performance Officers; Sandra Banks |
| IA.DSMS.09 | A standard training course and training pack over the operation of school budgets including the DSM allocations should be provided to head teachers and support staff when they take on budgetary responsibilities. A record of this should be maintained. | 30-Sep-2017 | Medium | ❌ | 25% | **Q2 17/18**: Off Target This is for Senior Accountant to action - allocate to David Gladwin as there is currently no Senior Accountant allocated to Education | Education | Sandra Banks | ASC Performance Officer; ECE Performance Officers; Sandra Banks |
| IA.DSMS.10 | The DSM scheme should when updated be placed on the Council Web sites so that teachers, parents and pupils have access to the scheme. | 30-Sep-2017 | Medium | ❌ | 66% | **Q2 17/18**: Off Target. The updated scheme, when approved, will be published in electronic form so that it is accessible to teachers, parents and pupils. | Education | Sandra Banks | ASC Performance Officer; ECE Performance Officers; Sandra Banks |
| IA.DSMS.13 | The updated scheme should cover all budgeted amounts with checks introduced to ensure that these are consistently applied. | 30-Sep-2017 | Medium | ❌ | 50% | **Q2 17/18**: On target. We are in discussion with Finance colleagues regarding the implementation of this recommendation as Education specifies the basis of the DSM Scheme, while Finance applies the DSM scheme by allocating budgets to schools. | Education | Sandra Banks | ASC Performance Officer; ECE Performance Officers; Sandra Banks |

| 2016 - Internal Audit: Review of Controls Operating Over Developer Contributions |
|---|

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.DEVC | The Developer Contribution Steering | 30- | High | ❌ | 75% | **Q2 17/18**: Off Target | Communities | Peter Arnsdorf | ASC Performance |

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| ON.01 | Group should be re-established with a specific terms of reference developed that clearly identifies the responsibilities of each service involved in the process and its reporting line. | Jun-2016 | | | | Key officers are meeting frequently – but roles and responsibilities need to be documented. | and Economy | | Officer; ECE Performance Officers; Resources Performance; Peter Arnsdorf |
| IA.DEVCON.04 | Management should review the current risk score and develop a series of actions to reduce the risk level to within the Council's risk appetite. | 30-Jun-2016 | High | ❌ | 90% | **Q2 17/18**: Off Target Work in progress. The Service's S.75 Officer has taken action to reduce risk to acceptable levels | Communities and Economy | Ian Johnson | ASC Performance Officer; ECE Performance Officers; Resources Performance; Ian Johnson |
| IA.DEVCON.05 | Management should undertake a review to determine the best way to maintain a central record of agreements, that will allow the Council to monitor:  • the level of completion of developments  and • when developments are complete. | 30-Apr-2016 | High | ❌ | 90% | **Q2 17/18**: Off Target A central record has been established and populated with agreements and Planning team has appointed a Compliance Officer to proactively monitor agreements. The planning service is progressing towards the procurement of an electronic monitoring system to assist with the proactive monitoring of agreements; this system will be operational in Q3. | Communities and Economy | Peter Arnsdorf | ASC Performance Officer; ECE Performance Officers; Resources Performance; Peter Arnsdorf |
| IA.DEVCON.07.1 | Management should: update the spreadsheet recording  contributions received with the planning reference number and the expiry date of each contribution;  review the developer contribution balance and analyse it by agreement and infrastructure project; | 30-Apr-2016 | High | ❌ | 98% | **Q2 17/18**: Off Target Work to complete this is progressing well and is running in conjunction with work on the Learning Estate Strategy. | Finance and Integrated Service Support | David Gladwin | ASC Performance Officer; ECE Performance Officers; Resources Performance; David Gladwin |
| IA.DEVCON.07.2 | Examine the individual contributions and identify any that may have expired and those that are nearing expiry; and more fully develop the schedule of estimated future payments for all signed | 30-Apr-2016 | High | ❌ | 98% | **Q2 17/18**: Off Target Work to complete this is progressing well and is running in conjunction with work on the Learning Estate Strategy. | Finance and Integrated Service Support | David Gladwin | ASC Performance Officer; ECE Performance Officers; Resources Performance; |

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| | agreements to enhance capital planning. | | | | | | | | David Gladwin |
| IA.DEVCON.08 | The Developer Contribution Steering Group should review any contributions which have passed or are approaching their contractual date to ensure that there is a clear audit trail from the contribution to the infrastructure. | 30-Jun-2016 | High | ❌ | 98% | **Q2 17/18**: Off Target Work to complete this is progressing well and is running in conjunction with work on the Learning Estate Strategy. | Finance and Integrated Service Support | David Gladwin | ASC Performance Officer; ECE Performance Officers; Resources Performance; David Gladwin |
| IA.DEVCON.09.1 | Spreadsheet be prepared comparing capital and borrowing cost of assets procured with the contributions received to ensure sufficient contributions have been collected to meet the agreed proportion of costs on either fully or partially funded assets. | 30-Apr-2016 | Medium | ❌ | 98% | **Q2 17/18**: Off Target Work to complete this is progressing well and is running in conjunction with work on the Learning Estate Strategy. | Finance and Integrated Service Support | David Gladwin | ASC Performance Officer; ECE Performance Officers; Resources Performance; David Gladwin |
| IA.DEVCON.11.2 | The process should be outlined in the revised Supplementary Planning Guidance for the information of the developers (although this would not be required at the same level of detail as the council's procedure). | 30-Jun-2016 | Medium | ❌ | 75% | **Q2 17/18**: Off Target Developer contributions supplementary guidance (SG) cannot be concluded until the adoption of the Midlothian Local. Development Plan (MLDP), which will be later in 2017. However work has commenced on the drafting of the SG in preparation of the adoption of the MLDP. *(The target set by the Audit process was never realistic or achievable).* | Communities and Economy | Peter Arnsdorf | ASC Performance Officer; ECE Performance Officers; Resources Performance; Peter Arnsdorf |

## 2016 - Internal Audit:  Review of Controls Operating Over Pre-School Provision Partnership Providers

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.NURS.01 | For future commissions, checks should be extended to include a review of financial accounts, credit check, insurance, and standardisation of key policies and | 30-Jun-2016 | High | ❌ | 90% | **Q2 17/18**: Off Target A further meeting has taken place with finance to determine where this role should stand. Resources | Education | Julie Fox | ASC Performance Officer; ECE Performance Officers; Resources |

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| | procedures. | | | | | will consult with procurement to identify where this role sits. | | | Performance; Julie Fox; Lynsey Henderson; Tom Welsh |
| IA.NURS.03 | The Quality Assurance team should liaise with Procurement Services to review the current process and ensure that the Council's process, such as the submission of non-competitive action forms, is followed. | 30-Jun-2016 | High | ❌ | 90% | **Q2 17/18**: Off Target A further meeting has taken place with finance to determine where this role should stand. Resources will consult with procurement to identify where this role sits. | Education | Julie Fox | ASC Performance Officer; ECE Performance Officers; Resources Performance; Julie Fox; Lynsey Henderson; Tom Welsh |
| IA.NURS.10 | An annual check of the organisation's accounts, insurance and ICO registration should be introduced. | 31-Aug-2016 | Medium | ❌ | 90% | **Q2 17/18**: Off Target A further meeting has taken place with finance to determine where this role should stand. Resources will consult with procurement to identify where this role sits. | Education | Julie Fox | ASC Performance Officer; ECE Performance Officers; Resources Performance; Julie Fox; Lynsey Henderson; Tom Welsh |
| IA.NURS.11 | It is recommended that Quality Improvement review the way actions are tracked and if this could be presented in a clearer manner.  Additionally, Quality Improvement should review the feasibility of introducing standard KPIs for partner providers. | 31-Aug-2016 | Medium | ❌ | 90% | **Q2 17/18**: Off Target A full scale review of partnership agreements regarding contracts will be undertaken in 17/18. These will have inbuilt quality improvement clauses detailing expectations, delivery targets and consequences. | Education | Julie Fox | ASC Performance Officer; ECE Performance Officers; Resources Performance; Julie Fox; Lynsey Henderson; Tom Welsh |

## 2016 - Internal Audit: Review of Controls Operating over Tendering of Contracts

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.TEND.08 | Additional training and guidance should be provided to services across the Council to raise awareness of | 31-Jul-2016 | Medium | ❌ | 70% | **Q2 17/18**: Off Target Procurement fraud training delivered to the procurement team. | Internal Audit | Elaine Greaves | ASC Performance Officer; ECE Performance |

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| | Procurement fraud. | | | | | Internal Audit to roll out across the Council. | | | Officers; Resources Performance; Iain Johnston |

## 2016 - Internal Audit: Self-Directed Support

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.SDS.02 | Adult Services policies should be reviewed and updated for changes introduced by the SDS Act and for the forms used in the new case management system, Mosaic. | 31-Dec-2016 | Medium | ❌ | 90% | **Q2 17/18**: Off Target A number of policies have now been reviewed in light of the Self Directed Support Act. | Adult and Social Care | Graham Kilpatrick | ASC Performance Officer; ECE Performance Officers; Resources Performance; Graham Kilpatrick |
| IA.SDS.03 | A final overarching policy for SDS should be finalised for Children's Services. | 31-Dec-2016 | Medium | ❌ | 60% | **Q2 17/18**: Off Target This has been delayed by six months due to project resource being diverted to backfill operational role and address other priority areas of work. Further delayed by Staff maternity leave. | Children's Services | Graham Kilpatrick; Joan Tranent | ASC Performance Officer; ECE Performance Officers; Resources Performance; Graham Kilpatrick |
| IA.SDS.04 | Children's Services should review the need to create formal policies for the review process and for resource applications. | 31-Dec-2016 | Medium | ❌ | 60% | **Q2 17/18**: Off Target This has been delayed by six months due to project resource being diverted to backfill operational role and address other priority areas of work. Resource will become available to progress this in Q2. Further delayed by Staff maternity leave. | Children's Services | Graham Kilpatrick | ASC Performance Officer; ECE Performance Officers; Resources Performance; Graham Kilpatrick |
| IA.SDS.09 | A written agreement should be in place for all clients in receipt of Direct Payments. The written agreement should follow the best practice template | 31-Dec-2016 | Medium | ❌ | 80% | **Q2 17/18**: Off Target Being progressed as part of the normal DP reconciliation cycle. | Adult and Social Care; Children's Services | Graham Kilpatrick | ASC Performance Officer; ECE Performance Officers; |

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| | issued by CIPFA. | | | | | | | | Resources Performance; Graham Kilpatrick |

## 2016 - Internal Audit - Care at Home

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.CARE @HOME. 09 | The Quality Assurance Framework needs to be reviewed, updated and compliance with its requirements should be reported on an annual basis to senior management. | 31-Dec-2016 | Medium | ❌ | 90% | **Q2 17/18**: Off Target Framework reviewed and updated. Annual reporting arrangements being progressed. | Adult and Social Care | Anthea Fraser | ASC Performance Officer; ECE Performance Officers; Resources Performance; Anthea Fraser |
| IA.CARE @HOME. 10b | The CRM system should be used to ensure that the Council is accurately reporting the complaint statistics. | 31-Dec-2016 | High | ❌ | 90% | **Q2 17/18**: Off Target Work continues to progress this action. | Adult and Social Care | Anthea Fraser | ASC Performance Officer; ECE Performance Officers; Resources Performance; Anthea Fraser; Zoe Graham; Angela Harris |
| IA.CARE @HOME. 11 | Reports should be generated from the system to allow management to monitor complaint timescales (including overdue complaints) and to identify common complaints. | 31-Dec-2016 | High | ❌ | 90% | **Q2 17/18**: Off Target Letter templates created, and processes amended to address issues. Work continues to progress this action. | Adult and Social Care | Anthea Fraser | ASC Performance Officer; ECE Performance Officers; Resources Performance; Anthea Fraser; Zoe Graham; Angela Harris |

## 2016 - Transformation Programme, Follow-up Review

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.TRANSP.08 | The Corporate Asset Management Strategy (comprising Property, Open Spaces, Digital Assets, Fleet, Roads and Housing) should be updated and presented to the Council. This should include separate stages and investment plans for each strand of asset. | 31-Mar-2017 | Medium | ❌ | 75% | **Q2 17/18**: Off Target An updated Capital Strategy and General Services Plan to be reported to Council in December 2017 which will reflect current Asset Management Strategies. | Finance and Integrated Service Support | John *Blair; Gary Fairley | ASC Performance Officer; ECE Performance Officers; Resources Performance; John *Blair |

## 2017 - PPP - Utilisation of Assets

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| IA.PPP.08 | A cross service working group chaired by a senior officer should be established to explore how the community can have a greater influence over the management and programming of the available facilities at Dalkeith Campus and increase the centre's usage. | 31-Jul-2017 | Medium | ❌ | 25% | **Q2 17/18**: Off Target | Property & Facilities Management | Garry *Sheret | ASC Performance Officer; ECE Performance Officers; Resources Performance; Garry *Sheret |
| IA.PPP.13 | Consideration should be given to re-locating the primary school swimming programme to the Dalkeith Campus for children in the Dalkeith Campus catchment area. | 31-Jul-2017 | Medium | ❌ | 66% | **Q2 17/18:** Off Target. Currently obtaining information on the scheduled use of the swimming pool and the timetabling requirements for swimming of Dalkeith & St David's High and Saltersgate Schools. This will demonstrate the scope for the Dalkeith Schools Campus pool to accommodate the primary swimming programme. | Education | Sandra Banks | ASC Performance Officer; ECE Performance Officers; Resources Performance; Sandra Banks |
| IA.PPP.14 | Lifelong Learning and Employability should seek to promote the use of the Dalkeith Campus to improve takeup during contractual hours. | 31-Jul-2017 | Medium | ❌ | 66% | **Q2 17/18**: On Target LLE have started adult learning classes at the Campus in Q2. We have been without a senior worker in Dalkeith area for almost a year | Education | Annette Lang | ASC Performance Officer; ECE Performance Officers; Resources Performance; |

| Action Code | Action | Due Date | Audit Priority | Icon | Progress | Notes | Service | Managed By | Assigned To |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | due to maternity leave so this will progress once she is back. | | | Annette Lang |
| IA.PPP.15 | The access hours should be reviewed in consultation with schools and LL&E so that unused hours contracted to LL&E can be used by the schools, and unused school access is available for other Council services. | 31-Jul-2017 | Medium | ❌ | 90% | **Q2 17/18**: Off Target LLE to update on uptake of Adult Learning and Employability Programme classes at DSCC. | Property & Facilities Management | Steven Small | ASC Performance Officer; ECE Performance Officers; Resources Performance; Steven Small |
| IA.PPP.16 | Consider a renegotiation of access and opening hours to match demand for services to contracted access hours. eg reduce weekend opening hours in return for Saturday morning access to indoor games facilities for sports development. | 31-Jul-2017 | Medium | ❌ | 50% | **Q2 17/18**: Off Target Outline proposals discussed with PPP1 SPV, proposals to be agreed and submitted formally. Access hours at PPP facilities are in greater demand with access restrictions being imposed on non PPP facilities. Current access hours at PPP2 schools may be required to accommodate the proposed increase in nursery hours to 1140 hours. | Property & Facilities Management | Steven Small | ASC Performance Officer; ECE Performance Officers; Resources Performance; Steven Small |
| IA.PPP.20 | An access hours review should be undertaken in consultation with schools and compared to school and community demand.  This may allow the contractor to reduce some evening, holiday and weekend access and allow controlled access to MUGAS. | 31-Jul-2017 | Medium | ❌ | 50% | **Q2 17/18**:Off Target Reduction of access hours would be subject to meeting new 1140 hrs target for nursery places. Access hours at PPP facilities are in greater demand with access restrictions being imposed on non PPP facilities. | Property & Facilities Management | Steven Small | ASC Performance Officer; ECE Performance Officers; Resources Performance; Steven Small |
| IA.PPP.22 | Lifelong Learning and Employability should review marketing and management of bookings and provide reports on the facilities available and the levels of use in the PPP2 primary schools to the Resource Manager. | 31-Jul-2017 | Medium | ❌ | 25% | **Q2 17/18**: Off target Raise with admin staff in each of the areas to move forward in Q3 | Education | Annette Lang | ASC Performance Officer; ECE Performance Officers; Resources Performance; Annette Lang |

Midlothian

**Financial Monitoring 2017/18 and Financial Strategy 2018/19 to 2021/22**

**Report by John Blair, Director, Resources**

**1      Purpose of Report**

The purpose of this report is to bring to the Committee's attention to the most recent of the reports presented to Council by the Head of Finance and Integrated Service Support, in relation to Financial Monitoring and Financial Strategy. The reports are available on the Council website and can be accessed using the links below and specifically relate to:

[Audit Committee Meeting - 12 Dec 2016](#)

- **Financial Monitoring 2017/18 – General Fund Revenue**
- **General Services Capital Plan 2017/18**
- **Housing Revenue Account**
- **Financial Strategy 2018/19 to 2021/22**
- **Treasury Management Mid-Year Review Report**

**2      Background**

These reports have previously been considered by the Council.

**3      Report Implications**

These remain unchanged from those highlighted in the Head of Finance and Integrated Service Support's reports.

**4      Recommendations**

The Committee is invited to scrutinise for its interest the reports by the Head of Finance and Integrated Service Support.

**Date 30 November 2017**

**Report Contact:**
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janet.ritchie@midlothian.gov.uk

**Midlothian**

**Audit Scotland Report: Local government in Scotland: Financial Overview 2016/17 (Audit Scotland, November 2017)**

**Report by: Kenneth Lawrie, Chief Executive**

**1       Purpose of the Report**

To provide Audit Committee with a summary of the Audit Scotland report, 'Local government in Scotland: Financial Overview 2016/17' and the Council's position in relation to the report's findings.  Link to the full report here:

http://www.audit-scotland.gov.uk/uploads/docs/report/2017/nr_171128_local_government_finance.pdf

**2       Background**

**2.1**    Each year the Accounts Commission produces an overview of issues that have arisen from their local authority audits.  In line with the previous 2015/16 publications for 2016/17 these will again be encompassed in two reports.  The first report, which is covered in this paper, focuses on financial matters, and the other, which will be published in April 2018 will focus on council's performance and outcomes.

**2.2**    Local government in Scotland: Financial Overview 2016/17 was published by the Accounts Commission in November 2017.  The report provides a high-level, independent view of Councils financial performance and position in 2016/17. It is aimed primarily at Councillors and senior council officers as a source of information and to support them in their complex and demanding roles. It is in three parts:

- Part 1 comments on councils' income and budgets for 2016/17.

- Part 2 looks at councils' financial performance during, and position at the end of, 2016/17.

- Part 3 looks at councils' 2017/18 finances and the challenges faced going forward.

**2.3**    The report is the first of the Account's Commission overview outputs.  It tells the strategic financial story for local government in Scotland in 2016/17, another challenging year for Councils.  The report notes that there was a real term reduction in councils' main source of funding from Scottish Government for 2016/17 and advised that councils were finding the situation more serious than ever, with savings becoming increasingly difficult to identify and achieve.   The Accounts Commission identified

effective leadership and financial management as becoming increasing critical and medium-term financial strategies and well thought out savings plans being key to financial resilience and sustainability.

**2.4** The report further noted the need for elected members to be clear about the potential impact of planned savings on achieving corporate objectives and subsequent outcomes for citizens whilst identifying that the implications of community empowerment legislation heightening the importance of engaging effectively with communities around local priorities, and working together on options for the best future use of resources.

**2.5** Audit Scotland, in their report, continue to emphasise the importance of Best Value as a comprehensive framework for continuous improvement to support high performing and effective councils.

**2.6** The key messages identified in the 2016/17 report include:

- Councils' financial challenges continue to grow. Funding reductions are compounded by increasing costs and demands on services. In response, councils have needed to achieve ambitious savings plans, including around £524 million of savings for 2016/17.

- Councils are showing signs of increasing financial stress. They are finding it increasingly difficult to identify and deliver savings and more have drawn on reserves than in previous years to fund change programmes and routine service delivery. Some councils risk running out of General Fund reserves within two to three years if they continue to use them at levels planned for 2017/18.

- Debt increased by £836 million in 2016/17 as councils took advantage of low interest rates to borrow more to invest in larger capital programmes. Councils' debt levels are not currently problematic, but some are becoming concerned about affordability of costs associated with debt within future budgets.

- Councils' budget-setting processes for 2016/17 were complicated by late confirmation of funding from the Scottish Government and the funding arrangements for integrating health and social care. Councils' expenditure and use of reserves often differed noticeably from that originally planned, indicating the need for budget-setting to become more robust and reliable.

- All councils received an unqualified audit opinion on their 2016/17 accounts but auditors found that in several councils financial management could be improved. Councils can use their accounts to more clearly explain their financial performance over the whole year to support better scrutiny.

- The financial outlook for councils continues to be challenging, with the need to deliver savings being increasingly critical to their financial sustainability. As such, robust medium-term financial strategies and effective leadership to deliver them are of increasing importance.

**3      Financial Overview 2016/17**

**3.1**    Part 1 – Councils' income and budgets for 2016/17 notes the following key messages:

1. 2016/17 was a challenging year for councils with a real-terms reduction in revenue funding, a continuation of the council tax freeze, inflationary pressures and the cost of new UK and Scottish Government policy commitments.

2. Councils depend on Scottish Government funding for the majority of their income. The largest element of Scottish Government funding, relating to Grant Aided Expenditure, has remained largely unchanged since 2008/09, with additional funding linked to supporting national policies. The Scottish Government and COSLA should assure themselves that the funding formula remains fit for purpose in a changing landscape for local government. It is important that it is suited to improving outcomes for local communities and sensitive to priorities such as reducing inequality within and across council areas.

3. In response to funding reductions, councils approved about £524 million of savings and the use of £79 million of their reserves when setting budgets for 2016/17. Councils' savings plans have focused on reducing staff numbers, rationalising surplus property and improving procurement of goods and services. Councils were not always clear in their budget-setting reports about the risks associated with savings and their potential impact on levels of service.

4. Councils' budget-setting processes for 2016/17 were complicated by later confirmation of funding from the Scottish Government and the funding arrangements for integrating health and social care.

5. Councils set larger capital budgets in 2016/17 than in 2015/16. The Scottish Government capital grant fell and councils planned to fund expenditure through increased borrowing.

These key messages reflect the challenges Midlothian Council faced when setting a budget for 2016/17 and subsequently the ability to delivering services within the constrained budget.  The budget for 2016/17 included a package of measures to address a £7.6 million budget shortfall which included a £2.6 million utilisation of reserves. The final outturn reported to Council in June 2017 showed a net overspend for the year, met from reserves of £2.5 million.

**3.2**    Part 2 – Financial Performance notes the following key messages:

1. All councils received an unqualified audit opinion on their 2016/17 accounts but the accounts could more clearly explain their financial performance.

2. Councils are showing signs of increasing financial stress with 20 councils drawing on their usable reserves in 2016/17.

3. Councils' actual use of reserves was often quite different from that originally planned. The reasons why are not always clear.

4. Auditors found that budget-setting needed to be more robust and that financial management could be improved in several councils.

5. Levels of net debt increased by £836 million in 2016/17. On average councils spent almost ten per cent of their revenue budgets servicing this debt. Some councils are concerned about the ongoing affordability of servicing their debt as resources decrease

6. Councils that have been proactive in making difficult decisions will be better placed to deal with future financial pressures.

Again the key messages reflect the challenges the Council faces. As the resources available to the Council continue to reduce in real terms it is increasingly important that there is a robust budget setting process and that robust financial management and reporting is maintained. Council has a continued requirement to invest in assets to support the growing population. Though the level of borrowing is increasing the Treasury Management Strategy and prudential indicators provide Council with reassurance that this level of investment is financially sustainable and can be serviced from the revenue budget.

There is no doubt that difficult decisions lie ahead for all Councils and the report highlights the importance of being proactive in addressing the financial pressures.

**3.3**   Part 3 – Financial Performance notes the following key messages:

1. The financial outlook for councils remains challenging with further real-terms reductions in funding and a range of cost and demand pressures on budgets.

2. In total councils approved £317 million of savings and the use of £105 million of reserves when setting budgets for 2017/18.

3. Some councils relying heavily on the use of reserves to fund services will need to take remedial action or they will run out of General Fund reserves within two to three years.

4. Robust medium-term financial strategies and savings plans are increasingly critical to the financial sustainability of councils.

5. Strong leadership is increasingly important and it is essential that councillors work effectively with officers, their partners and other stakeholders to identify and deliver necessary savings. It is important that councils engage with local communities when planning and delivering services and identifying savings.

These Key messages reflect those encompassed in the Financial Strategy reports to Council. At £2.1 million the projected available General Fund reserve provides no scope for further utilisation of reserves to balance the 2018/19 budget.  While Council only has a duty to set a budget for the year ahead, it is critical it does so taking cognisance of the medium term financial projections.

**4**      **Scrutiny Tool for Councillors**

The Accounts Commission has produced a Scrutiny tool for Councillors which is attached at the end of this report as Appendix 1.

Throughout the report, a number of example questions are identified that councillors may wish to consider to help them better understand their council's financial position and to scrutinise financial performance.  The questions are available in Appendix 1 and are also included as a link on the following Audit Scotland website:

http://www.audit-scotland.gov.uk/uploads/docs/report/2017/nr_171128_local_government_finance_supp1.pdf


**5**      **Report Implications**

**5.1**    **Resource**
There are no additional resource implications.

**5.2**    **Risk**
Whilst there are no additional direct risks associated with this report, the Audit Scotland Report – Local government in Scotland: Financial Overview 2016/17 does ask members to consider the wider scrutiny and performance management and risk elements associated with their role.

**5.3**    **Single Midlothian Plan**
Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child
- ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☒ Business transformation and Best Value
- ☐ None of the above

**5.4**    **Key Priorities within Single Midlothian Plan**
Midlothian Council and its Community Planning Partners have made a commitment to treat the following areas as key priorities under the Single Midlothian Plan:-

- Reducing the gap in learning outcomes
- Reducing the gap in health outcomes
- Reducing the gap in economic circumstances

This report does not directly impact Midlothian Council's key priorities but a key message within the Audit Scotland Report does make reference to the need for clear priorities.

**5.5**    **Impact on Performance and Outcomes**

The report does not directly impact Midlothian Council's and wider partners performance and outcomes but it does stress the need to ensure consideration is given to the wider strategic planning and objectives as part of the council's response to Audit Scotland's finding noted in their report.

**5.6 Adopting a Preventative Approach**
This report does not directly impact actions and plans in place to adopt a preventative approach.

**5.7 Involving Communities and Other Stakeholders**
This report does not directly relate to involving communities but the Audit Scotland Report does emphasise the need to address the requirements in the Community Empowerment (Scotland) Act 2015.

**5.8 Ensuring Equalities**
This report does not recommend any change to policy or practice and therefore does not require and Equalities Impact Assessment.

**5.9 Supporting Sustainable Development**
The recommendations in this report support Midlothian Council's position in relation to Audit Scotland's findings for the wider overview of Local government in Scotland: Financial Overview 2016/17 and therefore support ongoing sustainable development.

**5.10 IT Issues**
There are no IT issues arising from this report at this time.

**6 Recommendations**

The Committee is asked to note the Audit Scotland report and the position of Midlothian Council in relation to the report's key messages.

**Appendix 1:** Local government financial overview 2016/17 - Scrutiny tool for Councillors

**Date: 28 November 2017**
**Report Contact: Myra Forsyth          Tel No: 0131 271 3445**
**myra.forsyth@midlothian.gov.uk**

**Background Papers:**

Accounts Commission - Local government in Scotland: Financial Overview 2016/17 – (November 2017)

Scrutiny tool for Councillors

**Appendix 1**

# Local government financial overview 2016/17

## Scrutiny tool for councillors

This scrutiny tool captures a number of potential questions for councillors and relates to our report *Local government in Scotland Financial overview 2016/17*.

It is designed to provide councillors with examples of questions they may wish to consider to help them better understand their council's financial position and to scrutinise financial performance.

| Questions for councillors to consider | How well informed am I? | |
|---|---|---|
| | **What do I know?** | **Do I need to ask further questions?** |
| **Budget setting (paragraphs 65–68 and 76–80)** | | |
| 1. Does your council have a medium term financial strategy aligned with corporate objectives? | | |
| 2. How does annual budget setting link to medium term financial planning? | | |
| 3. How is your council preparing for any further real terms reduction in Scottish Government funding? | | |
| 4. If your council plans to raise council tax do you know how much it will raise? How will you communicate and explain the reasons for the rise to constituents? | | |
| 5. What impact will savings have on the delivery of services? What are the potential risks? | | |
| **Financial and savings plans (paragraph 69–80 and 86)** | | |
| 6. What is your council's financial position? What particular challenges does the council face? | | |
| 7. Does your council have a savings plan? What are the | | |

| | | |
|---|---|---|
| options to close future funding gaps? | | |
| 8. What measures in the council's corporate and transformational plans are aimed at addressing the underlying demand for some services? | | |
| **Reserves (paragraphs 36-48)** | | |
| 9. What is the councils reserves policy? | | |
| 10. What have reserves been used for in recent years? Supporting services and bridging the funding gap or transforming services? | | |
| 11. What are the different types of reserves your council holds? Do you know what these can be spent on? | | |
| 12. What is the likely use of reserves for 2017/18? How does this compare to forecast funding gaps? | | |
| 13. What are the levels of reserves held by your council's IJB? Are these in line with the IJB's reserve policy? | | |
| **Levels of debt and affordability (paragraphs 49–54)** | | |
| 14. What share of your council's budget is taken up with interest payments and debt repayment? | | |
| 15. What proportion of the council's debt is linked to inflation (ie, subject to indexation)? What does that mean for longer term affordability? | | |
| **Budget outturn reports and management commentaries** | | |
| 16. Do budget monitoring reports clearly explain performance against plans and any changes to plans? | | |
| 17. Do management commentaries clearly explain council performance and any changes to plans? | | |
| **Financial scrutiny (paragraph 84)** | | |
| 18. What additional training would you like to receive to develop your knowledge and skills in financial scrutiny? | | |
| **Charging for services (paragraphs 23–26)** | | |
| 19. Does your council have a charging policy? Is this in line | | |

| | | |
|---|---|---|
| with corporate plans and objectives? When was this last reviewed? | | |
| 20. What information do you need to be able to explain increases in fees and charges to your constituents? | | |
| **Exit packages (paragraph 40–42)** | | |
| 21. Are staff severances in line with the council's workforce plan? | | |
| 22. How does the council ensure that councils have the capacity to delivery transformational change? | | |
| 23. Do you know the implications of your council's pension liabilities of staff retiring early? | | |
| **Capital programmes (paragraphs 31–33 and 65–66)** | | |
| 24. How clearly does the council's capital programme link with the asset management plan and corporate objectives? | | |
| 25. Has non-delivery of the capital programme (ie, slippage) been significant at your council in recent years? Why? | | |

**Equal Pay in Scottish Councils**

**Report by Gary Fairley, Head of Finance and Integrated Support Services**

## 1       Purpose of Report

**1.1**     The purpose of this report is to inform the Committee of the key findings in the Accounts Commission report '*Equal Pay in Scottish Councils'* published on 7th Sept 2017 (the 'AC Report') and the actions taken by the Council in relation to the issues identified in the report.

## 2       Background

**2.1**     The aim of the law on Equal Pay is to ensure that women and men doing equal work receive Equal Pay (and other contractual terms and conditions of employment) for it. An employer, who does not comply with their legal obligations on Equal Pay, leaves itself open to the risk of Equal Pay claims being made to an Employment Tribunal.

**2.2**     Historically, the concept of Equal Pay derived from the Equal Pay Act 1970 and the Sex Discrimination Act 1975. Both these Acts were repealed and replaced by the Equality Act 2010 which imposed the public sector equality duty on local authorities with effect from April 2011.

**2.3**     The public sector equality duty requires local authorities to take a proactive approach to tackling discrimination, such as pay inequality. Additionally, the Scottish specific duties were introduced in 2012 and an update to this, published in July 2016, requires councils to publish a formal statement on Equal Pay every 4 years.

**2.4**     In 1997 the Single Status Agreement (SSA) was agreed. This was viewed as an important step towards eliminating pay inequality in local government. The aim was to harmonise employment terms and conditions across all Councils, by grading the previous APT&C, Manual and Craft employees on the same salary scales and terms and conditions. It did not encompass Teaching Council for Teachers (SNCT) conditions. Scottish Councils and trade unions negotiated the Scottish version of the SSA in 1999.

**2.5**     In their study, the Accounts Commission focussed on the following fives themes during financial years 2004/05 to 2015/16:

- how Councils implemented the SSA;
- how much Councils have spent settling Equal Pay claims;
- how Councils demonstrate that they are dealing effectively with Equal Pay claims and minimising future risks;

- how effective the governance and oversight arrangements of the SSA are; and
- what lessons can be learned for the future.

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### 3. Key Messages from the Accounts Commission

**3.1** The key messages in the AC Report are:

- Implementing the SSA was a complex process that required all Councils to undertake a large-scale job evaluation exercise. Councils under-estimated the challenges involved and all but one missed the agreed implementation date of 2004.

- It was not until 2010 that all Councils in Scotland had Single Status in place. This was 11 years after the agreement was signed, with implementation taking twice as long as initially planned.

- There has been a lack of collective national leadership to overcome the challenges and address Equal Pay issues in a timely way.

- Councils initially worked on the basis that they could offset the costs of implementing Single Status with savings from changes to staff conditions and by improving staff productivity.

- Councils received no additional funding to implement their new pay and grading structures. In reality, Single Status brought significant costs and some Councils and Trade Unions found themselves balancing the risk of industrial unrest with affordability. This meant that some of the approaches taken by Councils when implementing Single Status did not always prioritise pay equality and were later found to be discriminatory.

- Councils sought to compensate workers who had historically been unfairly paid by offering payments if they signed compromise agreements. Councils paid around £232 million to approximately 50,000 workers in this way. The payments made were often of a relatively low value compared with the difference in pay over time, so some people refused them. Even while Councils were implementing Single Status, they continued to receive thousands of Equal Pay claims for historical pay discrimination.

- All Councils received Equal Pay claims after implementation. There were many reasons for these claims, for example claims against pay and bonus protection given to predominately male workers and discrimination in job evaluation schemes.

- Since 2004, around 70,000 Equal Pay claims have been lodged against Councils. The cost of compensation agreements and settling claims, along with legal fees, amounts to around £750 million.

- The number of claims made against Councils varies widely. Some of this variation can be explained by how actively 'no-win no-fee' lawyers have encouraged claims in different Council areas. There are almost 27,000 live Equal Pay claims and workers could potentially still make new claims against Councils.

- Councils need to be confident they have fair and transparent pay arrangements and take necessary action, such as regular Equal Pay audits, to deliver pay equality in line with their public sector equality duty.

- Elected Members need to continue to oversee, scrutinise and challenge Councils' approaches to delivering Equal Pay and reducing the gender pay gap.

## 4.     COSLA's Response

**4.1**    COSLA welcomed the AC Report as it recognised the complex judicial processes and huge costs that Councils have faced as they have worked hard to meet their Equal Pay obligations. Councillor Gail Macgregor, COSLA's Resources Spokesperson stated that:

*"As employers, Councils take their responsibilities to achieve Equal Pay very seriously, and we are frustrated that there remains a high number of claims outstanding. This is in large part down to complex and nuanced legal issues which can frustrate the process and act as barriers to quicker outcomes. Councils have endeavoured to settle all legitimate claims as quickly as possible. It is worth noting that cases can remain 'live' in the Employment Tribunal system even when settled and we have no control over when these are taken down. Also, many other remaining cases are 'class actions' where the settling of a single test case will resolve a larger number of cases in one go."*

## 5.     The Midlothian Context

**5.1**    As was the case with most other Councils at local government re-organisation, Midlothian inherited pay arrangements which included a number of groups of employees whose earnings included non- performance related bonus payments.

**5.2**    These payments were terminated on 30 April 2009. Subsequently, the Council implemented the SSA on 29 June 2009 putting in place a non discriminatory pay and grading structure. As a consequence, the Council has not been subject to claims based on 'ring fenced' pay protection arrangements.

**5.3**    Whilst there were negotiations with the Trade Unions prior to then these did not result in a collective agreement and the Council had to implement the SSA by offering new terms and conditions to staff. This in itself was a resource intensive exercise. The Council's Job Evaluation Scheme, which was used to implement the SSA, has not been found to be discriminatory.

5.4　The historic arrangements exposed the Council to significant Equal Pay liabilities which fell into five broad categories:

- The Council has accepted that the non performance related bonus arrangements discriminated against predominantly female workers who carried out Like Work or Work Related as equivalent to bonus earners;

- The Council also accepted that these same non performance related bonus arrangements discriminated against a smaller number of male employees who were on the same grade as bonus earners but did not receive bonus payments;

- in addition, a number of Employment Tribunal claims were submitted from former Administrative, Professional Technical and Clerical (APT&C) staff seeking compensation on the basis that they carried out work of Equal Value to bonus earners who were paid more than them;

- "Bonus Buyout" claims which were based on the termination payments made to those employees in receipt of bonus prior to 30 April 2009;and

- "Piggyback" claims which arise from settling the above claims.

5.5　From 2008, all employees in the first two categories were offered compromise agreements (COT3s) via ACAS and approximately 89% settled on this basis with the remainder seeking compensation through the Employment Tribunal process.

5.6　As shown in exhibit 4 (pg.17) of the AC Report, the Council has received 988 Employment Tribunal claims for Equal Pay. Glasgow City received the highest number of claims (22,730) with Orkney Council receiving the lowest (14).

5.7　In 2011, through negotiations with Unison and Fox Cross Solicitors, a position was reached where both accepted that offers be put to the claimants they represented as being the best that could be achieved through negotiation.

5.8　In 2013, through negotiations with Unison, a position was reached that offers be put to claimants in the third and fourth categories which represented the best that could be obtained through negotiation.

5.9　In addition to the Equal Pay claims set out above, a collective claim 'Blair and Others' was submitted to the Employment Tribunal by Unison on behalf of staff formerly in receipt of bonus payments. The claim related to the cessation of these payments on 30 April 2009. In April 2014, the Employment Appeal Tribunal decided not to uphold Unison's appeal. This confirms the earlier Employment Tribunal decision that the Council's action to cease bonus payments on 30 April 2009 was legitimate. Consequently, the discriminatory bonus pay elements were not carried forward into new pay and grading structure.

5.10 The Council has been proactive in seeking to resolve Equal Pay claims. The AC Report at exhibit 7 (pg.21) confirms that as at 30 September 2016 Midlothian had 86 live Equal Pay claims remaining. To date that number has been reduced to 71 and includes 28 'Bonus Buyout' claims. This equates to around 7% of the total number of claims lodged against the Council and is well below the Scotland average of 37.4% for outstanding claims.

5.11 The Council's Legal Services Team, supported by colleagues in Employment and Reward, HR and Finance have worked closely with Employment Law specialists from Brodies and ACAS in order to settle Equal Pay claims and will continue to do so in seeking to resolve the remaining claims.

5.12 The AC Report at exhibit 5 (pg.18) notes that the Equal Pay bill for Midlothian is £12 Million. This includes legal costs, costs of Equal Pay claims and settlement/compromise agreements. As noted on page 15 of the AC Report, Midlothian obtained consent from the Scottish Government to borrow up to a maximum of £9.091 million for equal pay. The actual costs capitalised were £4.254 million. The remainder of the settlement was met from available reserves, with legal costs being met from the revenue budget in the year they were incurred.

## 6. Best Practice Recommendations on Equal Pay

6.1 The AC Report at exhibit 9 (pg.25) emphasis that Councils must ensure they are fulfilling their public sector equality duties in relation to Equal Pay. This includes:

• publishing an Equal Pay statement and Equal Pay policy;
• assessing the impact of any changes that may affect Equal Pay; and
• publishing gender pay gap information.

6.2 In complying with good practice, Councils should:

• use Equality & Human Rights Commission (EHRC) guidance: for example, when undertaking Equal Pay audits and developing Equal Pay policies;
• use Close the Gap's guidance on meeting the public sector equality Duty; and
• ensure their risk registers are up to date.

For those Councils using the SJC job evaluation scheme, they should ensure they implement the most recent edition.

## 7. The Council's Position

7.1 At their meeting on 29 August 2017 the Council considered and noted a report which advised on the new Midlothian Equality Plan 2017 – 2021 and Midlothian Equality Outcomes & Mainstreaming Progress Reports 2015 – 2017, as required to meet statutory requirements in the Equality Act 2010 and related legislation.

**7.2** All the reports referred to in section 6.1 above have been prepared taking cognisance of the EHRC and Close the Gap guidance. The reports have also been published in the Equality and Diversity section of the Council's website.

**7.3** At section 9 of the Mainstreaming Progress Report (MPP) it is noted that the gender pay gap between average hourly rate of pay for male and female – all Council employees as at 31st March 2017 was 2.96%. It is intended that information on the gender pay gap be reported annually. This is an improvement on the last figure published nationally in 2015/16 of 4.58% and improved our ranking from 18 to 16 out of 32 local authorities.

**7.4** Section 10 of the MPP contains the Council's Equal Pay policy statement which is fully reproduced in the Appendix to this report.

**7.5** As set out in the policy statement, the Council is committed to ensuring that it has fair and non-discriminatory pay and progression systems and has robust monitoring arrangements in place. These include:

- conducting regular audits to monitor the impact of our pay structure;
- providing training and guidance for those involved in determining pay;
- being transparent with staff around how their pay is determined;
- responding in a timely way to grievances on Equal Pay; and
- working in partnership with Trade Unions on Equal Pay matters.

**7.6** Equal Pay considerations are fully taken into account when assessing the impact of any changes that may affect pay, including:

- considering disparate impact (where a greater proportion of one gender than the other is affected) and addressing it where no genuine material factor exists to justify the difference in pay;
- undertaking an independent Equality Impact Assessment on pay models to identify clusters of gender dominated roles on/or near grade boundaries;
- restricting pay protection where proposed to non-discriminatory elements of pay; and
- equality impact assessing each pay element to ensure that discrimination is not perpetuated.

**7.7** As regards the SJC job evaluation scheme, the Council currently applies the latest third edition of the scheme. Indeed, the Council had initial representation on the technical working group and led the pilot to test the material impact of the update on evaluated roles.

**8 Report Implications**

**8.1 Resource**
None arising directly from this report.

**8.2    Risk**
There is significant financial risk associated with defending Equal Pay claims at the Employment Tribunal. The Council's approach of seeking to agree settlement of the claims has significantly reduced that risk.

**8.3    Single Midlothian Plan and Business Transformation**
Themes addressed in this report:

☐ Community safety
☐ Adult health, care and housing
☐ Getting it right for every Midlothian child
☐ Improving opportunities in Midlothian
☐ Sustainable growth
☐ Business transformation and Best Value
☒ None of the above

**8.4    Key Priorities within the Single Midlothian Plan**
Not applicable.

**8.5    Impact on Performance and Outcomes**
None arising directly from this report

**8.6    Adopting a Preventative Approach**
Not applicable.

**8.7    Involving Communities and Other Stakeholders**
It is not felt relevant to undertake consultation for this report.

**8.8    Ensuring Equalities**
None arising directly from this report.

**8.9    Supporting Sustainable Development**
None arising directly from this report.

**8.10   IT Issues**
None.

**9.    Summary**

**9.1**    The Accounts Commission recognises that implementing Single Status has been a long and complicated process with Councils receiving around 70,000 claims at an estimated cost of £750 Million. Midlothian has been proactive in the settlement of historic Equal Pay claims with only around 7% of the claims remaining to be resolved. The Council has appropriate policies and procedures in place to seek to eliminate pay inequality.

## 10    Recommendations

10.1    The Committee is invited to note the:

    (a) key messages in the AC Report;

    (b) current positive position of the Council with regard to the issues and questions raised by the Commission;

    (c) relatively small number of remaining claims which Legal Services are seeking to resolve; and

    (d) actions being taken for governance and oversight of equal pay in the future.


**Date:** 30 November 2017

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**Background Papers:**

The Accounts Commission report *'Equal Pay in Scottish Councils' published* on 7th Sept 2017.

Report to Council 29 August 2017 together with new Midlothian Equality Plan 2017 – 2021 and Midlothian Equality Outcomes &Mainstreaming Progress Reports 2015 – 2017**.**

**Appendix**

**Midlothian Equal Pay Statement**

Midlothian Council believes in equal opportunities in employment and is committed to the fundamental principle that procedures to determine the pay and conditions of employment of all our employees do not discriminate unlawfully and aims to eliminate any sex bias or any form of discrimination. The Council recognises that in order to achieve equitable pay it should operate a pay system which is transparent and based on objective criteria.

The Council believes that pay is one of the key factors affecting motivation and relationships at work and therefore considers it important to develop pay arrangements that reward employees fairly. The Council will work with Trade Unions to develop fair and non-discriminatory pay and progression systems which are understood and accepted by employees and by the managers who operate the system. All aspects of the pay package will be reviewed and monitored regularly to ensure it delivers Equal Pay. Any pay inequalities which cannot be justified will as far as is possible be eliminated.

The Council will aim to:

• Continue to use objective, justifiable and proportionate job-related information and an analytical job evaluation scheme to determine the salaries of jobs and the Council's salary structures.

• Monitor existing and future pay practices and the impact or potential impact on men and women.

• Assess and review the findings of monitoring activities and take action where necessary.

• Provide development and guidance for managers and others directly involved in decisions about pay and benefits.

• Continue to work with the recognised Trade Unions on Equal Pay and equalities in employment.

• Inform employees of how our pay practices work and how their own pay is determined.

• Respond promptly and investigate where necessary grievances on Equal Pay.

Our commitment to Equal Pay extends to both race and disability and whilst able to monitor this as our systems are developed to check for bias we will be in a position to more accurately report this in late 2017.

# Equal pay in Scottish councils

**EMBARGOED UNTIL
00.01 HOURS
THURSDAY 07 SEPTEMBER 2017**

ACCOUNTS COMMISSION

**Prepared by Audit Scotland**
September 2017

# The Accounts Commission

The Accounts Commission is the public spending watchdog for local government. We hold councils in Scotland to account and help them improve. We operate impartially and independently of councils and of the Scottish Government, and we meet and report in public.

We expect councils to achieve the highest standards of governance and financial stewardship, and value for money in how they use their resources and provide their services.

Our work includes:

- securing and acting upon the external audit of Scotland's councils and various joint boards and committees
- assessing the performance of councils in relation to Best Value and community planning
- carrying out national performance audits to help councils improve their services
- requiring councils to publish information to help the public assess their performance.

You can find out more about the work of the Accounts Commission on our website: www.audit-scotland.gov.uk/about-us/accounts-commission

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. We help the Auditor General for Scotland and the Accounts Commission check that organisations spending public money use it properly, efficiently and effectively.

# About equal pay

### What is equal pay?

The campaign for equal pay has a long history. Over time, women have often received less pay than men for doing comparable jobs. The Equal Pay Act 1970 was the first piece of legislation enshrining the right to pay equality between women and men. This Act made it unlawful for an employer to discriminate between women and men in all contractual terms of employment, including pay. The Equality Act 2010 replaces the Equal Pay Act 1970. All employers, public and private sector, must comply with equal pay legislation.

The Equal Pay Act 1970 set out ways an employee's work can be determined to be equal to that of another employee. These are restated in the Equality Act 2010 as:

- like work – work that is the same or broadly similar

- work rated as equivalent – when a job evaluation has rated two jobs as being the same or similar

- work of equal value – work found to be of equal value, for example in terms of effort, skill or decision-making.

### Equal pay in councils

Historically, the pay and conditions of council employees were governed by different national agreements, for example pay and conditions for manual workers differed from those of administrative, professional, technical and clerical (APT&C) workers. These differences between groups of employees arose from national bargaining arrangements with different unions and historically favoured roles traditionally carried out by men. Equal pay claims about these differences were common in the 1990s and councils made expensive settlements for historical discrimination. National negotiations in the late 1990s began to find a new structure that would ensure councils complied with equal pay legislation.

### What is the Single Status Agreement (SSA)?

In 1997, a UK-wide agreement was reached to unify the pay structures of different groups of council employees. This became known as the Single Status Agreement (SSA) or the 'Red Book'. This agreement covered around 1.4 million workers across the UK. Scottish councils and trade unions negotiated the Scottish version of the SSA in 1999. By harmonising employment terms and conditions, and grading all jobs on the same scale, this agreement sought to eliminate pay inequality for all.

## Guiding principles

**The guiding principles for the Single Status Agreement are to support and encourage the following:**

- High-quality services delivered by a well-trained, motivated workforce with security of employment. To this end, councils are encouraged to provide training and development opportunities for their employees.

- Equal opportunities in employment; equality as a core principle that underpins service delivery and employment relations; and removing all discrimination and promotion of positive action.

- A flexible approach to providing services to the communities while meeting the needs of employees, as well as employers.

- Stable industrial relations and negotiation and consultation between councils as employers and recognised trade unions.

Source: *Single Status Agreement*, Scottish Joint Council, 1999

# About the audit

This audit examines equal pay in local government, focusing on the following five themes:

- how councils implemented the Single Status Agreement (SSA)

- how much councils have spent settling equal pay claims

- how councils demonstrate that they are dealing effectively with equal pay claims and minimising future risks

- how effective the governance and oversight arrangements of the SSA are

- what lessons can be learned for the future.

This audit provides an insight into how the SSA has been implemented. But it does not investigate councils' job evaluation schemes, or consider individual staff terms and conditions at councils.

Although it reports on the number of equal pay claims, it does not look at individual claims, or make audit judgements on past litigation.

We reviewed a range of documents during our audit. We interviewed a range of staff at six sample councils and requested information from all 32 councils. Data for costs relates to financial years 2004/05 to 2015/16. Other data such as number of claims lodged relates to 2004/05 up to 30 September 2016. Appendix 1 has more information about our methodology.

In carrying out this audit, we faced considerable difficulty due to the lack of good-quality data relating to the implementation of equal pay.

Equal pay and the gender pay gap are different but related issues. Equal pay focuses on discrimination where a woman is paid less than a man for doing the same or broadly similar work, work of equal value or work rated as equivalent. The gender pay gap calculates the difference between men and women's earnings and presents this as a percentage of men's earnings. The gender pay gap is influenced by a range of factors such as:

- occupational segregation, where women are still more likely to be in low-paid jobs

- unequal caring responsibilities

- a lack of flexible working, which makes it difficult to combine caring with employment

- men continuing to make up the majority of those in the highest paid and most senior roles.

The factors that contribute to the gender pay gap have not been the focus of this audit, but where appropriate we highlight the links between equal pay and the gender pay gap.

# Key messages

**1** Under equality legislation all employers have a legal responsibility to ensure that women and men receive equal pay for equal work. In 1999, Scottish councils and trade unions reached the Single Status Agreement. The aim of the agreement was to harmonise local government pay and employment terms and conditions, and eliminate pay inequality.

**2** Implementing the Single Status Agreement was a complex process that required all councils to undertake a large-scale job evaluation exercise. Councils underestimated the challenges involved and all but one missed the agreed implementation date of 2004. It was not until 2010 that all councils in Scotland had single status in place. This was 11 years after the agreement was signed, with implementation taking twice as long as initially planned.

**3** There has been a lack of collective national leadership to overcome the challenges and address equal pay issues in a timely way.

**4** Councils initially worked on the basis that they could offset the costs of implementing single status with savings from changes to staff conditions and by improving staff productivity. Councils received no additional funding to implement their new pay and grading structures. In reality, single status brought significant costs and some councils and trade unions found themselves balancing the risk of industrial unrest with affordability. This meant that some of the approaches taken by councils when implementing single status did not always prioritise pay equality and were later found to be discriminatory.

**5** Councils sought to compensate workers who had historically been unfairly paid by offering payments if they signed compromise agreements. Councils paid around £232 million to approximately 50,000 workers in this way. The payments made were often of a relatively low value compared with the difference in pay over time, so some people refused them. Even while councils were implementing single status, they continued to receive thousands of equal pay claims for historical pay discrimination.

**6** All councils received equal pay claims after implementation. There were many reasons for these claims, for example claims against pay and bonus protection given to predominately male workers and discrimination in job evaluation schemes. Since 2004, around 70,000 equal pay claims have been lodged against councils. The cost of compensation agreements and settling claims, along with legal fees, amounts to around £750 million. The number of claims made against councils varies widely. Some of this variation can be explained by how actively 'no-win no-fee' lawyers have encouraged claims in different council areas. There are almost 27,000 live equal pay claims and workers could potentially still make new claims against councils.

**7** Councils need to be confident they have fair and transparent pay arrangements and take necessary action, such as regular equal pay audits, to deliver pay equality in line with their public sector equality duty. Elected members need to continue to oversee, scrutinise and challenge councils' approaches to delivering equal pay and reducing the gender pay gap.

# Single Status Agreement

**Pay inequality is rooted in long-standing traditional attitudes about women's place in society**

Historically, women have often received less pay than men for doing comparable jobs. Many social and economic drivers led to discriminatory pay systems and the long-standing pattern of inequality. During the 1920s and 1930s, UK policy even reflected this practice of lower wages for women. Fundamentally, society often undervalues women's competencies and skills. In the local government context, roles predominantly done by women, for example catering, cleaning and caring, had lower pay scales than male-dominated roles such as grave-digging or refuse-collecting, even though they required similar skill levels. The campaign for equal pay continued throughout the decades, and the Equal Pay Act was passed in 1970. This prohibits any less favourable treatment between men and women in terms of pay and conditions of employment. Equal pay provisions are now in the Equality Act 2010.

In the late 1980s, councils attempted various measures to comply with legislation and address equal pay issues, for example by putting job evaluation schemes in place for manual workers. This exercise re-valued some women's jobs, and placed them on the same grade as jobs done by their male colleagues.

However, many of the male-dominated jobs included bonus schemes *(i)* or attracted other allowances, providing men with extra pay. This meant that, even where female-dominated roles had been re-valued, women continued to receive less money than their male colleagues for work of equal value.

## Background to bonus schemes

These locally negotiated schemes were initially introduced in the 1960s to address low pay and productivity within public sector manual working at a time of pay freeze. The schemes were typically applied to full-time roles carried out by male manual workers. So, for example, refuse collectors often received bonuses, while women in similar-level jobs, such as cleaning, did not. Over time, councils stopped monitoring productivity and the bonuses became an expected part of those workers' pay.

> 'Access to bonus payments is a crucial factor in determining employee earnings. Overall, more than half of male full-time manual staff receive bonuses, compared with only five per cent of female staff. According to a 1996 survey of council manual workers by the Local Government Management Board, bonus payments represented 15 per cent of average male earnings compared with just over one per cent of female earnings.'

Source: *Equal Opportunities Review No 76 November/December 1997*, edited by Michael Rubenstein

## Increasing equal pay claims and difficulties in eliminating pay inequality led to single status being agreed

Before the SSA, councils used different pay and grading structures across manual workers and administrative and clerical workers (APT&C); this made it difficult to identify and eliminate pay inequalities for similar work between these workers. In the 1990s, equal pay claims resulted in expensive settlements, mostly in relation to women being excluded from male-dominated bonus schemes. This led Scottish councils and trade unions to agree the SSA in 1999. The SSA replaced the old separate agreements and bargaining arrangements for different occupational groups, manual and APT&C employees. It aimed to harmonise both pay and employment terms and conditions and sought to eliminate pay inequality for all.

The original SSA signed in 1999 specified that single status should be in place by April 2002. This proved too ambitious and a revised date of April 2004 was agreed between councils and trade unions (Exhibit 1, page 8).

As separate employers, councils across Scotland took individual approaches to implementing single status and each one followed local processes to reflect its own circumstances. The Scottish Joint Council (SJC) issued guidance to help councils with their local implementation of the SSA. In 2006, an inquiry by the Scottish Parliament's Finance Committee into the cost of single status reported that unions preferred a national agreement covering all aspects of single status, but that councils sought to have local flexibility in all arrangements.[1] The Finance Committee recommended that councils, unions and COSLA urgently enter into discussions at a national and local level, facilitated by the then Scottish Executive, to ensure implementation within 12 months. There is no evidence this recommendation was taken forward, highlighting the lack of collective leadership nationally.

1.  *4th Report, 2006 (Session 2):Report on the Financial Implications of the Local Authority Single Status Agreement*, Finance Committee, Scottish Parliament, 2006.

## Exhibit 1
Councils' Single Status Agreement implementation dates

**Agreed national SSA implementation date**

| 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |

**2006**
Aberdeenshire
Renfrewshire 🔄
Fife
East Renfrewshire 🔄
North Ayrshire
Perth and Kinross
West Lothian

**2009**
Stirling
West Dunbartonshire
Shetland Islands
Aberdeen City
Midlothian
South Ayrshire

**2003**
South Lanarkshire

**2006**
East Ayrshire
Glasgow City
North Lanarkshire
Moray
Falkirk

**2008**
Argyll and Bute
East Dunbartonshire
Angus
Dundee
Highland
Orkney Islands 🔄
East Lothian
Eilean Siar 🔄
Inverclyde
Scottish Borders

**2010**
Clackmannanshire
City of Edinburgh
Dumfries and Galloway 🔄

🔄 **Some councils' implementation dates were backdated:**

- Renfrewshire — 1 April 2006
- East Renfrewshire — 1 July 2006
- Orkney Islands — 1 April 2007
- Eilean Siar — 1 April 2007
- Dumfries and Galloway — 1 April 2009

Source: Audit Scotland information request to Scottish councils, 2016

## Councils were required to undertake an extensive job evaluation as part of implementing single status

Before the SSA was implemented, there were separate bargaining arrangements in local government for pay and terms and conditions of different groups of staff, for example, manual workers and APT&C. This approach to pay and collective bargaining was not unique to local government. Before implementing Agenda for Change, the NHS had more than 20 committees bargaining separately for different groups of staff such as nurses and allied health professionals.

In 1993, there was a significant test case in England where female senior NHS speech therapists named male senior pharmacists and male clinical psychologists as comparators in their equal pay claim.[2] The Court of Justice ruled that an employer could not rely alone on the fact that the two jobs were paid according to two different collective bargaining agreements as a defence to comparing different occupations. To help deal with any inequalities in their approach to remunerating different groups of staff, employers across the public sector began introducing new **job evaluation** (i) schemes.

In 1999, to help councils implement SSA, the SJC developed a national job evaluation scheme (JES). Councils did not have to use the national scheme but most did. South Lanarkshire Council had established its own scheme before the national JES was developed. Glasgow City Council and the City of Edinburgh Council used other schemes. Regardless of the scheme, if done correctly job evaluation should have provided assurances that a council had a fair and transparent equal pay structure and protected it from future equal pay claims.

Developing a new pay and grading structure that was fair and accurate took time. But this aspect of the single status programme proved more time-consuming for some councils than others. For example, the number of jobs councils had to evaluate varied. Some larger councils had thousands of different types of jobs to evaluate, whereas others had only hundreds.

### What does job evaluation entail?

A key part of single status involved councils evaluating jobs under a single system that provides a consistent approach to defining their relative worth across the whole organisation.

Job evaluation does not determine actual pay, but places jobs in a rank order according to overall demands placed upon the job holder.

The SJC's JES scheme defines these demands across a range of factors such as knowledge and skills, responsibility, working environment, and dealing with relationships. Councils score local jobs and rank them through their locally agreed pay and grading structures. This approach across local government differs from the NHS's job evaluation scheme under Agenda for Change, which had a central negotiating group and enabled most jobs to be matched to nationally evaluated profiles.

Once each council had completed its job evaluation exercise for single status, it transferred manual and APT&C employees to the new single pay and grading structure.

2.   *Enderby v Frenchay Health Authority* [1993] EUECJ C127/92.

**Councils were expected to evaluate jobs and implement their pay and grading structures under the SSA in agreement with trade unions.**

Some councils and trade unions faced difficulties reaching agreement on specific job evaluations and on new terms and conditions. This led to protracted negotiations and some councils faced industrial relations issues such as work-to-rule and industrial action. Our case study on City of Edinburgh Council (Appendix 2) and The Highland Council (Appendix 3) highlights how different the process was depending on local challenges. Some councils reported that dealing with the protracted and difficult negotiations on grading structures, along with equal pay claims, put a significant strain on their HR resources. Trade unions also faced this problem.

In its inquiry into the cost of single status in 2006, the Scottish Parliament's Finance Committee found that councils and unions failed to engage properly in constructive negotiations to implement single status agreements.[3] Ultimately, only eight councils introduced their new pay and grading structures in agreement with trade unions.
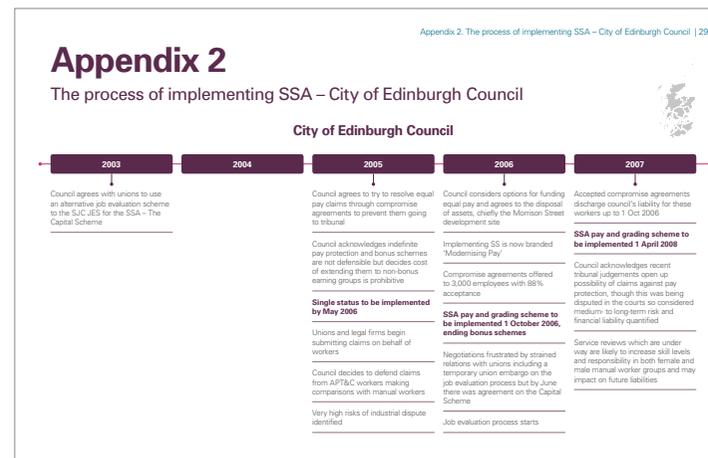
City of Edinburgh Council

Appendix 2

The Highland Council

Appendix 3



Appendix 2. The process of implementing SSA – City of Edinburgh Council  | 29

## Appendix 2

The process of implementing SSA – City of Edinburgh Council

**City of Edinburgh Council**



Appendix 3. The process of implementing SSA – The Highland Council  | 31

## Appendix 3

The process of implementing SSA – The Highland Council

**The Highland Council**

3.   *4th Report, 2006 (Session 2):Report on the Financial Implications of the Local Authority Single Status Agreement*, Finance Committee, Scottish Parliament, 2006.

## Councils faced difficulties in funding the changes under the SSA, slowing progress

Another factor in the slow progress in moving to single status pay and conditions was the cost. Councils did not receive any additional money to implement these new pay and grading structures. COSLA pay circulars in 2000 set out the intention to negotiate new pay structures on a cost-neutral basis.[4] In signing the SSA, councils and unions expected to offset the additional cost of addressing pay inequalities for one group of staff (predominately women) by modernising their workforces, reducing the pay of another group (predominately men), or doing both. In 2006, COSLA reaffirmed to the Finance Committee the intention to deliver single status on a cost-neutral basis.[5]

South Lanarkshire Council reported that it had managed the impact of single status on its budget by implementing it alongside a programme of Best Value reviews.[6] These delivered savings to offset the cost of single status. Councils considered various other measures to offset costs, such as recruitment freezes, encouraging staff to reduce their hours and rationalising terms and conditions. In reality, councils found it difficult to deliver single status on a cost-neutral basis. Some councils estimated the impact on their own local payroll. For example, the City of Edinburgh Council estimated it would add around £10 million each year to its wage bill. But nationally, the full cost of single status is unknown. There is no evidence of the cost to councils being estimated at a national level using cost modelling.

Negotiations with trade unions over cost-offsetting measures proved long and difficult. Our case study of implementation in City of Edinburgh Council and The Highland Council highlights these difficulties. Trade unions had to balance a number of priorities during the discussions with councils about new pay structures. In striving for equal pay, they were both representing their women members who were pursuing equal pay claims and trying to negotiate protection for the salaries of their male members.

The delays in implementing the SSA resulted in prolonged inequality and had financial implications. In 2004, councils began making compensation payments where they knew workers had been unfairly paid, generally to female manual workers who had been excluded from bonus schemes (Exhibit 2, page 12). In accepting these payments, workers were required to sign compromise agreements (now referred to as settlement agreements). Around 50,000 employees received this type of compensation.

In accepting compensation payments, employees agreed not to pursue claims with the Employment Tribunal Service (ETS). In 2003, amendments to the Equal Pay Act extended the limit on compensation for back pay from two to five years. In councils where the implementation date for SSA slipped they made additional compensation payments to female workers. These payments covered the gap for the period between the original date of SSA implementation in 2004 and the actual date that staff moved across to each council's new pay structure.

In 2009, a Local Government and Communities Committee inquiry into Equal Pay in Local Government reported that compromise agreements had not always been accepted by employees because settlement offers were too low.[7] No national and comparable data about the amount paid to employees in compensation is available.

However, the Allen and others v GMB tribunal case found that the settlements were much lower than the real value of employees' claims.[8] In some cases employees received 25 per cent or less of the value they could have been entitled to. When compromise agreements were not reached, many workers went on to lodge an equal pay claim.

4.   *Industrial Relations: 1l2000, 2000 pay negotiations – local government employees,* Personnel Services Circular, COSLA, February 2000.
5.   *4th Report, 2006 (Session 2):Report on the Financial Implications of the Local Authority Single Status Agreement*, Finance Committee, Scottish Parliament, 2006.
6.   *Efficiency Statement 2006/07,* South Lanarkshire Council, 12 September 2007.
7.   *12th Report, 2009 (Session 3): Equal Pay in Local Government*, Local Government and Communities Committee, Scottish Parliament, June 2009.
8.   *Allen and others v GMB* [2008] EWCA Civ 810; [2008] ICR 1407.

## Exhibit 2
Cost of compensation payments by council

**29 councils** provided this cost information

Total cost **£232m**

Dumfries and Galloway and North Ayrshire councils could not provide data.

Stirling Council could only include its spend on compromise agreements within its overall cost of equal pay.

£ million

| Council | £ million |
|---|---|
| Glasgow City | 53.8 |
| Fife | 25.8 |
| Aberdeen City | 24.0 |
| Aberdeenshire | 20.2 |
| City of Edinburgh | 11.7 |
| North Lanarkshire | 11.2 |
| West Dunbartonshire | 9.5 |
| Highland | 8.1 |
| South Lanarkshire | 7.4 |
| East Ayrshire | 7.3 |
| East Lothian | 5.9 |
| South Ayrshire | 5.1 |
| West Lothian | 5.1 |
| Falkirk | 4.9 |
| Scottish Borders | 4.3 |
| Eilean Siar | 3.7 |
| Inverclyde | 3.6 |
| East Renfrewshire | 3.6 |
| Moray | 3.6 |
| East Dunbartonshire | 3.0 |
| Argyll and Bute | 2.9 |
| Shetland | 2.4 |
| Orkney | 1.8 |
| Dundee | 1.5 |
| Angus | 0.9 |
| Perth and Kinross | 0.8 |
| Clackmannanshire | 0.2 |
| Renfrewshire | 0.03 |
| Midlothian | 0.02 |

Source: Audit Scotland information request to Scottish councils, 2016

## Councils' strategies for protecting some workers' pay were later found to be discriminatory

In implementing their JES, councils faced criticism from unions about the lack of clarity and information about how some roles were scored and evaluated. This affected the willingness of unions and councils to agree on pay and grading matters and impacted on the time it took to implement the SSA.

The outcome of the job evaluation for some workers was that pay for their new grade was lower than their old grade, particularly for the male-dominated roles that had historically received bonuses. Councils were concerned that any widespread pay cuts could bring about industrial relation difficulties and in extreme circumstances lead to industrial action. To lessen the impact for those who would lose earnings, councils used a range of measures, for example they **protected pay** ⓘ for some staff, predominately male, at the higher level for a period of time. This practice is known as red circling. SJC guidance stated that payment protection could be offered by councils for up to three years, but not how councils should apply it. As a result, the way in which councils used payment protection varied across Scotland.

Some councils protected basic pay and, despite a history of claims about women being excluded from bonus schemes, most councils also protected bonuses for a period of time after transferring to new pay structures.

Another approach councils adopted was to enrich some roles so that they would be graded at a level that prevented or minimised any potential loss in salary for some male workers.

The option of increasing the women's pay to the same level as the men – often referred to as levelling up – was consistent with the intention of single status and equal pay legislation. Councils did not pursue this option on the basis of affordability, although there is limited evidence to demonstrate that they fully costed this option. Ultimately the measures councils adopted kept men's salaries higher than women performing equivalent roles.

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### Protected pay

Protection at assimilation on to the new spinal column for all employees including bonus earners will be for three years on a cash-conserved basis. This timescale has regard to the increased potential for equal pay claims should protection be allowed to extend beyond that period.

It is important to emphasise that bonus schemes may not in themselves be discriminatory provided they meet real business objectives and access is available to all. Councils should therefore be free to introduce council-wide reward strategies where this is considered desirable and following the full involvement of the trade unions.

Source: *Single Status Agreement*, Scottish Joint Council, 1999

## Pay protection arrangements were the focus of various legal cases

From 2007 onwards, legal challenges started to be made to locally negotiated arrangements for men whose pay was protected. In the cases of Redcar & Cleveland Borough Council v Bainbridge and Others, and Surtees and Others v Middlesbrough Borough Council, the Court of Appeal held that, except in limited circumstances, discriminatory pay protection arrangements could not be justified.[9]

In the Redcar case, the court found no evidence that the council had taken account of any negative impact on female employees when only offering payment protection to the male employees. Councils subsequently received many claims against discriminatory payment protection schemes. We cover the number of all claims councils received in (Exhibit 3, page 16).

In 2009, the Local Government and Communities Committee recommended that COSLA consult with trade unions and publish guidance to help councils understand the main points that were emerging from the complex case law about pay protection and what they should be doing to ensure that any pay protection scheme was fair.[10] There is no evidence any updated guidance was ever issued, highlighting a further lack of collective national leadership.

9.   *Redcar and Cleveland Borough Council v Bainbridge and others; Surtees and others v Middlesbrough Borough Council* [2008] EWCA Civ 885 CA.
10.  *12th Report, 2009 (Session 3): Equal Pay in Local Government*, Local Government and Communities Committee, Scottish Parliament, June 2009.

# Equal pay claims

## Workers made equal pay claims after councils had implemented single status

While councils were implementing single status they all received claims relating to historical bonuses. Councils also experienced equal pay litigation following implementation of single status.

Employees of Scottish councils lodged more than 70,000 equal pay claims against their employers between 2004/05 and 30 September 2016 (Exhibit 3, page 16).

Some councils had several discrete waves of claims. Exhibit 4 (page 17) shows the number of claims lodged by council. 'No-win no-fee' solicitors signed up many claimants. This impacted on the number of claims made against specific councils, particularly the larger councils such as City of Edinburgh, South Lanarkshire, Glasgow City and North Lanarkshire.

As many claims are resolved outwith a tribunal, the details are not generally published, but from the information that is available we know that workers have made claims against:

- payment protection

- job evaluation scheme issues including job grading.

Some councils used job enrichment measures to prevent workers losing pay under single status. A job enrichment scheme typically includes 'measures that can improve earning opportunities and significantly reduce loss of pay or bonus'. Measures could include the creating of new roles, or re-adjusting the job weightings of workers – in predominantly male jobs – under the single status job evaluation scheme. If a council does not offer female employees the same measures, it can continue inequality in pay. There is little published information on the claims for this reason in Scotland, although it has been the subject of many legal and academic papers, for example in *Are litigation and collective bargaining complements or substitutes for achieving gender equality? A Study of the British Equal Pay Act* ⊙.

From 2004/05 to September 2016, the total cost of settling claims, including all compromise agreements and legal costs, has been around £750 million across all Scottish councils. Exhibit 5 (page 18) shows the cost by council over this period.

In 2009, the Scottish Government introduced a 'capitalisation' scheme. This was to allow councils to borrow capital to settle equal pay claims. Between January 2009 and April 2012 it granted 11 councils (Aberdeen City, Clackmannanshire, East Dunbartonshire, City of Edinburgh, Falkirk, Glasgow City, Highland, Midlothian, North Ayrshire, Scottish Borders and West Dunbartonshire) consent to borrow a total of £83 million. Six of these councils (Aberdeen City, Falkirk, Glasgow City, Midlothian, North Ayrshire, and West Dunbartonshire), used the scheme to borrow capital with the amount borrowed totalling almost £37 million. Only two councils (Glasgow City and North Ayrshire) borrowed up to their full allocation.[11]

11. *Consents to Borrow – Equal Pay*, Scottish Government, April 2013

## Exhibit 3
Total number of equal pay claims lodged with the Employment Tribunal Service against councils, 2004/05 to September 2016



**2007/08**
Claims peaked

**2011/12**
10,302 claims were lodged but 4,395 were duplicate claims lodged against Glasgow City Council

**2013**
Employment tribunal fees were introduced

**70,453**
**equal pay claims[1]**
2004/05 – 30 Sept 2016

**2015/16+**
Increase mostly attributed to Fife Council and North Lanarkshire Council
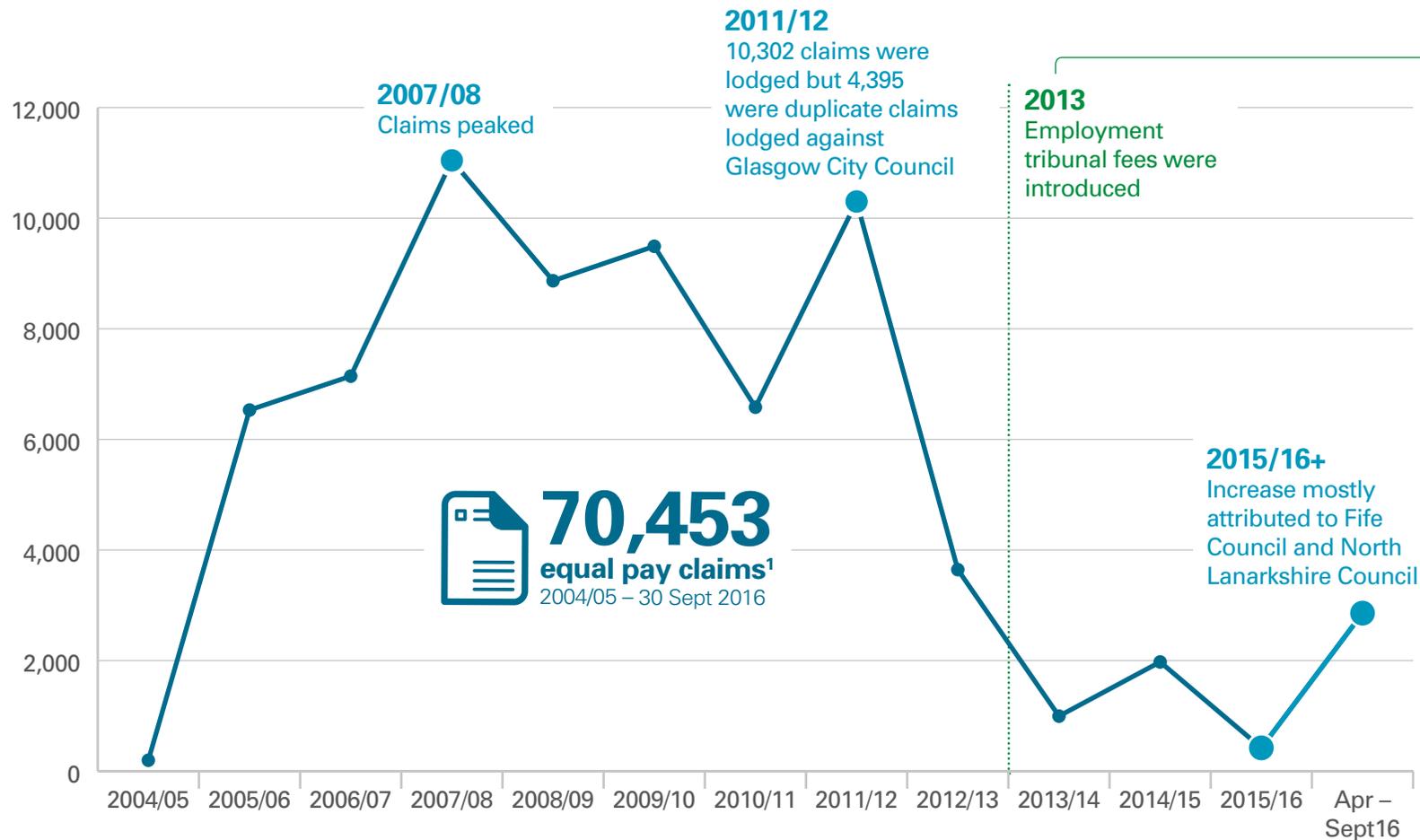
**Employment tribunal fees**

Employment tribunal fees were introduced in 2013. People had to pay up to £1,200 to lodge a case with the ETS. This was potentially unaffordable for some and therefore a barrier to pursuing their equal pay claim.

In July 2017, the Supreme Court ruled that tribunal fees were unlawful under both UK and EU law because 'it has the effect of preventing access to justice.

The UK government has agreed to take immediate steps to stop charging fees.

Notes:
1. Includes a minimum of 6,607 duplicate claims lodged across the 11 years.
2. Aberdeenshire Council could not provide the total number of claims lodged as it removes claims from its database once they have been settled. As at September 2016, it had 887 lodged claims that were live.
3. Falkirk Council has an additional 395 claims which have been withdrawn but for which it does not have dates when lodged. These are included in the Scotland total.
4. Eight councils hold data by calendar year and submitted their figures to the nearest financial year.
5. Angus Council's information provided is based on settlement dates not when lodged.
6. South Lanarkshire Council's figures represent the number of claimants rather than number of claims.

Source: Audit Scotland information request to Scottish councils, 2016

**Exhibit 4**
Number of equal pay claims by council, 2004/05 to September 2016

**70,453**
**equal pay claims**
2004/05 – 30 Sept 2016
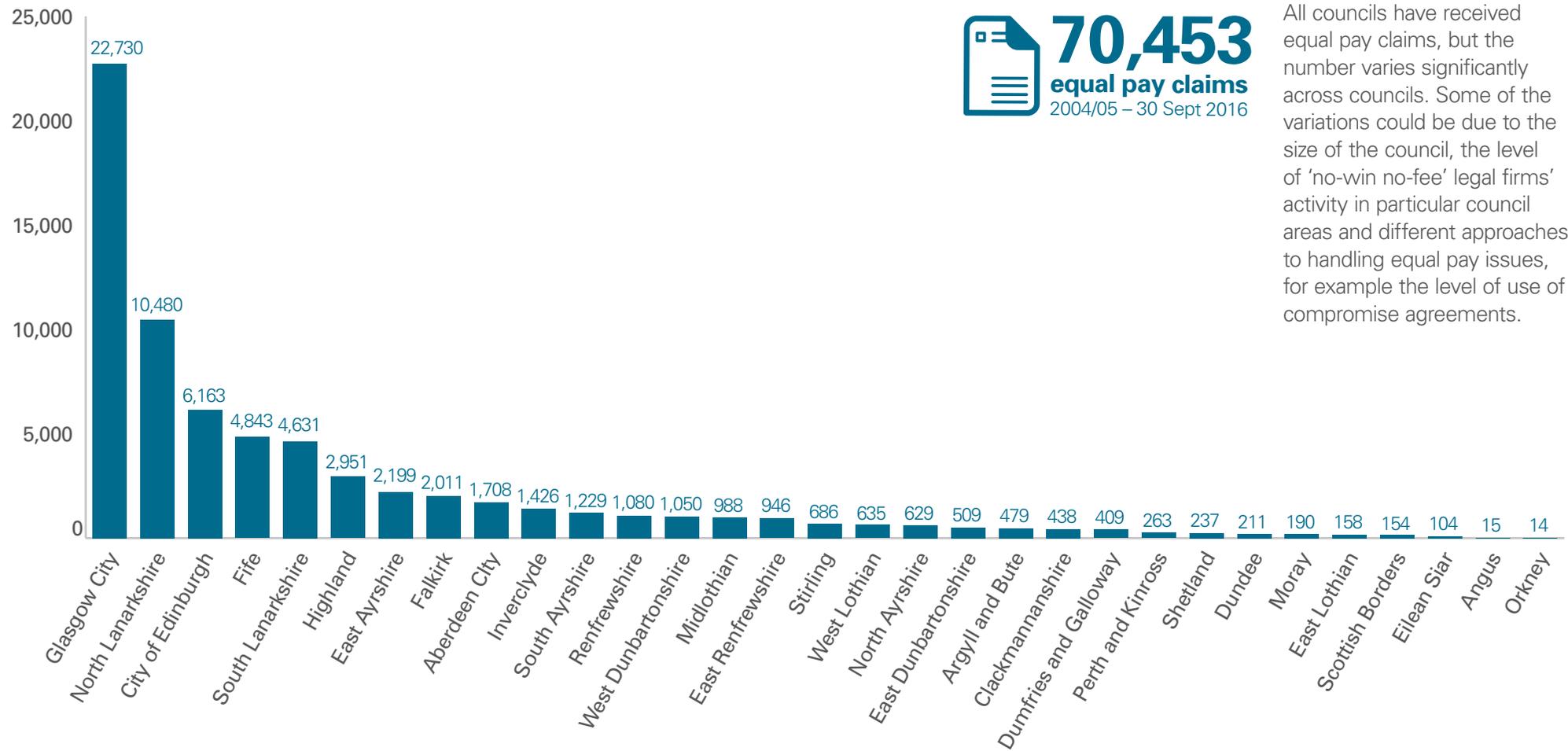
All councils have received equal pay claims, but the number varies significantly across councils. Some of the variations could be due to the size of the council, the level of 'no-win no-fee' legal firms' activity in particular council areas and different approaches to handling equal pay issues, for example the level of use of compromise agreements.

| Council | Claims |
|---|---|
| Glasgow City | 22,730 |
| North Lanarkshire | 10,480 |
| City of Edinburgh | 6,163 |
| Fife | 4,843 |
| South Lanarkshire | 4,631 |
| Highland | 2,951 |
| East Ayrshire | 2,199 |
| Falkirk | 2,011 |
| Aberdeen City | 1,708 |
| Inverclyde | 1,426 |
| South Ayrshire | 1,229 |
| Renfrewshire | 1,080 |
| West Dunbartonshire | 1,050 |
| Midlothian | 988 |
| East Renfrewshire | 946 |
| Stirling | 686 |
| West Lothian | 635 |
| North Ayrshire | 629 |
| East Dunbartonshire | 509 |
| Argyll and Bute | 479 |
| Clackmannanshire | 438 |
| Dumfries and Galloway | 409 |
| Perth and Kinross | 263 |
| Shetland | 237 |
| Dundee | 211 |
| Moray | 190 |
| East Lothian | 158 |
| Scottish Borders | 154 |
| Eilean Siar | 104 |
| Angus | 15 |
| Orkney | 14 |

Notes:
1. Includes a minimum of 6,607 duplicate claims lodged across the 11 years.
2. Aberdeenshire Council could not provide the total number of claims lodged as it removes claims from its database once they have been settled. As at September 2016, it had 887 lodged claims that were live.
3. Claims lodged against Glasgow City Council ALEOs are included.
4. South Lanarkshire Council's figures represent the number of claimants rather than number of claims.

Source: Audit Scotland information request to Scottish councils, 2016

**Exhibit 5**
Total cost of equal pay claims and compensation, by council 2004/05 to 2015/16
This includes legal costs, costs of equal pay claims and settlement/compromise agreements

Total cost of settling claims
**£750m**

£ million

| Council | Value |
|---|---|
| North Lanarkshire | 129.9 |
| Glasgow City | 91.4 |
| City of Edinburgh | 87.5 |
| Fife | 82.8 |
| South Lanarkshire | 82.6 |
| Aberdeenshire | 27.0 |
| Aberdeen City | 25.0 |
| Falkirk | 21.3 |
| West Dunbartonshire | 19.8 |
| Highland | 17.0 |
| Renfrewshire | 16.0 |
| East Ayrshire | 15.2 |
| North Ayrshire | 13.3 |
| Midlothian | 12.0 |
| South Ayrshire | 12.0 |
| Dumfries and Galloway | 11.0 |
| West Lothian | 9.7 |
| Stirling | 9.4 |
| East Renfrewshire | 8.0 |
| Inverclyde | 7.0 |
| East Lothian | 6.4 |
| Moray | 6.2 |
| East Dunbartonshire | 6.0 |
| Scottish Borders | 5.9 |
| Argyll and Bute | 4.7 |
| Clackmannanshire | 4.2 |
| Shetland | 3.9 |
| Eilean Siar | 3.9 |
| Perth and Kinross | 3.6 |
| Angus | 3.2 |
| Dundee | 2.4 |
| Orkney | 1.8 |

Source: Audit Scotland information request to Scottish councils, 2016

## Exhibit 6
Typical process when taking an equal pay claim through the administrative and legal stages



**An employee who believes they have a claim should initially use the council's grievance procedure identifying a valid comparator of the opposite gender**

**Claimant must make a Early Conciliation notification to the Advisory, Conciliation and Arbitration Service (Acas)** ⓘ

If conciliation through Acas fails, it will issue a certificate to be presented to the ETS

**Claim is lodged with ETS**

Claims can be brought at any time while employed under the existing contract or within six months of the end of the contract.

**ETS notifies the council and the council has 28 days to respond**

ETS makes a decision on whether to accept the council's response

**Preliminary hearing**

A judge decides issues such as; whether part or all of the claim can go ahead, the date and time of a hearing, how long the hearing should take.

**Full hearing before a panel comprising a judge and two lay members**

Case is presented to the tribunal by the employee or their representative. Witnesses may be called. The decision may be given at the hearing or in writing at a later date.

**Judgement in favour of council** 🗓14

Claimant has 14 days to write to ETS with reasons why they should reconsider the ruling

**Judgement in favour of council** !

Claimant can apply to the Employment Appeal Tribunal if there was a legal mistake

**Judgement in favour of claimant** £

Employer ordered to comply with ruling, eg pay compensation for up to five years, but employer may apply for either a review of the decision or make an appeal

ⓘ Since May 2014 it is a legal requirement that before a claim can be lodged with the Employment Tribunal Service (ETS) the claimant must have made an Early Conciliation notification to the Advisory, Conciliation and Arbitration Service (Acas).

Source: Audit Scotland, 2017

Managing equal pay claims is an extremely complex process. A claim can escalate through many stages until agreement is reached. Negotiations between councils and employees' representatives may continue during the process and they can reach an agreement at any stage.

The process of taking an equal pay claim through the administrative and legal stages required to reach a conclusion can be very long and costly. Many claims are settled before they reach a tribunal hearing.

In bringing a claim, a claimant has to first establish a comparator for like work, work rated as equivalent and/or work of equal value. If a councils choses to defend the claim, the legal grounds on which pay differences can be justified are very complex.

**There are almost 27,000 pending or unresolved equal pay claims**

At the end of September 2016, 27 councils reported almost 27,000 equal pay claims remained live with the ETS (Exhibit 7, page 21). Angus, Dumfries and Galloway, reported East Lothian, Orkney and Renfrewshire had no live claims. Nine out of ten live claims are from female workers. Live claims represent over a third of all claims lodged with the ETS since 2004/05. Seven councils have over 50 per cent of all their claims still recorded as live. Thousands of claims currently in the system in Scotland have been live for over a decade.

Reasons reported by councils for the length of time taken in resolving live claims include:

- processing and assessing the validity of claims

- waiting for full information on the nature of the legal challenge

- the grounds for a claim changing, for example if an individual changes their legal representation

- time taken for claims to progress through the ETS

- waiting for the outcome of tribunals.

Challenges to councils' approaches to implementing the SSA across the UK created a complex legal environment. This includes significant cases where employment tribunal rulings have been appealed and taken as far as the UK Supreme Court, with different rulings at each stage. Councils have commonly waited on legal rulings in national test cases in determining whether to defend claims as part of their strategies to minimise costs. Employees have successfully challenged how some councils have handled and defended claims. For example, in Cannop and others v Highland Council, female claimants successfully challenged the council's approach to delaying and defending claims on procedural grounds.[12]

Another example of councils' defences against equal pay claims was that female workers and their male comparators had to be co-located for a claim to be valid. For example, more than six years after claims were raised, Dumfries and Galloway Council lost a UK Supreme Court ruling in 2013 that clarified that women and men can compare earnings across locations for the same employer, as set out in EU law.[13] Similarly, City of Edinburgh Council lost a tribunal appeal from workers comparing themselves across locations.[14]

In another lengthy and complex case in 2014, the Court of Session ruled that female workers working in Glasgow City Council's arm's-length organisations (ALEOs) could legitimately compare their terms and conditions with male workers in the council.[15]

12. *Cannop and others v Highland Council* [2008] CSIH38; [2008] IRLR 634
13. *North v Dumfries and Galloway Council* [2013] UKSC 45
14. *City of Edinburgh Council v Wilkinson* [2011] CSIH 70
15. *Glasgow City Council v Unison and Fox Cross Claimants* [2017] CSIH 27

## Exhibit 7
Live claims as a percentage of all equal pay claims lodged against councils



**1/3** Live claims (as at 30 September 2016) represent over **a third** of all claims lodged with the ETS since 2004/05

**26,912** live equal pay claims[1]

**37.4%** Scotland average

| Council | Number of live claims |
| --- | --- |
| North Ayrshire | 605 |
| East Dunbartonshire | 442 |
| Falkirk | 1,591 |
| Fife | 3,664 |
| Inverclyde | 958 |
| Dundee | 129 |
| Highland | 1,798 |
| Glasgow City | 11,065 |
| East Ayrshire | 991 |
| West Dunbartonshire | 448 |
| West Lothian | 190 |
| Scottish Borders | 46 |
| Argyll and Bute | 134 |
| North Lanarkshire | 2,429 |
| Clackmannanshire | 58 |
| City of Edinburgh | 694 |
| South Lanarkshire | 471 |
| South Ayrshire | 115 |
| Midlothian | 86 |
| Eilean Siar | 6 |
| Aberdeen City | 85 |
| Perth and Kinross | 7 |
| Moray | 3 |
| East Renfrewshire | 6 |
| Stirling | 3 |
| Shetland | 1 |

Percentage of total claims that are live

**00** Number of live claims

Notes:
1. Aberdeenshire Council could not provide the total number of claims lodged as it removes claims from its database once they have been settled. As at September 2016, it had 887 live claims which are included in the total.
2. Angus, Dumfries and Galloway, East Lothian, Orkney and Renfrewshire Council did not have any live claims as at 30 September 2016.
3. South Lanarkshire Council reported claimants not claims.

Source: Audit Scotland information request to Scottish councils, 2016

# Reducing the gender pay gap

The causes of the gender pay gap are complex. As well as discrimination in pay grading systems, other factors, including occupational segregation and inflexible working practices can contribute to female workers earning less than their male counterparts.

Ensuring women and men receive equal pay for equal work should contribute to closing the gender pay gap. But in Scotland, the pay gap between all male and female employees (full-time and part-time workers) is currently estimated at about 15 per cent.[16]

Since 2013, public bodies have been required to publish information on their gender pay gap every two years. However, this is reported in different ways by different organisations, which makes it very difficult to determine the true scale of the issue.

Identifying a direct link between equal pay and a reduction in the gender pay gap is difficult given the complex factors involved (Exhibit 8, page 23). Only 15 councils provided information on the difference in their gender pay gap since implementing SSA. Even where councils have provided information, the way they measure the gender pay gap varies, making it difficult to assess performance.

In June 2017, the Scottish Parliament's Economy, Jobs and Fair Work Committee recommended that the Scottish Government:

- develop a suite of indicators to measure the underlying causes of the gender pay gap, using comprehensive data

- change the way it measures and reports the gender pay gap in its National Performance Framework (NPF) to take into account part-time workers in Scotland.[17]

## Close the Gap

Close the Gap works in Scotland to influence and enable action to address the causes of women's inequality at work. Along with the Equality and Human Rights Commission (EHRC), it has highlighted limitations in the way public sector bodies calculate and report the gender pay gap. For example, in 2015 Close the Gap found that:

- only 50 per cent of the public bodies it examined published adequate gender pay gap information

- 35 per cent published inadequate gender pay gap information

- 15 per cent did not publish any gender pay gap information.

It also found there was limited evidence of the specific actions taken by public sectors bodies to tackle the causes of the gender pay gap. In 2016, Close the Gap published revised guidance to help improve compliance and promote good practice. It also recommended publishing an appropriate suite of measures, including both the mean and median pay gap figures for all employees, the full-time pay gap and the part-time pay gap.

16. *Annual Survey of Hours and Earnings (ASHE) – gender pay gap by country April 1997 to 2016*, Office for National Statistics, October 2016. This was calculated on the median hourly earnings excluding overtime.
17. *No Small Change: The Economic Potential of Closing the Gender Pay Gap*, Economy, Jobs and Fair Work Committee, June 2017.

**Exhibit 8**
What's the difference between equal pay and the gender pay gap?



Women are still more likely to be in low paid and low skilled jobs

Women continue to be underrepresented in senior management and leadership roles

In Scotland in 2016 women accounted for 78% of all part-time workers

Unequal pay

Equal Pay

Gender Pay Gap

Men and women in the same employment performing equal work must receive equal pay.

Equal Pay Act 1970

Equality Act 2010

Women still take on the majority of care duties

Fewer women work in high-paid STEM sectors

Men and women paid differently for the same work, which is illegal

Women work less overtime than men

Male dominated workplaces can create inhospitable working environments for women

Influences from schools, families and media can impact career and life choices

Source: *No Small Change: The Economic Potential of Closing the Gender Pay Gap*, Economy, Jobs and Fair Work Committee, June 2017

# Governance and oversight of equal pay

The public sector equality duty was created under the Equality Act 2010 and came into force in April 2011. The public sector equality duty requires public authorities to take a proactive approach to tackling discrimination. Scottish specific duties were introduced in 2012. These set out a number of steps that employers must take to meet their public sector equality duty. For example, they must publish an equal pay statement every four years which contains their equal pay policy. They must also publish equality impact assessments on new or revised policies or practices. The Equality and Human Rights Commission (EHRC) guidance states that the equal pay policy should contain:

- a commitment to monitoring pay regularly in partnership with trade unions or employee representatives

- objectives and actions the council will take on equal pay, with a named senior manager responsible for implementation of the policy

- a commitment that the organisation will apply appropriate resources to achieve equal pay.

The EHRC also highlights that the most effective way of checking compliance with equal pay obligations is to carry out an equal pay audit. An equal pay audit involves comparing the pay of men and women doing equal work. Employers should look at the causes of any differences in pay. Where there are no valid reasons for the differences, they should take action to eliminate the inequality. Only 20 councils provided us with their latest equal pay audit but not all audits met with EHRC guidance.

Councils, along with all public bodies, published their most recent equal pay statements in April 2017. Close the Gap is assessing public bodies' compliance with the gender and employment aspects of the duty. The findings will be published in October 2017.

Councils should ensure that their pay system delivers equal pay, particularly as they go through periods of organisational change. For example, when delivering services through integration authorities for health and social care and ALEOs. Councils should take appropriate steps and follow good practice to go beyond legal compliance, to ensure they are meeting all their equalities duties (Exhibit 9, page 25).

Elected members have a corporate responsibility to ensure that the council is taking all the necessary steps to comply with equal pay legislation. As part of that responsibility, elected members should ensure that the council has appropriate arrangements in place to manage outstanding equal pay claims. Elected members need to know how many equal pay claims are outstanding at any one time and how the council is dealing with these claims. Of the 21 councils that have more than ten live claims, only four provided elected members with routine update papers on equal pay litigation between September 2015 and September 2016.

Elected members also have a broader duty to promote equality. As part of discharging their equality obligations, elected members should regularly receive monitoring information on the progress their councils and, where appropriate, integration authorities and ALEOs that deliver services on their behalf, are making in reducing the gender pay gap. They should use this information to challenge officers on this progress.

**Exhibit 9**
Actions for councils and elected members

## Councils must ensure they are fulfilling their public sector equality duties in relation to equal pay

This includes:

- publishing an equal pay statement and equal pay policy
- assessing the impact of any changes that may affect equal pay
- publishing gender pay gap information.

In complying with good practice, councils should:

- use EHRC guidance for example when undertaking equal pay audits and developing equal pay policies
- use Close the Gap's guidance on meeting the public sector equality duty
- ensure their risk registers are up to date.

For those councils using the SJC job evaluation scheme, they should ensure they implement the most recent edition.

## Questions for elected members in overseeing, challenging and scrutinising equal pay

- Have I been updated on the number of ongoing equal pay claims at my council? Am I satisfied they are being dealt with effectively?

- Have I been updated on the potential cost of equal pay claims?

- Have I been updated on the steps my council is taking to mitigate against the risks of equal pay claims? For example:

  – Have I seen my council's equal pay audit? Did it meet EHRC good practice guidance? Are there any pay gaps? Can we sufficiently justify any differences in pay gaps?

  – Have I seen action plans and progress reports against my council's equal pay policy?

  – Have I been updated on changes in case law that might affect my council?

  – Have I seen equality impact assessments on any changes to my council's pay and grading system?

  – Has my council fully implemented the SJC third edition guidance and recommendations?

- Have I been informed about whether my council has allocated adequate resources to proactively carry out equality work around equal pay/gender pay gap beyond responding to equal pay claims?

Source: Audit Scotland, 2017

# Appendix 1

## Methodology

### Documents we reviewed for our audit

We reviewed a wide range of documents during our audit, including the following:

- *The National Agreement on Pay and Conditions of Service for Local Government Employees* (The Red Book), which includes guidance on implementing Single Status.

- The Equality Act 2010

- Financial audit information and other work already carried out by local auditors.

- Delivering Equal Pay in Scottish Local Government, Unison Scotland submission to the Accounts Commission, May 2017.

- Scottish court papers.

- Inquiries carried out by Parliamentary committees in 2006 (Finance Committee), 2008 (Equal Opportunities Committee) and 2009 (Local Government and Communities Committee).

We asked councils for copies of:

- relevant minutes, papers and agendas for council meetings and appropriate council committees such as the Resources or Policy and Strategy Committee

- equality impact assessments and audits

- information on their gender pay gap.

### Research

We commissioned an employment law specialist to independently review the historical development of equal pay law.

### Data analysis

There is limited published information on equal pay in local government. We collected information from 32 councils across Scotland on the following:

- the number of equal pay claims lodged with the ETS (2004-16), how many are still live, and the outcome of those settled

- the cost of claims to councils

- when they implemented single status pay and grading structures

- if they used compromise agreements and how much they cost if they did

- information about how councils monitored progress with equal pay

- what challenges councils faced and lessons they learnt from implementing equal pay.

Councils record equal pay data in different ways, which made it difficult for us to directly aggregate and compare data. For example:

- some councils record claims by calendar year, others by financial year

- one council only maintained information on live claims on its database and did not hold information about claims that had been settled

- some councils could identify and quantify duplicate claims, while others could only indicate that their data included duplicates without specifying how many or when they had been lodged

- one council recorded data by the date settlements were made rather than when claims were lodged

- one council recorded the number of claimants rather than the number of claims.

## Interviews we carried out for this audit

We selected six councils to visit to further our understanding of how single status had been implemented. These were Angus Council, East Ayrshire Council, the City of Edinburgh Council, The Highland Council, North Lanarkshire Council and South Lanarkshire Council. These councils represent a mix in terms of size, rurality, the number and cost of claims, the job evaluation scheme used, and the length of time they took to implement single status.

At each of these councils we conducted interviews with typically:

- the chief executive

- the director or head of finance

- the director or head of human resources and legal

- other appropriate council officers

- the council leader and conveners of relevant committees

- union representatives from Unite and Unison.

We also interviewed the following stakeholders:

- The Convention of Scottish Local Authorities

- Trade unions at national level, including the Scottish Trades Union Congress and Unison (STUC), and some local representatives

- The Scottish Government

- Close the Gap

- The Society of Personnel and Development Scotland

- A Queen's Counsel, specialising in employment and discrimination law

- HM Court and Tribunal Service

- Consultant to the COSLA job evaluation consortium

- Legal Office of the NHS

- A lawyer and an independent equal pay consultant.

# Appendix 2

## The process of implementing SSA – City of Edinburgh Council

## City of Edinburgh Council

| 2003 | 2004 | 2005 | 2006 | 2007 |

**2003**

Council agrees with unions to use an alternative job evaluation scheme to the SJC JES for the SSA – the Capital Scheme

**2005**

Council agrees to try to resolve equal pay claims through compromise agreements to prevent them going to tribunal

Council acknowledges indefinite pay protection and bonus schemes are not defensible but decides cost of extending them to non-bonus earning groups is prohibitive

**Single status to be implemented by May 2006**

Unions and legal firms begin submitting claims on behalf of workers

Council decides to defend claims from APT&C workers making comparisons with manual workers

Very high risks of industrial dispute identified

**2006**

Council considers options for funding equal pay and agrees to the disposal of assets, chiefly the Morrison Street development site

Implementing SS is now branded 'Modernising Pay'

Compromise agreements offered to 3,000 employees with 88% acceptance

**SSA pay and grading scheme to be implemented 1 October 2006, ending bonus schemes**

Negotiations frustrated by strained relations with unions including a temporary union embargo on the job evaluation process but by June there was agreement on the Capital Scheme

Job evaluation process starts

**2007**

Accepted compromise agreements discharge council's liability for these workers up to 1 Oct 2006

**SSA pay and grading scheme to be implemented 1 April 2008**

Council acknowledges recent tribunal judgements open up possibility of claims against pay protection, though this was being disputed in the courts so considered medium- to long-term risk and financial liability quantified

Service reviews which are under way are likely to increase skill levels and responsibility in both female and male manual worker groups and may impact on future liabilities

# The process of implementing SSA – City of Edinburgh Council (continued)

## City of Edinburgh Council

| 2008 | 2009 | 2010 | 2011 |
|------|------|------|------|

**2008**

Legal advice is to defend claims by males who have not yet lodged ET applications

Negotiations with unions on the new pay structure begin but suspended pending the outcome of the Bainbridge case

SSA package includes; new pay structure, working time arrangements, 3-year pay protection, 36 hr week and conversion to monthly pay

**2009**

Job evaluation completed and EIA carried out by external assessor

Around 10% of staff covered by the SSA identified as losing income at the end of the pay protection period

Council set deadline of March to conclude formal negotiations with the unions

Legal advice following the Bainbridge judgement is to retain the 3-year protection period and offer compromise agreements to female staff

Legal advice and advice from COSLA recommend continuing to defend claims from APT&C staff

Refuse and street cleaning staff reject pay proposals and begin industrial action

**2010**

Modernising Pay now part of a wider transformation programme, 'Future State'

**SSA to be implemented 4 October 2010**

Neighbourhood worker post created for street cleaning staff to mitigate loss of earnings at end of pay protection

All staff except refuse collectors resolve industrial dispute in July. Refuse collectors are balloted and continue to reject pay package. Council adopts contingency arrangements employing private contractors

After 80 formal meetings over 4 years, the final pay package was rejected by the unions in October. Management invoked a statutory change process in November. Bonus payments to end via the statutory change process

Pay protection applied for max of 3 years from 1 Oct 2010. Unions disagree on the methodology for calculating level of protection

**2011**

Over 1,500 claims made against the council have yet to be settled, but none have been considered by the ETS. It is not possible to predict how long it will take to settle cases through the legal process

The total cost of settlements between 2006 and March 2011 was £47.1 million, discharging liability for the 2,071 employees concerned up to that date

Formal notification of the end of industrial action received on 11 October 2011

# Appendix 3

## The process of implementing SSA – The Highland Council

## The Highland Council

| 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|------|------|------|------|------|------|
| Council agrees to adopt national JES | Job evaluation interviews piloted with staff | Job evaluation interviews and verification continue | 1,200 job evaluation interviews completed | Around 8,500 employees to be affected | Job evaluation interviews and verification continue |
| Project Board and Joint Working Party established | Management and unions start work on design of single pay structure | Further work carried out on unified pay structure | Appeals process agreed with unions | Total of 1,500 job evaluation interviews completed | Negotiations with unions continue on harmonised terms and conditions |
| | | | | Development of pay structure continues | Unions hold back from progressing claims pending negotiations |
| | | | | Council considers options to fund new pay structure including, eg freeze recruitment, encourage reduced hours for full-time posts, reduce posts | Work starts on assessing council's potential liability |
| | | | | **Council commits to SSA implementation date of 1 April 2005** | |

# The process of implementing SSA – The Highland Council (continued)

## The Highland Council

| 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|------|------|------|------|------|------|

**2006**

Initial assessment of potential liability based on a proposed National Framework for settling equal pay liabilities consistently across Scotland. Ultimately a National Framework was never agreed and each council had to reach their own local agreement with the unions

Package of harmonised terms and conditions for SSA presented to unions for consideration

Development of grading structure continues

Over 2,500 compensation offers made to staff, with over 2,300 accepting

Process puts pressure on HR resources

**2007**

Council attends a pre-hearing at the Employment Tribunal to clarify certain legal issues around the statutory grievance procedure

Unions given until March to respond to terms and conditions package for SSA

Work ongoing to match 8,000 employees to a job family and generate job rank order reducing the number of grades from 115 to 15

Council begins assessing impact on pay bill and the number of red circled employees

**Proposed date for SSA implementation now 1 October 2006**

**2008**

Gap compromise payments made to cover period from Sept 2006 to April 2008

After 2 years of negotiations, SSA terms and conditions to be subject to union ballot

Pay structure undergoes EIA by external assessor and **SSA implementation date 1 April 2008**

10,000 employees to be advised how the job evaluation exercise affects them (subsequently delayed)

Council and unions work on transition programme on job redesign to deliver service improvements and minimise any negative impact on staff

**2009**

EIA assessor requests more work on new harmonised terms and conditions

Deadline of March set to agree harmonised terms and conditions

Job evaluation letters finally sent to staff in February

New pay structure implemented from 1 March 2009 and backdated to 1 April 2008

Council reflects on Bainbridge ruling – unions request pay protection be extended to other employees whose comparators are red circled. Council decides it is unaffordable and invites unions to negotiate a local agreement in place of the 3-year pay protection

Council decides in August that statutory procedure be invoked if agreement on harmonised terms and conditions can't be reached. Letters to be sent to staff in October

Almost 2,000 job evaluation appeals received. Council estimates it will take 9 months to work through first stage of the process

**2010**

Unions to ballot on proposed terms and conditions. Unions respond to council by April with sticking points, including: transition to monthly pay, working pattern enhancements and overtime rates

Craft operatives in Transport, Environmental and Community Services opt into the job evaluation process. This would remove bonuses and reduce liability for equal pay claims

Collective agreement on harmonised terms and conditions implemented September

**2011**

33% of the 2,575 stage one job evaluation appeals were successful

11% of stage two appeals were successful

Pay protection period ended on 31 March – management look at options to support staff about to lose income

Settlement offers made to 1,000 claimants to settle liability up to the introduction of SSA in 2008

Council decides to defend pay protection claims

# Equal pay in
# Scottish councils

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