

Notice of meeting and agenda

Governance, Risk and Best Value Committee

10:00am, Tuesday, 1 August 2017

Dean of Guild Court Room, City Chambers, High Street, Edinburgh

This is a public meeting and members of the public are welcome to attend

Contact –

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1. Order of Business

- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

2. Declarations of Interest

- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

3. Deputations

- 3.1 None.

4. Minutes

- 4.1 Minute of the Governance, Risk and Best Value Committee of 20 April 2017 – submitted for approval as a correct record (circulated)

5. Outstanding Actions

- 5.1 Outstanding Actions – 1 August 2017 (circulated)

6. Work Programme

- 6.1 Governance, Risk and Best Value Work Programme – 1 August 2017 (circulated)

7. Reports

- 7.1 Internal Audit Opinion and Annual Report for the Year Ended 31 March 2017 – report by the Chief Internal Auditor (circulated)
- 7.2 Internal Audit: Overdue Recommendations and Late Management Responses – report by the Chief Internal Auditor (circulated)
- 7.3 External Audit – National and Local Scrutiny Plans 2017/18 – report by the Chief Executive (circulated)
- 7.4 Property Conservation Project Closure Review – report by the Chief Internal Auditor (circulated)
- 7.5 Corporate Leadership Team Risk Update – report by the Executive Director of Resources (circulated)
- 7.6 Employee Engagement Update 2017 – report by the Executive Director of Resources (circulated)
- 7.7 Monitoring Officer Investigation – report by the Monitoring Officer (circulated)

8. Motions

8.1 None.

Laurence Rockey

Head of Strategy and Insight

Committee Members

Councillors Mowat (Convener), Main (Vice-Convener), Jim Campbell, Dickie, Gordon, Lang, Munro, Rae, Ritchie, Watt and Webber.

Information about the Governance, Risk and Best Value Committee

The Governance, Risk and Best Value Committee consists of 11 Councillors appointed by the City of Edinburgh Council. The Governance, Risk and Best Value Committee usually meet every four weeks in the City Chambers, High Street in Edinburgh. There is a seated public gallery and the meeting is open to all members of the public.

Further information

If you have any questions about the agenda or meeting arrangements, please contact Gavin King, Committee Services, City of Edinburgh Council, Waverley Court, Business Centre 2.1, Edinburgh EH8 8BG, Tel 0131 529 4239, e-mail gavin.king@edinburgh.gov.uk

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Item 4.1 - Minutes

Governance, Risk and Best Value Committee

10.00am, Thursday, 20 April 2017

Present

Councillors Mowat (Convener), Child, Dixon, Edie, Keil, Main, Munro, Orr, Redpath and Robson.

1. Minute

Decision

To approve the minute of the Governance, Risk and Best Value Committee of 9 March 2017 as a correct record.

2. Outstanding Actions

Details were provided of the outstanding actions arising from decisions taken by the Committee.

Decision

- 1) To agree to close items 3, 8 and 9.
- 2) To agree to adjust the expected completion dates for actions 4, 5 and 11 to June 2017 and amend the date for action 1 to “to be confirmed”.
- 3) To note the remaining outstanding actions.

(Reference – Outstanding Actions – April 2017, submitted.)

3. Work Programme

Decision

To note the work programme.

(Reference – Governance, Risk and Best Value Work Programme – April 2017, submitted.)

4. Edinburgh Roads Services Improvement Plan

An outline of the scope of the Edinburgh Road Services Improvement Plan and details of the relationship between services based in the localities, and services based centrally was considered.

Decision

- 1) To note the scope of the Edinburgh Road Services Improvement Plan
- 2) To note that the detailed Improvement Plan would be reported to Transport and Environment Committee in August 2017.
- 3) To note the relationship between services based in the localities and services based centrally.
- 4) To collect data on repeat visits to sites to allow a comparison on the quality of work between the Council and contractors.
- 5) To circulate information on the backlog of outstanding repairs and value to members of the Governance, Risk and Best Value Committee.

(Reference – report by the Executive Director of Place, submitted.)

5. Governance of Major Projects: progress report

An update was provided on the major projects portfolio, made up of projects with a value of over £5 million or those particularly sensitive to the Council's reputation. The forthcoming assurance review schedule was also considered.

Decision

- 1) To note the current dashboard reports for the major projects portfolio in appendix 1 to the director's report.
- 2) To note the schedule of assurance reviews in appendix 2.
- 3) To note the review underway for how change was reported and managed across the Council which will also include strengthening of governance arrangements around project and programme delivery. This would be reported to the Governance, Risk and Best Value Committee with developed proposals in the next reporting period.
- 4) To circulate information to members of the Governance, Risk and Best Value Committee on the status of the Water of Leith Flood Prevention Scheme.
- 5) To request that members of Governance, Risk and Best Value Committee have input into the scope of the lessons learnt report to be drafted on the New Boroughmuir High School and that this report was referred to the Governance, Risk and Best Value Committee following consideration at the Education, Children and Families Committee.

- 6) To circulate an update to members of the progress of St John's RC Primary School and the impact that any delay may cause.
- 7) To request communication with teachers, parents and parent councils on the progress with WiFi provision in schools.
- 8) To request that a report be submitted to the Governance, Risk and Best Value Committee on 22 June 2017 with information on the current status of the ICT Transformation Programme and how this would be tracked.

(References – Governance, Risk and Best Value Committee, 24 October 2016 (item 9); report by the Chief Executive submitted.)

6. Annual Treasury Strategy 2017-18 – referral from the City of Edinburgh Council

The City of Edinburgh Council on 16 March 2017 considered a report on the proposed Treasury Management Strategy for the Council for 2017 - 18 which included an Annual Investment Strategy and Debt Management Strategy. The report was referred to the Governance, Risk and Best Value Committee for scrutiny.

Decision

- 1) To note the report.
- 2) To thank Innes Edwards and the treasury team for their support and training to members in this complex area.

(References – Act of Council No 9 of 16 March 2017; referral report by the City of Edinburgh Council, submitted)

7. Report by the Accounts Commission – Local Government in Scotland: Performance and Challenges 2017 – referral report from the Finance and Resources Committee

On the 23 March 2017, the Finance and Resources Committee considered a report by the Accounts Commission that assessed Councils' readiness to confront the growing challenges ahead. The report was referred to the Governance, Risk and Best Value Committee for consideration as part of its work programme.

Decision

To note the report.

(References – Finance and Resources Committee, 23 March 2017 (item 10); referral report by the Finance and Resources Committee, submitted)

8. Spot-checking on the Dissemination of Committee Policies

Committee considered the report which provided a spot-check on actions undertaken by directorates in order to ensure policies were effectively communicated to staff.

Decision

To note the response to the staff surveys on the dissemination of council policies and that further work was ongoing to improve communication methods.

(References – Governance, Risk and Best Value Committee, 26 May 2016 (item 8); report by the Chief Executive, submitted.)

9. Annual Workforce Controls Report – referral report from the Finance and Resources Committee

The Finance and Resources Committee on 23 February 2017 considered an annual report on the progress of the implementation of the workforce control framework. The report was referred to the Governance, Risk and Best Value Committee for consideration as part of the work programme.

Decision

To note the report.

(References – Finance and Resources Committee, 23 February 2017 (item 11); referral report by the Finance and Resources Committee, submitted.)

10. Edinburgh Shared Repairs Service and Property Conservation Legacy Programme Reporting Arrangements

The proposed reporting arrangements for the Edinburgh Shared Repairs Services and Property Conservation Legacy Programme was provided.

Decision

To note the proposed reporting arrangements for the Edinburgh Shared Repairs Service (ESRS) and Property Conservation Legacy Programme.

(Reference – report by the Acting Executive Director of Resources, submitted.)

Item 5.1 - Outstanding Actions

Governance, Risk and Best Value Committee

1 August 2017

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
1	19/10/2015	Committee Report Process	To investigate technology offered by the new IT provider with a view to improving report format and reducing officer workload. To request a progress report back to Committee in one year.	Chief Executive	TBC		The project has been delayed due to other connected ICT projects being re-planned. A meeting has been scheduled with ICT and CGI to agree an expected completion date and discuss the practicalities of e-voting with the current technology.

2	21/04/2016	Internal Audit – Audit and Risk Service: Delivery Model Update	To ask that an update report on the internal audit function be provided to the Governance, Risk and Best Value Committee a year after implementation.	Executive Director of Resources	April 2018		Verbal update on appointments provided at February meeting and update on new service model will be provided after one year – April 2018
3	23/06/16	Recent Developments in Gaelic Education Provision in Edinburgh	<ol style="list-style-type: none"> 1) To request a report to the Education, Children and Families Committee then to the Governance, Risk and Best Value Committee on the Council's current policy for GME access to secondary schools, the corresponding Government policy and an assessment on whether this was being met. 2) To request that the current policy for GME access to secondary schools was published on the Council website and to 	Acting Executive Director of Children and Families	TBC		The Education, Children and Families Committee considered a report: <i>Schools and Lifelong Learning Estate Update</i> on 7 March 2017. The report confirms the future asset requirements for GME and appropriate admissions/place ment policy will be considered as part of a Strategic

			<p>review the appropriateness of the distance from school criteria for GME admissions to secondary school. A work-plan of how this would be achieved, including actions in place to avoid any future legal challenge, should be in place by November 2016.</p>				<p>Review, the outputs of which will be reported back to Committee.</p> <p>A context report on the catchment review process which includes access to GME would be considered at the Education, Children and Families Committee in August 2017 and information reported back to GRBV members</p>
4	26/09/16	Corporate Leadership Team Risk Update	<p>To request that progress reports on the additional precautionary surveys currently being undertaken in buildings sharing similar design features to those of the PPP1 schools, would be referred to the Governance, Risk and Best Value</p>	Executive Director of Resources	September 2017		<p>The City of Edinburgh Council will receive an update in Summer 2017; it is suggested consideration of this report was delayed to</p>

			Committee for scrutiny.				accommodate this.
5	24/10/16	The City of Edinburgh Council – 2015/16 Annual Audit Report to members and the Controller of Audit	To request a briefing note to members of the Governance, Risk and Best Value Committee and the Finance and Resources Committee in January 2017 on the changes to funding arrangements from the updated Local Government Accounting Code including specific information on Highways Network Assets.	Executive Director of Resources	March 2018		The implementation date for the 2017/18 accounts was postponed by CIPFA to the end of the financial year, the expected completion date was updated to March 2018 Following an assessment of the volume of work the changes entail and the benefits derived, CIPFA have decided not to proceed with these changes unless there is a material change of circumstances in the future. Recommended for closure –

							briefing note sent to members 15/11/2016
6	24/10/16	Home Care and Re-ablement Service Contact Time	To request an update report 6 months after the implementation of the new ICT system for shift allocation.	Chief Officer, Edinburgh Health and Social Care Partnership	Date TBC		
7	22/12/2016	Internal Audit Quarterly Update Report: 1 July 2016 – 30 September 2016	To request an update report on the recommendation for Edinburgh Buildings Services by November 2017.	Executive Director of Place	November 2017		
8	22/12/2016	Resources Team Risk Update	To circulate information to members of the Governance, Risk and Best Value Committee on employee surveys.	Executive Director of Resources	August 2017		A detailed report on employee engagement in August would be in line with timeline for employee survey activity. Recommended for closure, on August agenda

9	09/03/2017	Outstanding Actions	To request that the report on the Governance of the Edinburgh Partnership would be referred from the Communities and Neighbourhoods Committee to the Governance, Risk and Best Value Committee.	Chief Executive	TBC		
10	09/03/2017	Welfare Reform – Update – referral from the Corporate Policy and Strategy Committee	To request a briefing for members of the Governance, Risk and Best Value Committee on the results from the operational changes in Advice Service.	Executive Director of Resources			
11	20/04/2017	Edinburgh Road Services Improvement Plan	To circulate information on the backlog outstanding repairs and value to members of the Governance, Risk and Best Value Committee.	Executive Director of Place	29 August 2017		A report on the Edinburgh Road Services Improvement Plan will be considered at the Transport and Environment Committee on 10 August 2017 and information reported back to GRBV members.

12	20/04/2017	Governance of Major Projects: progress report	<p>1) To note the review underway for how change was reported and managed across the Council which will also include strengthening of governance arrangements around project and programme delivery. This would be reported to the Governance, Risk and Best Value Committee with developed proposals in the next reporting period.</p> <p>2) To circulate information to members of the Governance, Risk and Best Value Committee on the status of the Water of Leith Flood Prevention Scheme.</p> <p>3) To request that members of Governance, Risk and Best Value Committee have input into the scope of the lessons learned report to be drafted on the New Boroughmuir High</p>	Chief Executive			<p><i>Actions 2 and 4 are recommended for closure, update circulated to members on 2 May and 26 July 2017.</i></p> <p><i>Action 5 is recommended for closure. The LAN is currently being upgraded, due to finish in November 2017. This upgrade will deliver new hardware, provision of additional services including Public Internet access will be examined following this. An update report will be provided to Consultative Committee with Parents.</i></p>
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			<p>School and that this report was referred to the Governance, Risk and Best Value Committee following consideration at the Education, Children and Families Committee.</p> <p>4) To circulate an update to members of the progress of St John's PC Primary School and the impact that any delay may cause.</p> <p>5) To request communication with teachers, parents and parent councils on the progress with WiFi provision in schools.</p> <p>6) To request a report would be submitted to the Governance, Risk and Best Value Committee on 22 June 2017 with information on the current status of the ICT Transformation Programme and how this would be tracked.</p>				<p><i>Action 6</i> – a report on the current status of the ICT Transformation Programme would be submitted to the GRBV Committee on 29 August 2017.</p>
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Item 6.1 - Work Programme

Governance, Risk and Best Value Committee

1 August 2017

	Title / description	Sub section	Purpose/Reason	Category or type	Lead officer	Stakeholders	Progress updates	Expected date
Section A – Regular Audit Items								
1	Internal Audit: Overdue Recommendations and Late Management Responses		Paper outlines previous issues with follow up of internal audit recommendations, and an overview of the revised process within internal audit to follow up recommendations, including the role of CLG and the Committee	Internal Audit	Chief Internal Auditor	Council Wide	Quarterly	1 August 2017
2	Internal Audit Quarterly Activity Report		Review of quarterly IA activity with focus on high and medium risk findings to allow committee to challenge and request to see further detail on findings or to question relevant officers about findings	Internal Audit	Chief Internal Auditor	Council Wide	Quarterly	September 2017

3	IA Annual Report for the Year		Review of annual IA activity with overall IA opinion on governance framework of the Council for consideration and challenge by Committee	Internal Audit	Chief Internal Auditor	Council Wide	Annually	1 August 2017
4	IA Audit Plan for the year		Presentation of Risk Based Internal Audit Plan for approval by Committee	Internal Audit	Chief Internal Auditor	Council Wide	Annually	March 2018
5	Accounts Commission	Annual report	Local Government Overview	External Audit	Executive Director of Resources	Council Wide	Annually	January 2018
6	Annual Audit Plan	Scott Moncrieff	Annual audit plan	External Audit	Executive Director of Resources	Council Wide	Annually	March 2018
7	ISA260	Scott Moncrieff	Annual ISA 260 Report	External Audit	Executive Director of Resources	Council Wide	Annually	September 2017
8	Annual Audit Report	Scott Moncrieff	Annual Audit Report	External Audit	Executive Director of Resources	Council Wide	Annually	October 2017
9	Internal Controls Report	Scott Moncrieff	Annual report on Council wide control framework	External Audit	Executive Director of Resources	Council Wide	Annually	Date TBC

Section B – Scrutiny Items								
10	Governance of Major Projects	6 monthly updates	To ensure major projects undertaken by the Council were being adequately project managed	Major Project	TBC	All	Every 6 months	October 2017
11	Welfare Reform	Review	Regular update reports	Scrutiny	Executive Director of Resources	Council Wide	Quarterly	29 August 2017
12	Review of CLT Risk Scrutiny	Risk	Quarterly review of CLT's scrutiny of risk	Risk Management	Chief Executive	Council Wide	Quarterly	1 August 2017
13	Whistleblowing Quarterly Report		Quarterly Report	Scrutiny	Chief Executive	Internal	Quarterly	29 August 2017
14	Pride in our People	Staff	Annual report of progress	Scrutiny	Chief Executive	Council Wide	Annual	February 2018
15	Workforce Control	Staff	Annual report	Scrutiny	Executive Director of Resources	Council Wide	Annual	April 2018
16	Committee Decisions	Democracy	Annual report	Scrutiny	Chief Executive	Governance, Risk and Best Value Committee	Annual	October 2017
17	Dissemination of Committee Decisions	Democracy	Bi-annual report	Scrutiny	Chief Executive	Council Wide	Six-monthly	October 2017

18	Property Conservation – Legacy Closure programme and Defect Costs	Review	Progress reports	Scrutiny	Executive Director of Resources	All		Date TBC
19	Property Conservation Project Closure Review	Review	Closure Report	Internal Audit	Chief Internal Auditor	Council Wide		1 August 2017
20	Revenue Monitoring	Review	Progress reports	Scrutiny	Executive Director of Resources	Council Wide	February 2018 September 2017 December 2017	September 2017
21	Capital Monitoring	Review	Progress reports	Scrutiny	Executive Director of Resources	Council Wide	February 2018 September 2017 December 2017	September 2017
22	Revenue Outturn	Review	Progress reports	Scrutiny	Executive Director of Resources	Council Wide	Annual	September 2017

23	Capital Outturn and Receipts	Review	Progress reports	Scrutiny	Executive Director of Resources	Council Wide	Annual	September 2017
24	Treasury – Strategy report	Review	Progress reports	Scrutiny	Executive Director of Resources	Council Wide	Annual	April 2018
25	Treasury – Annual report	Review	Progress reports	Scrutiny	Executive Director of Resources	Council Wide	Annual	September 2017
26	Treasury – Mid-term report	Review	Progress reports	Scrutiny	Executive Director of Resources	Council Wide	Annual	December 2017

GRBV Upcoming Reports

Appendix 1

Report Title	Type	Flexible/Not Flexible
1 August 2017		
Internal Audit Follow-up Arrangements	Internal Audit	Flexible
Internal Audit Annual Report for the Year	Internal Audit	Flexible
External Audit - City of Edinburgh Council Local and National Scrutiny Plan	External Audit	Flexible
Corporate Leadership Risk Update	Internal Audit	Flexible
Property Conservation Project Closure Review	Internal Audit	Flexible
Employee Engagement	Scrutiny	Flexible
Monitoring Officer Investigation	Scrutiny	Flexible
29 August 2017		
Looked After Children: Transformation Programme	Scrutiny	Flexible
Recent Developments in Gaelic Education Provision in Edinburgh	Scrutiny	Flexible
Review of the Policy Reporting Procedure	Internal Audit	Flexible
Welfare Reform Update	Scrutiny	Flexible
Whistleblowing Quarterly Report	Scrutiny	Flexible

Governance, Risk and Best Value Committee

10.00am, Tuesday, 1 August 2017

Internal Audit Opinion and Annual Report for the Year Ended 31 March 2017

Executive summary

Item number	7.1
Report number	
Executive/routine	
Wards	

This report provides the Internal Audit Annual Report and Opinion based on Internal Audit activity undertaken for the financial year ended 31 March 2017.

This report details the scope of internal audit, the opinion for the year ended 31 March 2017 and a note on the role and limitations of internal audit. This report is prepared per the requirement set out in the Public Sector Internal Audit Standards (PSIAS).

Links

Coalition pledges
Council outcomes
Single Outcome Agreement

Internal Audit Opinion and Annual Report for the Year Ended 31 March 2017

Recommendations

- 1.1 It is recommended that the Committee note the internal audit opinion for the year ended 31 March 2017.

Background

- 2.1 The purpose of the Internal Audit function is to review and consider the City of Edinburgh Council's framework of governance, risk management & controls, and to make recommendations to management as to how any identified weaknesses might be addressed. Internal Audit also work with management to assist in the process of developing actions to rectify identified weaknesses. However, it is the responsibility of management to address and rectify the weaknesses identified and in doing so, improve the robustness of the framework of Governance, Risk Management and Control in place at the Council.
- 2.2 The Public Sector Internal Audit Standards (PSIAS) requires that the Chief Internal Auditor delivers an annual opinion to the Governance, Risk and Best Value Committee, that can be used to inform the organisation's Annual Governance Statement. The purpose of this report is to present our opinion on the overall adequacy and effectiveness of the City of Edinburgh Council's framework of governance, risk management and controls, as relevant to our internal audit work performed for the financial year 1 April 2016 to 31 March 2017.
- 2.3 Whilst this report is a key element of the framework designed to inform the Annual Governance Statement, there are also a number of other important sources to which the Governance, Risk and Best Value Committee should look to gain assurance. This report does not supplant the Governance, Risk and Best Value Committee's responsibility for forming their own view on governance, risk management and control.

Internal Audit Opinion

Opinion

- 3.1 Internal Audit considers the framework of Governance, Risk Management and Control to be generally adequate but with enhancements required.
- 3.2 Internal Audit have not identified any fundamental weaknesses in the framework of governance, risk management and control at the Council.
- 3.3 However, based on our work performed in the year, (set out below) and the management recommendations that remain outstanding at the date of this report, Internal Audit considers that there are weaknesses in the framework of governance, risk management and controls. There were also instances during the year of non-compliance with existing controls. If not addressed, these weaknesses and instances of non-compliance may put the achievement of organisational objectives at risk. We consider that improvements are therefore required to address the matters identified, which will enhance the adequacy and effectiveness of governance, risk management and control.
- 3.4 This opinion is subject to the inherent limitations of internal audit (covering both the controls environment and the assurance over controls) as set out in Appendix 1. The nature and types of opinion considered by Internal Audit are set out in appendix 2.

Basis of opinion

- 3.5 Our opinion is based solely on our assessment of whether the governance, risk management and controls in place support the achievement of the Council's objectives.
- 3.6 We have set out in Appendix 2 the 46 Internal Audit reports that have been issued in connection with the 2015/16 (6 reports carried forward) & 2016/17 Internal Audit programmes and which inform the 2016/17 opinion. Appendix 3 identifies 5, 2016/17 programme reviews approaching completion. We have also considered the effect of any changes in the Council's systems & objectives as well as the level of resources available to Internal Audit.
- 3.8 We identified a total of 121 recommendations within the 46 reports issued in 2016/17. These have been summarised below:

Service Area	Number of Reviews Completed	Number of findings			
		Critical	High	Medium	Low
Council Wide	4	-	1	4	-
Communities & Families	5	-	-	9	4

Health & Social Care	5	-	5	14	3
Place	9	-	8	14	8
Resources	13	-	8	16	9
Strategy & Insight	3	-	3	6	1
Joint Boards	5	-	1	6	1
Other	2	-	-	-	-
Total 16/17	46	-	26	69	26
<i>Total 15/16</i>	<i>43</i>	<i>-</i>	<i>15</i>	<i>70</i>	<i>36</i>
<i>Total 14/15</i>	<i>39</i>	<i>-</i>	<i>13</i>	<i>66</i>	<i>64</i>

3.9 For all completed internal audit reviews, finalised action plans have been agreed with management for recommendations made. The Council is on a journey of improvement with regard to the governance, risk management and internal control framework of the Council and the completion of the recommendations identified by Internal Audit will assist with these improvements.

3.10 The total number of open recommendations at 31 March 2017 (including overdue recommendations) is set out below:

Service Area	Number of findings			
	Critical	High	Medium	Low
Communities & Families	-		2	1
Health & Social Care	-	3	12	
ICT		6		
Place	-		10	2
Resources	-	10	15	3
Strategy & Insight	-	2	10	1
Total 16/17	-	21	49	7
<i>Total 15/16</i>	<i>-</i>	<i>13</i>	<i>48</i>	<i>30</i>
<i>Total 14/15</i>	<i>-</i>	<i>16</i>	<i>49</i>	<i>55</i>

Of these, there are 2 High & 29 Medium recommendations that currently remain open beyond an agreed 31 March 2017 or earlier closure date.

Service Area	Number of findings		
	Critical	High	Medium
Chief Executive – S&I	-	-	2
Communities & Families	-	-	-
Health & Social Care	-	2	11
ICT	-	-	-
Place	-	-	10
Resources	-	-	6
Total 16/17	-	2	29
<i>Total 15/16</i>	<i>-</i>	<i>2</i>	<i>15</i>
<i>Total 14/15</i>	<i>-</i>	<i>3</i>	<i>10</i>

We track and report High & Medium overdue outstanding actions on a quarterly basis and the results for the last 12 months are set out in the table below;

Grading	Over due at 31 March 2016	Over due at 30 June 2016	Overdue at 30 Sept 2016	Overdue at 31 Dec 2016	Overdue at 31 March 2017
High	2	6	5	5	2
Medium	15	16	17	18	29
Total	17	22	22	23	31

Further details of these overdue recommendations are contained within 'Internal Audit follow up arrangements: status report from 1 January 2017 to 31 March 2017'.

Comparison to prior year

- 3.11 We believe that the strength of the Governance Risk & Control environment at the Council as a whole has been broadly stable year on year and this is reflected in the generally consistent overall number of 'recommendations' identified in 2014/15, 2015/16 and 2016/17 audit years. We note the increase in 'High' Findings in 2016/17 and this is an area of concern, however 12 of these findings (46%) are concentrated within 3 individual reviews (2 of which relate to specific and isolated areas within the Council). Once the impact of these reviews is removed, the level of 'High' findings in 2016/17 remains broadly comparable with the previous 2 years. We have also noted areas where management have taken on board our recommendations and have made improvements to the control environment.
- 3.12 However, we note the deterioration over the year in the number of overdue actions shown above. We would encourage all those involved in Governance at the Council to assist in addressing and resolving these open items and reversing this trend.
- 3.13 While we consider that the strength of the framework of Governance, Risk Management and Control in place at the Council continues to be in the 'Generally adequate but with some enhancements required' category (See Appendix 2) we continue to consider that it is towards the lower end of this category. We consider that the Council should endeavour to improve its Governance Risk & Control environment and move towards a stronger position.

Independence of Internal Audit

- 3.14 Maintaining independence from the areas that are subject to review is an important part of our methodology. We have internal processes in place to ensure that personal independence is maintained at all times and that we manage any potential conflicts of interest that staff could have in conducting reviews.

3.15 We do not consider that we have faced any significant threats to our organisational independence during 2016/17, nor do we consider that we have faced any inappropriate scope or resource limitations.

Conformance with Public Sector Internal Audit Standards

3.15 The PSIAS require us to report annually on conformance. Adoption of the PSIAS is mandatory for UK public sector organisations and they provide a coherent and consistent internal audit framework for the whole of the public sector.

Internal assessment

3.16 The Chartered Institute of Public Finance & Accountancy (CIPFA) has prepared a Local Government Application Note and a Checklist for Assessing Conformance with the PSIAS in order to allow internal audit teams to evaluate the effectiveness of Internal Audit’s performance. The Checklist, which contains 334 best practice questions, was completed in Q3 2016/17 as part of the Internal Audit team’s quality programme.

3.17 The review identified one area of non-compliance with the PSIAS;

<i>Area of Non-compliance</i>	<i>Explanation</i>
The Internal Audit team were not aware of any written documentation with the Joint Boards & the Edinburgh Military Tattoo covering internal audit responsibilities	<p>The Council provides (& recharges) support services to each of these organisations, of which Internal Audit is one. The position in connection with Service Level Agreements (SLAs) with a number of these organisations is unclear and the Council are currently seeking to resolve this matter.</p> <p>The intention is to utilise the SLA that was implemented to govern the supply of internal audit services by the Council to the Edinburgh Integrated Joint Board as a template to ensure that appropriate SLA’s are in place with all these organisations.</p>

External assessment

3.18 The PSIAS requires that the service undergo an external quality assessment (EQA) every 5 years. In order to obtain this, the Internal Audit function joined the ‘Partnering Scheme’ promoted by the Scottish Local Authorities Chief Internal Auditors Group (SLACIAG), which is a sub-group of CIPFA.

3.19 Under the SLACIAG scheme, the service was subject to an EQA by the Chief Internal Auditor of North Lanarkshire, which was undertaken between November 2016 and January 2017.

- 3.20 The outcome of the EQA was positive with Internal Audit assessed as **fully conforming** with the PSIAS. A copy of the EQA report received is enclosed as Appendix 5.
- 3.21 The EQA made three recommendations for improvement. These were all classified as minor. Two of these items can be addressed by making modest changes to documentation in the reporting to this Committee. Internal Audit has made these changes.
- 3.22 The final recommendation is in connection with the lack of current Service Level Agreements (SLA)s with Joint Bodies. This is something that Internal Audit recognises and was identified in our self assessment process. As noted above, this is in the process of being addressed.

Internal Audit Self-Assessment

Quality Assurance and Improvement Programme

- 3.21 The PSIAS require an ongoing quality assurance and improvement programme (QAIP) that covers all aspects of the internal audit activity, and that the results of this programme are included in the Internal Audit annual report. The QAIP must include both annual internal assessments and external assessments at least every 5 years.
- 3.22 Internal Assessments must include ongoing monitoring of the performance of the internal audit activity and periodic self-assessments. Ongoing monitoring is an integral part of the day to day supervision, review and measurement of the internal audit activity, and is incorporated in the routine policies and practices used to manage the internal audit activity. All work is reviewed by qualified staff prior to being issued to ensure it is of sufficient quality and complies with the methodology set out in the Internal Audit Manual.
- 3.23 The requirement for the periodic self-assessment is met by;
- An annual self review of compliance with the PSIAS via reviewing our conformance with the CIPFA Local Government Application Note and Checklist;
 - Analysis of Internal Audit KPI trends;
 - Analysis of feedback received from clients on completed reviews to identify any trends emerging; and
 - The completion of quality reviews checklists on a sample of reviews to ensure that they comply with the Audit Manual. These reviews will be undertaken by a team member independent of the reviews.

Key performance indicators & client feedback scores

- 3.24 We reported our KPI results and client feedback scores for the first 6 months of the year (H1) to you in our Quarterly Update in December 2016. The results for the second 6 months of the year (H2) are set out below with H1 as a comparator.

	H2 2016/17	H1 2016/17
Staffing		
Chief Internal Auditor & Principal Audit Managers to be professionally qualified	Green	Green
Internal Audit training events to be held during the year	Green	Green
Operational		
Audits outlined in the annual plan to be completed in the year initially planned	Yellow	Yellow
Terms of Reference (ToRs) to be agreed for each audit before substantive field work commences	Green	Green
Exit meetings to be held at the end of the fieldwork	Green	Green
Draft reports issued to management for comment within 2 weeks of the exit meeting	Green	Green
Management comments received within 2 weeks of draft report being issued	Red	Red
Recommendations agreed with management prior to issue of the final report	Green	Green
Final report issued within 1 week of final management comments being received	Green	Green
Reporting		
Status of recommendations to be tracked, with overdue high and medium grade recommendations being reported to the GRBV	Green	Green
Wider Relationships		
Average client satisfaction score for quality	Green	Green
Average client satisfaction score for efficiency	Green	Green
Average client satisfaction score for timing	Green	Green

We have included within Appendix 6 greater detail on the H2 Half Year KPI results for 2016/17.

- 3.25 The 'red' KPI indicator highlights that we continue to find it difficult to get agreed management responses to our findings and close out audits within our targeted timelines. We frequently experience delays in receiving management responses from auditees with a corresponding impact on the efficiency of the closure process, however, this has no impact on the quality of the work performed and the conclusions reached in the internal audit reports issued.
- 3.26 The remaining indicators are tracking either broadly in line with or above our expectations.

Internal Quality Reviews

- 3.27 We conducted internal reviews on a sample of 10 files (2015/16 – 8) completed though out the year. These files covered work performed by a number of different Auditors, both Principal Audit Managers and outsourced (PwC) work.
- 3.28 The work documented for each file was assessed against 12 different attributes which covered audit methodology and project management requirements contained within our Internal Audit Manual. The evidence threshold for each question was deliberately set at a high standard with a '*If it's not documented on the file, it didn't happen*' approach adopted, even if other supporting evidence was available.

The results of this exercise are set out below:

		2016/17	2015/16
Planning attributes			
1	Is an understanding of the function's activities, set up, and their key objectives and risks demonstrated through scoping meeting minutes and planning documentation?	10/10 files were compliant.	7/8 files were compliant.
2	Were the terms of reference reviewed by the Chief Internal Auditor before it was issued to the key contacts?	10/10 files were compliant.	6/8 files were compliant.
3	Was the Planning Risk Control Matrix reviewed by the Principal	9/10 files were compliant	7/8 files were compliant.

	Audit Manager before controls testing began?		
Fieldwork attributes			
4	Was a walkthrough of the process completed? If not, is there evidence that this was discussed and agreed with the Principal Audit Manager?	10/10 files were compliant.	8/8 files were compliant.
5	Have the key controls been identified?	10/10 files were compliant.	8/8 files were compliant.
6	Were the sample sizes set out in the Internal Audit Manual used to test controls?	10/10 files were compliant.	8/8 files were compliant.
7	Have all the objectives agreed in the Terms of Reference been addressed?	10/10 files were compliant.	8/8 files were compliant.
Reporting attributes			
8	Was fieldwork reviewed by the Principal Audit Manager before the draft report was issued?	8/10 files were compliant.	5/8 files were compliant.
9	Was the draft report reviewed by the Principal Audit Manager and the Chief Internal Auditor before the draft report was issued?	10/10 files were compliant.	8/8 files were compliant.
10	Is there evidence of discussions with the appropriate level of management to confirm the factual accuracy of findings and agree management actions?	10/10 files were compliant.	8/8 files were compliant.
11	Has the final report (including management actions) been approved by the Chief Internal Auditor before issue?	10/10 files were compliant.	8/8 files were compliant.
Overall view			

12	Are working papers sufficiently complete and detailed to enable another experienced internal auditor with no previous connection with the audit to ascertain what work was performed, to reperform it if necessary and to support the conclusions reached?	10/10 files were compliant.	8/8 files were compliant.
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- 3.29 The results for 2016/17 internal file reviews show an improvement on the quality of our documentation surrounding the planning process, reflecting the additional focus we have put into documenting this part of the audit process.
- 3.30 The 2 'amber' rated areas act as a reminder of the necessity to maintain the core project management disciplines with both these criteria being project management related. In reality, given our style of work, it is likely that these two criteria were met in practise, but the lack of documentary evidence in a number of files to evidence this has resulted in the 'amber' status. These criteria which both related to the timely documentation of review procedures, have no impact on the overall audit quality of any audits as appropriate reviews were undertaken before the audits were finalised and released. They have been included within our quality review criteria as timely review can often increase audit efficiency.
- 3.31 We will continue to perform internal reviews going forward and I would anticipate that additional learning points will emerge from future reviews.

Measures of success

- 4.1 Effective governance, risk management and internal control within the City of Edinburgh Council.

Financial impact

- 5.1 No direct financial impact.

Risk, policy, compliance and governance impact

- 6.1 No direct impact.

Equalities impact

- 7.1 No direct impact.

Sustainability impact

8.1 No direct impact.

Consultation and engagement

9.1 None.

Background reading/external references

10.1 [Public Sector Internal Audit Standards – Applying the IIA International Standards to the UK Public Sector](#)

Lesley Newdall

Chief Internal Auditor

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Links

Coalition pledges

Council outcomes CO25

Single Outcome Agreement All

Appendices

Appendix 1 – Limitations and responsibilities of internal audit

Appendix 2 – Opinion types

Appendix 3 – Internal Audit Reports Supporting 2016/17 Opinion

Appendix 4 – Reviews Nearing Completion from the 2016/17 audit plan

Appendix 5 – External Quality Review – Final Report

Appendix 6 – Internal Audit KPIs for H2 2016/17

Limitations and responsibilities of internal audit and management responsibilities

Limitations and responsibilities of internal audit

The opinion is based solely on the internal audit work performed for the financial year 1 April 2016 to 31 March 2017. The work addressed the Terms of Reference agreed for each individual internal audit assignment as set out in the individual assignment reports. However, where other matters have come to the attention of Internal Audit which is considered relevant, they have been taken into account when forming the opinion.

There might be additional weaknesses in the system of internal control that were not identified because they did not form part of the programme of work, were excluded from the scope of individual internal audit assignments or were not brought to Internal Audit's attention. As a consequence Management and the Committee should be aware that the opinion may have differed if the programme of work or scope for individual reviews was extended or other relevant matters were brought to Internal Audit's attention.

Internal control systems, no matter how well designed and operated, are affected by inherent limitations. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

Future periods

The assessment of controls relating to the Council is for the year ended 31 March 2017. Historic evaluation of effectiveness may not be relevant to future periods due to the risk that:

- the design of controls may become inadequate because of changes in operating environment, law, regulation or other; or
- the degree of compliance with policies and procedures may deteriorate.

Responsibilities of Management and Internal Audit

It is Management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit work should not be seen as a substitute for Management's responsibilities for the design and operation of these systems.

Internal Audit endeavour to plan its work so that it has a reasonable expectation of detecting significant control weaknesses and, if detected, it carries out additional work directed towards identification of consequent fraud or other irregularities. However, internal audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected, and examinations by internal auditors should

not be relied upon to disclose all fraud, defalcations or other irregularities which may exist.

Appendix 2

Opinion types

The PSIAS require the provision of an opinion but do not provide any methodology surrounding the nature of that opinion. We have adopted the approach set out below in order to form an opinion for the Council.

We consider that there are 4 possible opinion types that could apply to the Council. These are set out in the table below:

1 Adequate <i>An adequate and appropriate framework of Governance, Risk management & Control is in place enabling the risks to achieving organisation objectives to be managed</i>	2 'Generally adequate but with enhancements required' <i>Areas of weakness and non-compliance in the framework of Governance, Risk management & Control that that may put the achievement of organisational objectives at risk</i>
3 'Significant enhancements required' <i>Significant areas of weakness and non-compliance in the framework of Governance, Risk management & Control that puts the achievement of organisational objectives at risk</i>	4 Inadequate <i>The framework of Governance, Risk management & Control is inadequate with a substantial risk of system failure resulting in the likely failure to achieve organisational objectives.</i>

Judgement is required to be exercised in determining the appropriate opinion to be given and it should be noted that in giving any opinion, assurance can never be absolute.

Appendix 3

Internal Audit Reports Supporting 2016/17 Internal Audit Opinion

Title of Review	High Risk Findings	Medium Risk Findings	Low risk Findings	Comments
Council Wide				
Continuous Testing: Stand By, On Call & Disturbance Payments – CG1511	1	2	-	-
Continuous Testing: Purchase Orders – CG1514	-	1	-	-
Continuous Testing: Working Time Regulations – RES 1618	-	1	-	-
Continuous Testing: Recording of Annual Leave & Sickness – CG1516	-	-	-	-
Communities & Families				
Complaints – CF1619	-	3	1	-
Review of Child Protection- CF1617	-	3	-	-
Management of Care Providers – CF1620	-	2	3	-
Prevent Strategy – CF1618	-	1	-	-

Title of Review	High Risk Findings	Medium Risk Findings	Low risk Findings	Comments
Communities & Families Assurance Framework – CF1601	N/A	N/A	N/A	Thematic findings from 15 establishment visits.
Health & Social Care				
Self Directed Support Option 3 – HSC 1503	3	4	1	1 advisory comment.
Integrated Health & Social Care Budgeting Process – HSC1505	2	1	-	-
Pre-Employment Verification – SW1601	-	6	-	-
Care Home Debt Management – HSC1601	-	2	2	-
Care sector Capacity – HSC 1504	-	1	-	-
Place				
Contract Management: Edinburgh Building Services & Housing Asset Management – PL1606	5	2	1	1 advisory comment
Infrastructure Inspections – PL1605	2	2	-	-
Review of Grant Management – CSE 1601	1	1	-	-
Mortuary Services – PL1603	-	3	2	-
Licensing – PL1602	-	2	3	-
Management of Development Funding – MIS 1617	-	2	1	-
Recycling Targets – PL1601	-	2	-	-

Title of Review	High Risk Findings	Medium Risk Findings	Low risk Findings	Comments
Port Facility Security Plan – MIS 1602	-	-	1	-
Monitoring of Air Quality – PL1604	-	-	-	-
Resources				
Leavers Process – RES 1603	4	1	-	-
Property Maintenance – RES 1615	2	2	1	-
Health & Safety – Contractor Management – RES 1601	1	2	-	-
Lothian Pension Fund – 3 rd Party Supplier Risk – RES 1614	1	1	-	-
Risk Function: Governance, Strategy & Process – RES 1608	-	3	1	1 advisory comment.
Non-Housing Invoicing – MIS1601	-	3	-	-
Service Level Agreements with Outside Entities – RES 1605	-	2	-	-
Lothian Pension Fund – Governance of LPF Group – RES 1613	-	1	2	2 advisory comments.
Facilities Management (Transformation Programme) – RES 1616	-	1	-	-
Lothian Pension Fund - Internally Managed Investments – RES 1602	-	-	3	-
Carbon Reduction Commitment – MIS 1605	-	-	2	-

Title of Review	High Risk Findings	Medium Risk Findings	Low risk Findings	Comments
Implementation of 2016/17 Savings – RES 1604	-	-	-	-
Review Recommend – Essential Learning – RES 1602	N/A	N/A	N/A	-
Strategy & Insight				
Online Customer Services – HMO Licensing – RES 1607	2	1	-	-
Review of Information Governance Framework – RES 1617	1	2	-	-
ICO Follow up – RES 1606	-	3	1	-
Joint Boards				
EIJB - Management Information (Referral from the EIJB Audit & Risk Committee)	1	3	-	-
Royal Edinburgh Military Tattoo – Stock Management & Anti-Fraud Procedures – JB1604	-	2	1	-
LVJB Annual Internal Audit Work – JB1601	-	1	-	1 advisory comment.
LBCJA Annual Internal Audit Work – JB1603	-	-	-	-
SesTrans Annual Internal Audit Work – JB1602	-	-	-	-
Other				
Tron Kirk Investigation	N/A	N/A	N/A	
CWSS Grant claim	N/A	N/A	N/A	

Title of Review	High Risk Findings	Medium Risk Findings	Low risk Findings	Comments
TOTAL (46 reports)	26	69	26	

Appendix 4

Reviews Nearing Completion

The following table shows the Internal Audit reviews from the 2016/17 Internal Audit plan that are nearing completion at the time of preparing this report. All of these were with Management for comment prior to Mid-April 2017.

Service Area	Title / Description
Council Wide	Cyber – External Vulnerability
Council Wide	IT Disaster Recovery
Council Wide	ICT: Monitoring of Contract Payments
Children & Families	'GIRFEC' – Named Person
Health & Social care	Review Recommend – Care at Home Contract

<p>To: HEAD OF LEGAL AND RISK (as Chief Officer with line management responsibility for Internal Audit)</p> <p>COUNCILLOR JOANNA MOWAT, (as Chair of the Governance, Risk and Best Value Committee (GRBV) - the Council Committee with oversight responsibility for internal audit matters)</p>	<p>CITY OF EDINBURGH COUNCIL</p> <p>EXTERNAL QUALITY ASSESSMENT OF THE INTERNAL AUDIT SERVICE</p> <p>FINAL REPORT</p>
<p>From: KEN ADAMSON, HEAD OF AUDIT AND INSPECTION, NORTH LANARKSHIRE COUNCIL</p>	
<p>Date: 27 January 2017</p>	<p>Ref: KA/CEC-EQAR</p>

1 Purpose of Report

- 1.1 To report to the results of a recently completed External Quality Assessment Review (EQAR) of the extent to which the Council's internal audit service is complying with the requirements of the Public Sector Internal Audit Standards (PSIAS).

2 Background

- 2.1 The Local Authority Accounts (Scotland) Regulations 2014 require a local authority to operate a professional and objective internal auditing service. This service must be provided in accordance with recognised standards and practices in relation to internal auditing. Recognised standards and practices are those set out in the *Public Sector Internal Audit Standards: Applying the IIA International Standards to the UK Public Sector* (PSIAS).
- 2.2 The PSIAS sets out a range of key requirements with which internal audit functions and organisations are expected to comply covering a broad range of relevant areas including:
- Definition of Internal Auditing;
 - Code of Ethics;
 - Attribute Standards (covering areas such as responsibility, independence, proficiency and quality); and
 - Professional Standards (covering areas such as managing activity, nature of work undertaken, engagement planning, performing the engagement, communicating results, monitoring progress and risk management).
- 2.3 The PSIAS requires the 'Chief Audit Executive (CAE)', the Council's Chief Internal Auditor, to carry out an annual internal self-assessment against the PSIAS and develop a quality assurance and improvement plan (QAIP) based on the outcome.
- 2.4 The PSIAS also requires the self-assessment to be subject to an External Quality Assessment Review (EQA) at least once every five years, by appropriately qualified and independent reviewers. The Scottish Local Authorities Chief Internal Auditors Group (SLACIAG) have developed a "peer review" framework as a cost effective means of complying with this requirement. City of Edinburgh Council has previously agreed to participate in this workstream.

3. Scope of review and work undertaken

- 3.1 The EQAR was undertaken by the Head of Audit and Inspection from North Lanarkshire Council. The review, which took place between November 2016 and January 2017, was based on an updated self-assessment completed by the City of Edinburgh Council Internal Audit team in October 2016.
- 3.2 The review methodology included a detailed consideration of the latest self-assessment and supporting evidence completed by audit management. Discussions were also held with key stakeholders (including the Chair of the GRBV Committee, the Head of Legal and Risk and the Council's s95 officer) to obtain a fuller understanding of how Internal Audit operates and interacts with key stakeholders.
- 3.3 Detailed additional testing was undertaken using a standard checklist and involved a review of a range of Internal Audit guidance and process documents, consideration of the Council's governance arrangements in relation to Internal Audit, examination of a sample of 2016-17 audit files and consideration of Internal Audit outputs.
- 3.4 The review focused on the operation of the internal audit service and did not undertake any specific work to assess the effectiveness of the GRBV Committee.

4. Results of the EQA review

- 4.1 The overall conclusion arrived at following completion of the comprehensive EQA checklist and based on the results of the work undertaken, is that in my opinion the City of Edinburgh Council Internal Audit Service **fully conforms** with the PSIAS.
- 4.2 Our detailed assessment in respect of each of the individual elements of the PSIAS is summarised in Appendix 1 of this report.
- 4.3 We have identified a range of good practice examples including well documented and embedded internal audit methodologies, a robust and transparent audit planning methodology and effective reporting arrangements.
- 4.4 There were no issues identified on which we have raised significant recommendations. We have raised a small number of suggested improvement actions for the Chief Internal Auditor to consider, although these are relatively minor suggestions and none of the issues raised are considered to be material in relation to PSIAS or to our assessment. Suggested improvement actions are included at Appendix 2. These should in due course be added to the QAIP and progress addressing them reported to the GRBV Committee.
- 4.5 I would like to thank all those involved for the co-operation and assistance received during the course of the review.

Ken Adamson
Head of Audit and Inspection
North Lanarkshire Council

For further information please contact Ken Adamson, Head of Audit and Inspection, North Lanarkshire Council on 01698 302188

Appendix 1 EQAR Summary of Assessment

Assessment Area	Fully conforms	Generally conforms	Partially conforms	Does not conform
<u>Section A - Definition of Internal Auditing:</u> Key areas within the standards that contribute towards the assessment of whether or not the Internal Audit activity meets the definition of Internal Auditing.	√			
<u>Section B - Code of Ethics:</u> Key areas within the standards that contribute towards the assessment of whether or not individual auditors comply with the Code of Ethics.	√			
Section C - Attribute Standards				
<u>1000 Purpose, Authority and Responsibility:</u> The standard sets out that the purpose, authority and responsibility of the internal audit activity must be defined in an Internal Audit Charter. It should define the nature of assurance services and consulting activities as well as internal audit's position in the organisation and relationships between the Chief Audit Executive and the Board.	√			
<u>1100 Independence and Objectivity:</u> The standard sets out the organisational and reporting lines expected to promote and preserve the organisational independence of the internal audit activity. It also sets out the arrangements expected to achieve individual objectivity and for dealing with potential and actual conflicts of interest.	√			
<u>1200 Proficiency and Due Professional Care:</u> The standard sets out the necessary requirements to ensure that the internal audit team possesses the knowledge, skills and other competencies to effectively carry out their professional responsibilities applying due professional care.	√			
<u>1300 Quality Assurance and Improvement Programme:</u> The standard sets out the necessary requirements for the internal and external assessment of performance and compliance against the PSIAS and the arrangements for reporting on results and disclosure of non-performance.	√			

Appendix 1 (continued) EQAR Summary of Assessment

Assessment Area	Fully conforms	Generally conforms	Partially conforms	Does not conform
Section D - Performance Standards				
<u>2000 Managing the internal Audit Activity:</u> The standard sets out the necessary requirements for the overall management of the internal audit activity, the preparation of the risk based Audit Plan including delivery and reporting of the Audit Plan.	√			
<u>2100 Nature of Work:</u> The standard sets out the internal audit activity that needs to be undertaken to evaluate and contribute to the improvement of governance, risk management and control processes using a systematic and disciplined approach.	√			
<u>2200 Engagement Planning:</u> The standard sets out the requirements necessary to develop and plan for each engagement including the objectives, scope, timing and resource allocations.	√			
<u>2300 Performing the Engagement:</u> The standard sets out the requirements necessary to gather, document, analyse and evaluate evidence to achieve the engagement objectives. Supervision arrangements and records management are also covered.	√			
<u>2400 Communicating Results:</u> The standard sets out the requirements necessary for the communication of results for individual engagements and the overall annual opinion.	√			
<u>2500 Monitoring Progress:</u> The standard sets out the expected arrangement for monitoring the implementation of agreed actions or the acceptance of the risk of not implementing.	√			
<u>2600 Communicating the Acceptance of Risks:</u> The standard sets out the expected arrangement for the escalation of unacceptable risk to the Board.	√			

Appendix 2 Recommendations arising from EQAR

Assessment Area	Recommendation	Management comments	Responsible officer and date
1100	<p>Reporting and management arrangements appear adequate and effective in ensuring that Internal Audit can fulfil its responsibilities and support and preserve the CAE's independence and objectivity. No real or apparent impairment was identified.</p> <p>The CAE may wish to consider providing specific assurance to the GRBV Committee within the Annual Report that there has been no impairment during the year to the organisational independence of the function and/or no significant threats to the independence of the internal audit activity, such as inappropriate scope or resource limitations.</p>	<p>Our view is that we cover this point implicitly in our annual report when we confirm compliance with the PSIAS, an impairment (perceived or actual) to Independence or an unacceptable scope limitation would be outwith the PSIAS.</p> <p>However we accept that an explicit statement to this effect in our annual report would be beneficial and we will ensure such a statement is included within the annual report for 2016/17 when it is presented at the June GRBV Committee.</p>	Chief Internal Auditor 30 June 2017
2000	<p>The Internal Audit Annual Plan contains documented risk assessment and planning methodology which includes narrative relating to other forms of assurance and how these will be treated by the function.</p> <p>The CAE may wish to consider whether scope exists to explain more clearly to the GRBV how other forms of assurance impact on his assessment of the strength of the control environment for each auditable unit.</p>	<p>We agree with this recommendation and have added additional narrative to the 2017/18 Annual Plan to explain in greater detail how other sources of assurance impact the control environment assessment for each auditable unit.</p>	Chief Internal Auditor 30 April 2017
2200	<p>The service delivers internal audit services to a relatively small number of outside bodies; although standard audit methodologies are used which appear PSIAS compliant and the CAE has largely addressed any potential weaknesses or issues which might arise, the Service's QAIP has identified the need to formalise Service Level agreements (SLAs) with outside bodies.</p> <p>The CAE should seek to ensure SLAs are agreed with all outside bodies to which internal audit services are delivered which address relevant roles and responsibilities and key operational arrangements.</p>	<p>We recognise this issue and highlighted it in our annual report for 2015/16. We are seeking to address this and currently are in the final stages of agreeing a draft SLA for the EIJB (it has been approved by the Council's legal team and is undergoing final review by the NHS legal team).</p> <p>Once we can get the EIJB SLA agreed, it is our intention to use this as a template for the other JB's. Given the timing of the audit cycle for the other JB, it will be Q4 of 2017/18 before these can be put in place.</p>	Chief Internal Auditor EIJB: 30 June 2017 Other JB's: 31 March 2018

Internal Audit - KPIs for H2 2016/17

KPI	Target Level	Current Status	H1 2016/17 Status	Comments
Staffing				
Chief Internal Auditor & Principal Audit Managers to be professionally qualified	100%	100%	100%	
Internal Audit training events to be held during the year	2	6	1	We held 6 formal training events during the year, 4 of which were facilitated by external specialists and 2 by internal audit team members. In addition to this, we held a number of ad-hoc internal training sessions.
Operational				
Audits outlined in the annual plan to be completed in the year initially planned	90%	86%	31%	Excluding Continuous Testing, the Schools Assurance project and the provision of 3 audits for the Edinburgh Integration Joint Board, the 2016/17 Audit plan contained 37 identified audits. 32 of which have been completed as planned during the year. The remaining 5 are in the completion phase with Internal Audit awaiting comments from Management. In addition, there were 4 unplanned audits/reviews completed during the year.
Terms of Reference (ToRs) to be agreed for each audit before substantive field work commences	100%	100%	100%	
Exit meetings to be held at the end of the fieldwork	100%	100%	100%	
Draft reports issued to management for comment within 2 weeks of the exit meeting	90%	91%	93%	
Management comments received within 2 weeks of draft report being issued	90%	30%	43%	We continue to experience difficulties in obtaining management comments within the targeted timescales, particularly for the more challenging audits. We have however noted an improvement in the quality of initial responses received from management.
Recommendations agreed with management prior to issue of the final report	100%	100%	100%	

Final report issued within 1 week of final management comments being received	80%	96%	100%	
Reporting				
Status of recommendations to be tracked, with overdue high and medium grade recommendations being reported to the GRBV	100%	100%	100%	
Wider Relationships				
Average client satisfaction score for quality	3.5	4.9	4.9	Our client satisfaction survey works on a 1-5 scoring system (5 being highest). We have observed a marked reduction in management responses to our client satisfaction surveys which is disappointing.
Average client satisfaction score for efficiency	3.5	4.9	4.9	
Average client satisfaction score for timing	3.5	5	4.9	

NB: The KPI results exclude Continuous Testing & the Schools Assurance programme (other than the Wider Relationships section which includes Continuous Testing reports) as a consequence of their differing natures to core internal audit reports. These items follow different pathways that do not map to these KPIs.

Internal Audit Quarterly report	Internal Audit	Flexible
26 September 2017		
ISA260	External Audit	Flexible
Revenue Monitoring	Scrutiny	Flexible
Capital Monitoring	Scrutiny	Flexible
Revenue Outturn	Scrutiny	Flexible
Capital Outturn and Receipts	Scrutiny	Flexible
Treasury – Annual Report	Scrutiny	Flexible

Governance, Risk and Best Value Committee

10.00am, Tuesday, 1 August 2017

Internal Audit: Overdue Recommendations and Late Management Responses

Item number 7.2

Report number
Executive/routine
Wards

Executive summary

Following concerns expressed by the Governance, Risk and Best Value Committee (GRBV) and the Corporate Leadership Team (CLT) about the number of overdue Internal Audit recommendations being reported to the GRBV each quarter, monthly reporting on the 'overdue' position is now provided to the CLT.

It is anticipated that greater focus by the CLT on outstanding actions each month will result in more Internal Audit recommendations being closed off in a timely manner.

This report sets out the current profile of overdue Internal Audit recommendations; highlights the Council's historic progress in addressing these recommendations (Appendix 1); and includes details of the revised approach for monitoring and reporting on overdue Internal Audit recommendations that were approved by CLT on 5 July 2017.

Internal Audit: Overdue Recommendations and Late Management Recommendations

1. Recommendations

- 1.1 The Governance, Risk and Best Value (GRBV) Committee should note the status of the overdue Internal Audit recommendations as at 27 June 2017.
- 1.2 GRBV is also requested to note the revised approach for monitoring and reporting on open and overdue Internal Audit recommendations (outlined at section 3.9 and Appendix 3 that were approved at Corporate Leadership Team (CLT) on 5 July 2017.

2. Background

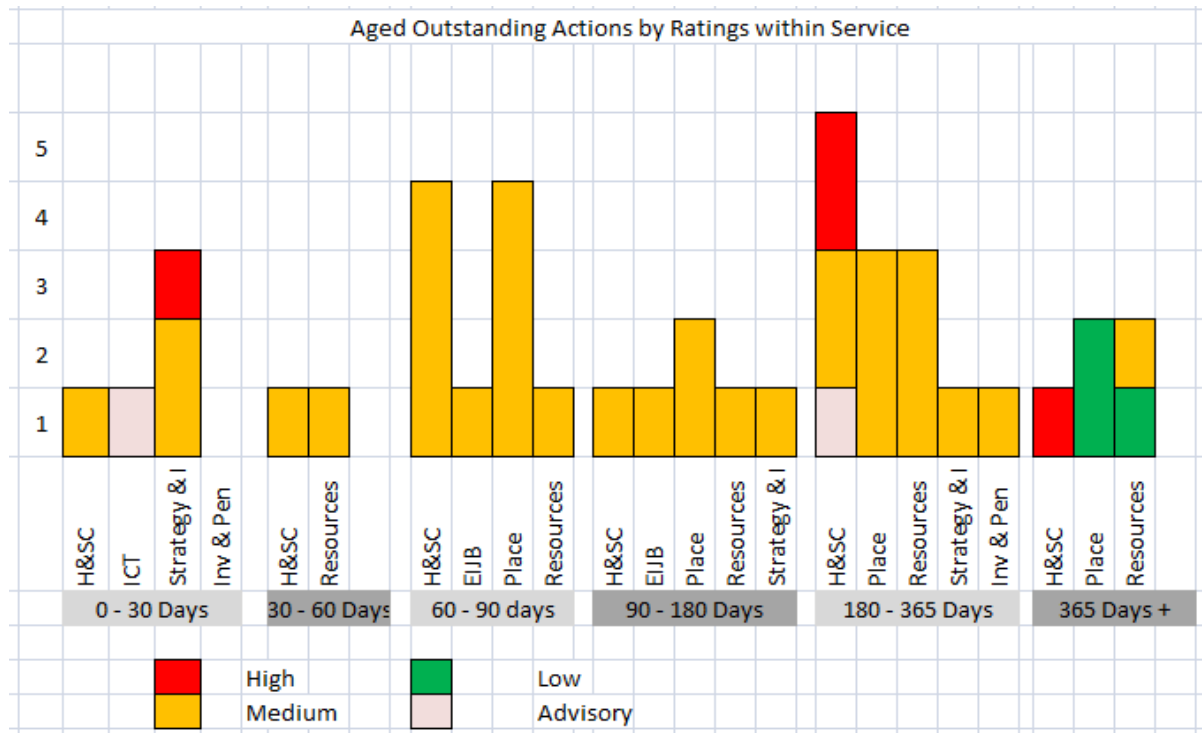
- 2.1 The GRBV Committee and CLT have both expressed concerns about the number of overdue Internal Audit recommendations. Currently, the status of overdue recommendations is reported monthly to CLT and quarterly to GRBV.
- 2.2 At the CLT meeting on 5 July revised proposals for monitoring and reporting on overdue Internal Audit recommendations were approved. This paper includes details of the revised proposals for GRBV consideration and noting.

3. Main report

- 3.1 During the last three financial years (14/15; 15/16; and 16/17), a total of 385 Internal Audit Recommendations have been raised. Of these, 312 (81%) have been closed and 33 (9%) remain open but within timescale, with a further 40 (10%) open and overdue. One recommendation raised in 2017/18 is also open and overdue. Further detail is included at Appendix 1 which also highlights the progress made by individual Service areas in closing Internal Audit recommendations raised in 2016/17.
- 3.2 No overdue Internal Audit recommendations have been closed since the end of May. As at 27 June 2017 there were 41 overdue recommendations across the Service Areas within the Council (4 High; 32 Medium; 3 Low; and 2 Advisory). The decrease of 3 in comparison to the monthly position reported to CLT in May (44) reflects the consolidation of 6 duplicate 'Medium' recommendations previously reported to CLT.

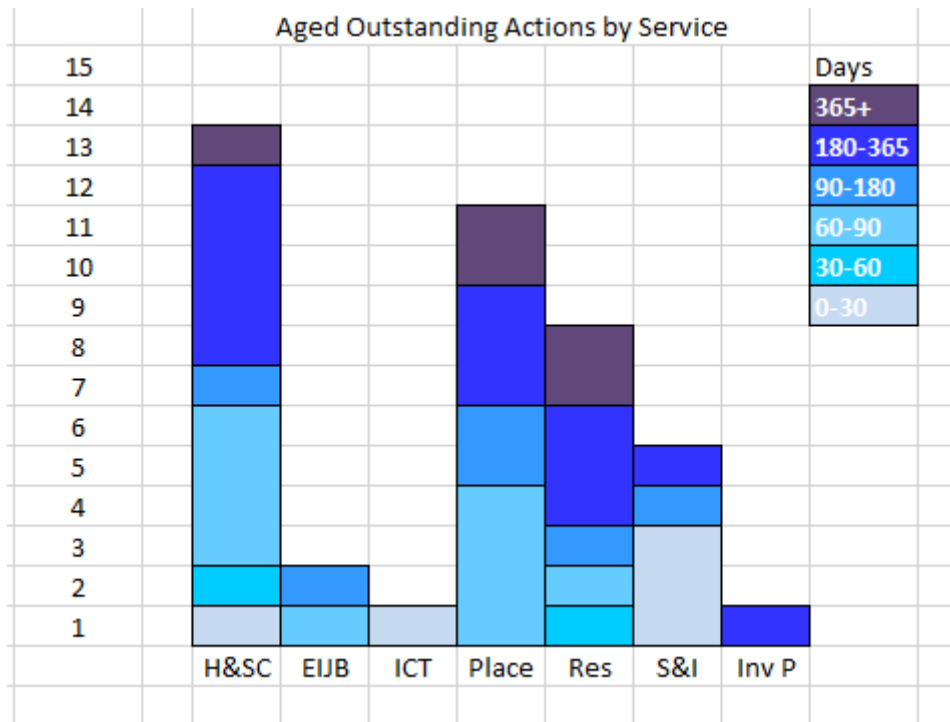
3.3 Figure 1 illustrates the ageing profile of all outstanding recommendations by rating across Service Areas. Of the 41 outstanding items, 18 are more than 180 days overdue with three of these rated as High and 11 as Medium.

Figure1: Aged Outstanding Recommendations by Rating and Service Area



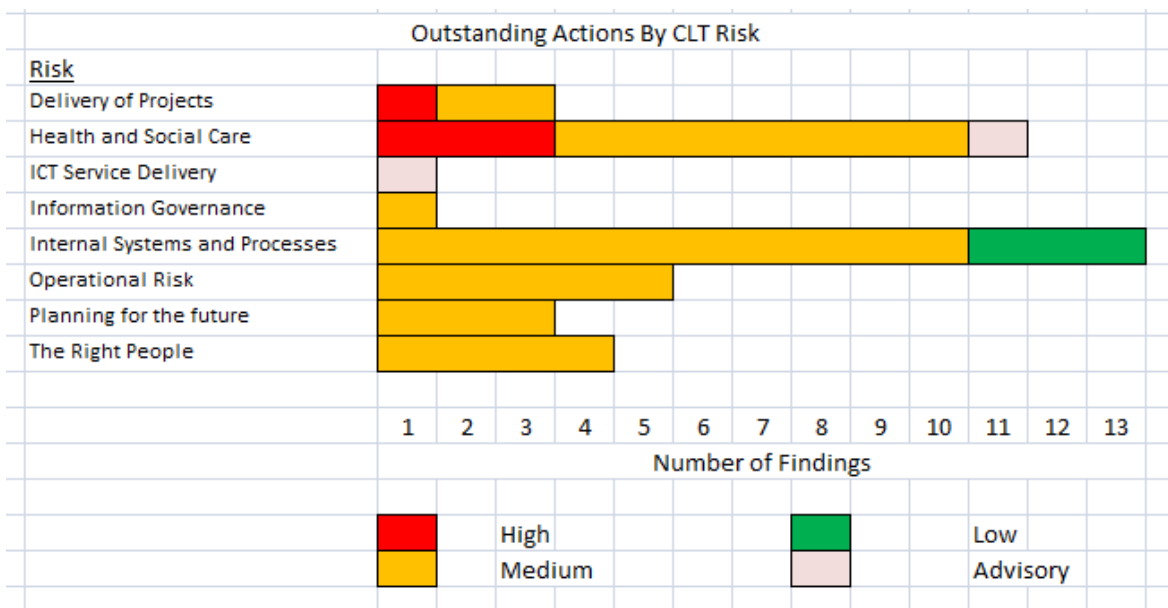
3.4 Figure 2 highlights the ageing profile of overdue Internal Audit Actions for each Service Area.

Figure 2: Aged Outstanding Actions by Service Area



3.5 Figure 3 correlates the top Corporate Leadership Team risks to the relevant overdue Internal Audit Actions. Our primary risk exposures as a result of overdue recommendations are within Health and Social Care and Internal Systems and Processes.

Figure 3: Outstanding Recommendations by CLT Risk



- 3.6 There are currently five medium rated overdue actions where closure is dependent on implementation of the new Business World System (four in Resources and one in Investment and Pensions). Internal Audit is working with the respective Management teams to establish whether alternative controls have been or could be implemented to address these risks.
- 3.7 Eleven open recommendations (6 High and 5 Medium) are due to be completed by 31 July 2017. The high ratings are within the Health & Social Care, ICT Solutions, Strategy & Insight, Resources, and Safer and Stronger Communities Service Areas.
- 3.8 Internal Audit has categorised all overdue Internal Audit actions by Directorate showing the latest status updates where received. The detailed results of this categorisation are set out in Appendix 2.
- 3.9 Internal Audit's proposals to revise the approach for monitoring and reporting on open and overdue Internal Audit recommendations are as follows:
- a. Management responses to Internal Audit recommendations will continue to be split into individual actions and implementation dates (for example: one 'High' rated recommendation may comprise 3 individual actions with varying implementation dates).
 - b. Reporting on overdue recommendations to CLT and GRBV will be based on a 'final' completion date to be agreed when finalising Internal Audit reports. This will typically be the implementation date for the final individual action.
 - c. Open recommendations 'at risk' of not achieving final completion dates and becoming overdue due to late implementation of individual actions will also be highlighted to CLT as part of the reporting process.
 - d. Changes to agreed management actions required for closure of Internal Audit recommendations is acceptable, but must be discussed and agreed with Internal Audit in advance to ensure that the revised approach will adequately address the control gaps identified. Revised actions will continue to be tracked against originally agreed implementation dates.
 - e. Monthly reporting will be provided to Service Areas detailing progress against individual actions, highlighting any that are overdue and requesting progress updates.
 - f. Any Internal Audit recommendations due for final closure within one month will be highlighted to Service Areas and CLT one month in advance of the agreed due date.
 - g. Upon satisfactory completion of individual actions supporting an open recommendation, Internal Audit will consider whether the risk has been sufficiently mitigated to reduce the current rating of the recommendation. For example, where two of three individual actions supporting a 'High' recommendation have been completed, the rating could, following detailed consideration, be reduced to 'Medium'. Implementation of this approach

more accurately reflects progress made by Service Areas and the remaining residual risk for the Council. Details of overdue recommendations where the rating has been reduced will be reported to CLT on a monthly basis.

A process flow illustrating the revised approach is included at Appendix 3.

4. Measures of success

- 4.1 An increase in the implementation and closure of Internal Audit recommendations within their initial estimated closure date.

5. Financial impact

- 5.1 Not Applicable.

6. Risk, policy, compliance and governance impact

- 6.1 If Internal Audit recommendations are not implemented, the Council will be exposed to the risks set out in the relevant detailed Internal Audit reports. Internal Audit recommendations are raised as a result of control gaps or deficiencies identified during reviews therefore overdue items inherently impact upon effective risk management, compliance, and governance.

7. Equalities impact

- 7.1 Not Applicable.

8. Sustainability impact

- 8.1 Not Applicable.

9. Consultation and engagement

- 9.1 The revised approach for monitoring and reporting on open and overdue Internal Audit recommendations has been discussed with CLT members, the Head of Legal and Risk, and the GRBV Convenor.

10. Background reading/external references

- 10.1 Not Applicable.

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Links

Coalition pledges

Council outcomes

**Single Outcome
Agreement**

Appendices

Appendix 1 – Status report: Outstanding Recommendations
Detailed Analysis

Appendix 2 – Process flow illustrating revised Internal Audit
proposals for monitoring and reporting on open and overdue
recommendations.

Appendix 1 : Historic Closure Profile of Internal Audit Recommendations

Service Area	No of Reviews Completed	Number of Recommendations						
		High	Medium	Low	Total	Closed	Open Not Yet Due	Open Overdue Findings
Council Wide	4	1	4	-	5	5	-	-
Communities & Families	5	-	9	4	13	12	1	-
Health & Social Care	5	5	14	3	22	13	1	8
Place	9	8	14	8	30	22	-	8
Resources	13	8	16	9	33	5	24	4
Strategy & Insight	3	3	6	1	10	2	3	5
Joint Boards	5	1	6	1	8	4	4	-
Other	2	-	-	-	-	-	-	-
Total 16/17	46	26	69	26	121	63	33	25
Total 15/16	43	15	70	36	121	107	-	14
Total 14/15	39	13	66	64	143	142	-	1
Grand Totals	148	54	205	126	385	312	33	40

Unique Ref	Project Name	Issue Type	Finding	Business Implication	Recommendation	Agreed Management Action	Estimated Implementation Date	Revised	RAG Status	Status Update	Owner
Health & Social Care											
HSC1503ISS.1	Personalisation SDS - Option 3	High	The Social Care (Self-directed Support) (Scotland) Act 2013 states that the authority must "inform the supported person of the amount that is the relevant amount for each of the options for self-directed support from which the authority is giving the person the opportunity to choose, and the period to which the amount relates." The "relevant amount" is defined as "the amount that the local authority considers is a reasonable estimate of the cost of securing the provision of support for the supported person". At present, the supported person is not informed of their assessed budget when they are asked to choose their option. They are only told of the resources available to them when they receive their personal support plan after they have selected their option.	There is a risk of non-compliance with The Social Care (Self-directed Support) (Scotland) Act 2013. The supported person may not have sufficient financial information to make an informed decision on the feasibility and affordability of arranging their own care under Option 1.	Management should seek clarification from Scottish Government on how the legislation should be applied where the supported person is allocated the same budget whichever option is chosen. Management must then ensure that the SDS assessment process is compliant with Scottish Government's instructions. This may mean informing the supported person of their personal budget at an earlier stage of the assessment process.	Scottish Government have been approached on this issue through the Social Work Scotland SDS Sub-group and have indicated that they are prepared to consider issuing further guidance and in particular revisit the issue of whether local authorities need to notify individuals of the indicative budget for each of the four options or just provide a single indicative budget which is what most authorities seem to be doing in practice. These discussions will take place through the Social Work Scotland SDS Sub-group and Senior management will ensure that Edinburgh is involved in these discussions. The current processes and practice in relation to providing individuals with an indicative budget will be reviewed and updated and clear guidance issued to staff taking account of any change in guidance from the Scottish Government. In either case, an indicative budget will be given to individuals before they are asked to select their preferred option.	31/10/16	30/06/2017		July Update New assessment, personal care plan and budget process introduced in May 2017. Indicative budgets no longer calculated as part of assessment: calculated once personal care plan set. This means service users are not given an indicative budget to enable them to make an informed choice about their support: non-compliance with legislation remains. Finding remains open.	Wendy Dale, Strategic Commissioning Manager
HSC1503ISS.2	Personalisation SDS - Option 3	High	The Social Care (Self-directed Support) (Scotland) Act 2013 states that the authority must give the person "in any case where the authority considers it appropriate to do so, information about persons who provide independent advocacy services (within the meaning of section 259(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13))." When researching advocacy services for people affected by SDS the only place we were able to find information was on the Council's Edinburgh Choices website which is an online directory of local care and support services, which includes details of independent advocacy services. However, we were unable to find links to the Edinburgh Choices website in key communications to service users and the general public about SDS. The Council has produced detailed pamphlets and leaflets which explain SDS to service users and carers but advocacy services are not covered, and readers are not directed to the Edinburgh Choices website. Practitioners we spoke to could not direct us to advocacy services.	There is a risk of non-compliance with the Social Care (Self-directed Support) (Scotland) Act 2013	The service should ensure that information about advocacy services is available to service users. Possible options may include: Providing practitioners with information about available advocacy service and what they do; Directions to Edinburgh Choices in guidance materials for service users; or Names of advocacy services in pamphlets and leaflets for service users.	Existing leaflets and information materials to be reviewed to make reference to Edinburgh Choices. Information to be produced for dissemination to practitioners regarding the duty to identify people who may benefit from advocacy and support them to access these services and the agencies that the Council has commissions to provide advocacy services.	31/08/16	31/08/17		July Update: New advocacy services contract will be agreed in June 2017. Changes to be requested to SWIFT to allow recording and monitoring of compliance. Once these changes have been made an instruction will be issued to all staff to identify those service users who may benefit from Advocacy Services and to support them to access these. Staff will be reminded that information about providers of independent advocacy services is available on Edinburgh Choices. Procedures and leaflets to be updated as part of the work to implement the new structure. Planned completion date: 31/08/2017	Wendy Dale, Strategic Commissioning Manager
HSC1503ISS.3	Personalisation SDS - Option 3	Medium	Scottish Government collects data on SDS users through annual and quarterly statistical surveys of local authorities. The answers to survey questions are based on data held in Swift. The accuracy and completeness of data input is therefore essential. There have been several changes in the assessment process and data captured in the past year such as: Eligibility for services (on which data is required by Scottish Government) has been recorded since January 2015; Initial steps to support assessments were in use for new contacts between August 2014 and May 2015 but are now used only for crisis care; A new personal support plan was introduced in October 2015. Where a new personal support plan is used, Option 4 is now recorded as a combination of Options 1, 2 and 3. There was no cut-off date after which all assessments would be carried out using new templates. The full process of assessment and arranging care can be lengthy. This means that there are several different ways of recording assessments running concurrently, with different data captured in each one. It is therefore difficult to extract complete and accurate data for management information and for reporting to Scottish Government.	Data on Swift is used to provide internal and external reporting which is likely to be incorrect. Data quality is affected where several processes to capture the same information are in use. There are over 500 practitioners completing assessments on Swift: multiple process changes over a short period of time increase the likelihood of errors in data input.	Further changes to the assessment process are expected over the next year as a result of the Transformation Programme and integration with the NHS. A change management process should be in place to minimise the number of process and recording changes through the year, implement clear cut-off dates, and to ensure changes are communicated to staff clearly. In the meantime, Research and Information should be aware of the likely inconsistencies in data recorded and ensure that reports are thoroughly reviewed before issue.	A change management process will be established and overseen by the SDS Infrastructure Steering Group. The inconsistencies in data recording are as a result of numerous changes to processes and trying to reduce the recording burden of implementing these on frontline practitioners. The Research and Information Team are aware of all changes to recording practice and take these into account. A summary of all changes and the impact on data extraction has also been produced.	30/06/16	30/06/2017		July Update Agreed actions have not been implemented to date. Existing change management processes will be formalised as part of the revised governance being put in place for the Health and Social Care Transformation Programme. Planned completion date: 31 March 2017	Wendy Dale, Strategic Commissioning Manager
HSC1503ISS.6	Personalisation SDS - Option 3	Reduced from Medium to Low 19/07/2017	Since October 2015, all personal care plans must be signed off by a senior. This is a measure introduced to improve the quality of personal support plans. We obtained a report of all personal support plans completed between October 2015 and January 2016. We identified 44 cases out of 811 (5.4%) where the system recorded that the assessor who prepared the personal support plan also signed it off. This was reflected in the variable quality of the 25 personal care plans we reviewed as part of our audit work.	The quality of personal support plans is a vital aspect of delivering SDS and ensuring that people receive the care that they choose and need. A lack of review may affect the quality of care received.	All personal care plans should be signed off by a senior, as required by HSC policy. 'Workarounds' on Swift should be deactivated to prevent this breach of segregation of duties recurring.	Ensure that there is a mechanism in place on SWIFT for the senior to record that they have signed off the support plan. At present any edits made by the senior at the time of the review will show that the senior has both prepared and reviewed the plan. Data quality reports will be set up to identify any support plan signed off by the assessor who produced the plan. Sector Managers and seniors to ensure appropriate oversight and sign off by senior for the personal care plans	30/06/16	30/06/2017		July Update Preparer and approver of live Personal Care Plans compared manually on 19/07/2017: no cases identified where a Personal Care Plan had been signed off by the assessor who produced it. This manual comparison will be repeated monthly for all new care plans. Risk rating reduced from 'medium' to 'low'. Changes to system requested to allow electronic exception reporting, and to record status ('in progress'/terminated) and 'go live' date to identify any care packages which have not been authorised. This is already checked manually by the Service Matching Unit each time a new care package is allocated to a care provider.	Wendy Dale, Strategic Commissioning Manager
HSC1503ISS.8	Personalisation SDS - Option 3	Medium	To ensure segregation of duties and the quality of assessments, all assessments (which include the user's budget) are checked and then authorised or returned by the assessor's senior. Where a special service (e.g. a care home placement) is required, then the assessment and personal support plan also need to be authorised by the Sector Manager. We analysed all cases that were added to the Swift database between April 2015 and January 2016 and compared the user ID of the person who completed the budget to the user ID of the person who signed off the budget. We identified 65 cases out of 2,525 (2.6%) where the system recorded the assessor who prepared the budget also signing it off.	Not having the budget or personal support plan approved by a second set of eyes decreases its quality and increases the risk of fraudulent activity.	All assessments and budgets should be signed off by a senior in accordance with HSC policy. 'Workarounds' on Swift should be deactivated to prevent this breach of segregation of duties recurring.	'Workarounds' on Swift will be deactivated by 31 December 2016: Work is being taken forward through the Health and Social Care Transformation Project (Governance, Devolved Budgets and Budget Management) to implement the budget management functionality within SWIFT which will address issues around separation of duties. A working group has been established and identified all the workstreams required to implement delegated budget management. A workshop will be held in mid-May 2016 to agree new operational processes including the management of budgets through SWIFT with authorisation limits and the facility for budget holders to authorise within the system. Further progress is dependent on the agreement of budget and staffing structures across localities in order to avoid the need to set up these structures twice on SWIFT which would represent a significant duplication of work. This Action also relates to work being undertaken to address Iss2 from Audit RS1245.	31/12/16	30/06/17		Closed/merged with Iss.6: now single sign off of personal care plan, which generates budget. Assessments are not signed off (but should be reviewed as part of personal care plan sign off)	Wendy Dale, Strategic Commissioning Manager

Unique Ref	Project Name	Issue Type	Finding	Business Implication	Recommendation	Agreed Management Action	Estimated Implementation Date	Revised	RAG Status	Status Update	Owner
HSC1503ISS.9	Personalisation SDS - Option 3	Advisory	Service users normally first contact the Council through Social Care Direct who allocate the case to a team. After the team has screened the case, it gets allocated to an assessor who carries out a face-to-face assessment with the service user and produces the support plan and request for services. The assessment is recorded on Swift through the 'AIS' application when they return to the office using notes taken during the interview. Assessors then need to request a personal support plan template to be mapped to the assessment by administrator, and have to wait a further day before they can put the personal support plan together. If a care at home service is chosen, assessors then need to produce an Assessed Needs Request (ANR) which the Service Matching Unit uses to find a care provider. The information in the Personal Support Plan is duplicated in the ANR, either on the Swift database or on an Excel document, the data from which is then manually input onto Swift by the Service Matching Unit. Providing assessors with a way of recording the assessment at the time of the interview, enabling them to complete a personal support plan soon after, and eliminating duplicate manual data entry, would improve the overall productivity of the assessment process.	User focused process design can help increase productivity	Review assessment and recording process to identify duplication in the process and areas where the process can be simplified and made more efficient through better use of technology.	All processes and procedures will need to be reviewed as part of the move to new structures and new ways of working. The Strategic Planning Manager will identify a resource to facilitate and coordinate this work in conjunction with the Locality Managers.	30/06/16	30/06/17		July Update - Closed New assessment process in place. Has been completed and can be closed.	Wendy Dale, Strategic Commissioning Manager
HSC1504ISS.1	Care Sector Capacity	Medium	A Joint Strategic Needs Assessment (JSNA) has been drafted by the Research and Information team in preparation for health and social care integration. This analyses demographics across the city and the attendant pressures on social care provision such as life expectancy, morbidity, deprivation, prevalence of unpaid carers and employment levels (affecting both need for social care and the availability of carers). While the JSNA gives a sophisticated analysis of the current demographic and economic profile of the city, it is a snapshot based on historic statistics. Forecasting is limited to percentage growth according to the National Records of Scotland population projections by age group. The demographic trends and pressures on social care provision identified in the JSNA have not been translated into the likely effect they will have on demand for services in the medium- to long- term. This means that the Council does not have a robust forecasting model of demand for social care in the City to inform its strategic planning.	Lack of robust forecasting models impedes informed strategic planning of future service provision; New service structures and initiatives may be created in an attempt to address current problems which are not suitable for changing demands caused by foreseeable movements and trends in the population.	Forecasting The JSNA should be developed into a robust forecasting model for demand for social care in the City. This should involve an appropriate level of scrutiny of the reliability of the data used and the assumptions used in the model. We recommend that an officer from Health and Social Care is involved in the development of the JSNA in order to assess the assumptions used. The forecasting model should include a sensitivity analysis to assess the likely impact of variation in forecast trends. This is particularly important given the recognised breadth and complexity of social and economic factors affecting demand for care. Gap Analysis Once demand for homecare services has been forecasted, the Service should identify the gap between current and required capacity. If the forecast is sufficiently nuanced, the Service will be able to identify the gap between available resources and need for different groups, types of care, and localities. Implementation To date, population projections have generally been used to illustrate the need for service reform. The forecasting model and gap analysis should be used to inform strategic planning of Health and Social Care services.	Forecasting The Edinburgh Health and Social Care Partnership's Strategic Plan includes as a priority the improvement of our understanding of the strengths and needs of the local population through the ongoing development of the JSNA. A working group has been established to carry out this work. Members include colleagues from Public Health in NHS Lothian as well as from the Health and Social Care Partnership. One of the work streams which have been identified for the group is to further investigate methods of forecasting needs among specific groups, and our Public Health colleagues are supporting this work. Sensitivity analyses will be built into forecasting models. Gap Analysis Existing methods enable the gap to be identified between demand and supply in broad terms. Further work will be done in conjunction with Strategic Planning and Contracting colleagues to provide analyses in relation to specific service models. Implementation Improved understanding of the strengths and needs of local populations, and the gap between demand and supply, will be used to develop service models and will inform strategic planning.	30/04/17	New Date required		July Update No further progress. This action is being taken forward through the ongoing development of the JSNA and the development of the Capacity and Demand Plan for Older People	Wendy Dale, Strategic Commissioning Manager
HSC1601ISS.6	Care Home Debt Management	Medium	Section 22(2) of the National Assistance Act 1948 states that "the payment (which a person is liable to make) for any such accommodation shall be in accordance with a standard rate fixed for that accommodation by the council managing the premises in which it is provided (and that standard rate shall be represent the full cost to the authority of providing the accommodation)." Historically the Council have not charged the full cost of accommodation provision and provided the accommodation at a discount to the full unit cost. The Chief Officer of the Edinburgh Health and Social Care Partnership is responsible for reviewing charges on an annual basis. Unit costs are updated regularly by Finance and are available to Health and Social Care senior management to inform decisions on charges. Rates charged to residents for Care Homes are currently based on a historic costs exercise thought to have been completed in approximately 2005, then updated by "inflationary" increases in subsequent years. These uplifts were not linked to the actual cost increases in delivering accommodation and in 2015/16 a cohort of 9 residents receiving specialist dementia care at the North Merchiston Care Home appear to have been charged £9.80 per week in excess of the Home's unit cost of care provision for all or part of the year (total over-charge: £3,059), an apparent breach of the National Assistance Act 1948. This situation did not recur in 2016/17 due to the contract changes with the company running the care	The Council appears to have charged this cohort of residents a sum in excess of what is permitted under the National Assistance Act 1948. The rates charged to residents in all Council provided accommodation needs to be reviewed for 2017/18 to ensure that they better reflect the actual cost of the care provided and prevent a similar recurrence.	The rates charged to residents in all Council provided accommodation needs to be reviewed for 2017/18 to ensure that they better reflect the actual cost of the care provided and prevent a similar recurrence.	The rates charged to residents in all Council provided accommodation will be reviewed for 2017/18 to ensure that they better reflect the actual cost. Finance will update unit costs to inform this review.	31/03/17	30/06/2017		Update requested July - finding owner on annual leave returning 1777 A meeting is being arranged between the Strategic Planning and Quality Manager for Older People and colleagues in Finance to progress this action. NB: no changes have been made to care home charges for 2017/18, work to review their appropriateness in light of actual costs incurred will start once the revised staffing structures following the conclusion of the organisational review are in place. Suggest dependency be pushed implementation back to the end of June.	Katie McWilliam, Strategic Planning and Quality Manager for Older People
HSC1603ISS.3	Management Information [EIJB]	Medium	Monthly 'waiting for assessment' reports are generated by the Council Performance and Information team for locality managers, which identify the length of time service users have been waiting for an assessment by locality and by sector team. At 1 September 2016 there were 1,638 assessments on the waiting list, with 1,320 overdue (on the waiting list for more than 2 weeks). Delays in assessments in the community have an impact across the health and social care system and are likely to contribute to higher admissions to hospital. This information is not reported to the EIJB or its Executive Board. The number of patients remaining in hospital because their assessment is overdue is reported to the EIJB bi-monthly as part of the 'delayed discharges' report. At 1 September 2016 this number stood at 33, just 2% of the total number on the waiting list for assessments. Only 9 of those were overdue (0.7% of total overdue). In comparison, 78 delayed discharges recorded in July were caused by delays in arranging domiciliary care.	Risk that attention is focussed on effect rather than cause: a relatively small (though high impact) number of delayed discharge, with poor visibility of delays across the health & social care system.	Reporting on delays Management should consider including reporting delays in waiting times for assessments as part of bi-monthly delayed discharge reporting to the EIJB, to help members consider and address delays across the health and social care system (which may be contributing to higher admissions to hospital and delayed discharge rates). Lessons learned In developing the Performance Management Framework, management should consider the measures they report to ensure they give EIJB and Executive Board Members a full and balanced view of performance across the health and social care system, covering areas which are under the remit of both the legacy NHS and legacy Council teams.	Reports on delays across the whole system from point of referral to receipt of service are being developed and will be reported to the Performance Board on a monthly basis. The whole system approach to reporting that is being developed under the auspices of the Flow Programme Board chaired by an IJB member will provide greater transparency in terms of delays across the whole system. This report will also inform future reporting to the IJB.	08/03/17	31/07/17		Implementation date extended to 31/07/2017. Whole system reporting has been developed through the Flow Programme. We will be in a better position to confirm the regular reporting arrangements to the IJB Performance and Quality Group and through them to the IJB once the Annual Performance Report has been completed.	Wendy Dale, Strategic Commissioning Manager

Unique Ref	Project Name	Issue Type	Finding	Business Implication	Recommendation	Agreed Management Action	Estimated Implementation Date	Revised	RAG Status	Status Update	Owner
HSC1603ISS.4	Management Information [EIJB]	Medium	There is one member of the NHS Data Set Team responsible for pulling together and circulating delayed discharge reports to locality managers each week. We selected a sample of 5 weeks and confirmed that the report had been generated and circulated. We identified: One week where no delayed discharge report was circulated as the officer responsible was on annual leave; One week where additional information was missing as the officer responsible did not have time to complete it.	Locality managers do not have sight of delays if the staff member responsible for preparing management information is absent. There is a risk that this means resources cannot be targeted effectively, and the number of delays increases. There is a reliance on existing NHS and Council professional support arrangements which may not meet the needs of the EIJB.	Delayed Discharge At least one other member of the NHS or Council Data Set Teams should be trained in preparing delayed discharge reports to provide cover in the event of staff absence. Lessons Learned In developing the Performance Management Framework, the Edinburgh Health and Social Care Partnership should identify resources required to collect and analyse performance data and maintain a consistent quality of reporting to locality managers, the Executive Board, and the EIJB.	The resource requirements to meet the performance management requirements of the IJB will be identified as part of the development and implementation of the new operating structure in Health and Social Care.	31/03/17	31/07/17		Implementation date extended: the support services part of the new structure has not progressed as quickly as anticipated.	Rob McCulloch-Graham, Chief Officer: Edinburgh Health & Social Care Partnership
RS1245ISS.2	Personalisation & SDS - Stage 2	High	Although the Swift system has the capability of mandatory authorisation controls, current threshold costs set at £20K per week, potentially equating to £1.09M a year, are at such a high level that effectively there is no appropriate mandatory authorisation in place within the Swift system to prevent a service being attached to a client without the appropriate package of care approval. From our small testing sample of eight cases we noted that: - • Only five out of the eight cases required approval for the package of care from Sector Managers • Only two out of these five cases tested fully satisfactorily • The remaining three cases did not fall within the approval procedural requirements.	Services could be attached which have not met the specified eligibility criteria, and may have a detrimental effect on financial budgets. In addition; policy and procedures may not be adhered to.	A control mechanism be introduced within the Swift system (or the new Adult Integration System) which ensures that no package of care service can proceed to conclusion within the Swift system without the appropriate approval being met. Exception Reports should be produced which highlight any services that have been attached to the system, which do not have the appropriate approval.	Control mechanisms to ensure that appropriate approval arrangements are in place will be developed through the work being undertaken for the implementation of self-directed support. Specific actions identified by the Business Services Manager and SWIFT Programme Manager are detailed below Business Services Manager • A new Financial Approval Procedure will be produced which will ensure that all requests for care and support are approved before progressing to Business Services to be input to SWIFT. The Procedure will detail: o who can authorise what placement/ service/budget and their level of authorisation o the mechanism through which authorisation will take place o the monitoring and quality assurance measures to be put in place to ensure compliance with the procedure Reports will be developed and tested to ensure staff comply with the procedure. • 4-weekly automated payment reports will also be updated to include details of the Budget that has been approved on SWIFT and who authorised the spend along with the payment amount. The report will highlight new records (within the 4 week payment period) and variations between Budget against the actual payment amount. The criteria for identifying variations to be developed and tested. SWIFT Programme Manager The current process for approval on Swift, for a subset of services, is dependant on sector managers manually approving Financial Approval forms (questionnaires held in case notes). These forms don't prevent a service being added and merely act as a	30/06/15	31/12/2016		July Update Closed/merged with HSC1503 Iss. 6. Under the processes introduced in May 2017, a senior social worker approves the personal care plan on Swift, and the service user's budget is generated from that plan. Walkthroughs with Service Matching Unit and Locality Business Support in July 2017 confirmed that a) Care providers are contracted for the services and hours stipulated on the personal care plan. b) Financial approval from the Locality is required if the personal care plan is for more than 18 hours care per week. c) invoices received from care providers are matched to approved budgets using the Swift financial package, and authorised for payment by the Locality. Exception reporting is being developed by Strategy & Insight to identify instances where a personal care plan has not been approved, or has been created and approved by the same person (see HSC1503 Iss. 6).	Wendy Dale, Strategic Commissioning Manager
SW1601ISS.4	Social Work: Pre-Employment Verification	Medium	There was insufficient evidence to support the PVG checks of three nominated candidates who were 'existing Council employees'. The original PVG certificate is destroyed at the initial point of employment. Therefore recruiting managers of nominated candidates, who are existing employees, may not be aware of the 'vetting information' included in the original PVG Check. This restricts managers' ability to make an informed decision to proceed with the employment. It should be noted that Scheme Record Updates (which carry out a check between the original PVG Certificated issued; to the date of the requested update) do not include details of any 'vetting information' held within the original certificate. The current "Recruitment and Selection Guidance for Managers Pre-Employment Checks for Nominated Candidates" states that "no further check is required if the individual is a PVG Scheme member in the Council for the same type of 'regulated work'. There is potential for staff to be recruited to a role which is not appropriate given their previous convictions. For example; a person with fraud convictions may properly be recruited to a care home if they are not handling cash but a future appointment to the homecare service ; with access to vulnerable people's funds may be approved without due consideration of the risk. In October 2016 a carer in East Lothian was convicted of Fraud amounting to £ 46,000 from two clients.	Recruiting managers may have insufficient evidence of PVG 'vetting information' to allow them to make an informed decision over whether to proceed with employment. This may lead to recruitment of staff not appropriate to the role.	All nominated candidates should be requested to bring their copy of the PVG certificate to the pre-employment checks meeting; in order to allow managers to make an informed decision as to whether to proceed with the recruitment process or to rescind the offer.	Locality Managers to obtain confirmation from their recruiting managers that nominated candidates are being requested to bring their PVG certificate to the pre-employment checks meeting. This requirement has been effectively communicated to all relevant managers / staff and a mechanism will be introduced to ensure that the requirement is being adhered to. This procedure will be embedded within the HSC and Safer & Stronger Communities protocol.	31/03/17	New Date required		July Update Meeting held with Health and Social Care early July to agree actions and evidence required. Finding owner currently on annual leave and will progress on return. IA has been advised that HSC awaiting evidence from Localities	Cathy Wilson, Business Support Manager, Health and Social Care
SW1601ISS.5	Social Work: Pre-Employment Verification	Medium	Testing identified that working practices between recruiting managers, HSC Recruitment, and HR Recruitment are not fully documented and this has led to inconsistencies including: - bypassing the HSC Recruitment Co-ordination Team; - inadequate recording of Criminal Convictions form (CCF) and PVG information; - inappropriate record management; and - no clear formal procedure has been issued to Recruiting Managers to	Key information may not be retained. HSC Recruitment Staff and Recruiting Managers may not be aware of what is expected of them. Risk of non-compliance with Disclosure Scotland's 'Code of Practice'.	Procedures should be produced by the HSC Recruitment Co-ordination Team in conjunction with HR Recruitment Team and senior HSC Management to ensure the recruitment process is safe, consistent and compliant with appropriate legislation and CEC policies. This should include the requirement to complete the 'PVG/Disclosure Risk Assessment Form'	HSC Recruitment Co-ordination Team will work with HR Recruitment Team to develop safe and consistent procedure including the requirement to update both of the PVG / Disclosure Forms noted. Procedures to be strengthened to ensure that we are up to date to reflect safe storage and retention procedures. HSC to formally communicate this to all relevant staff and recruiting managers, including the safe storage and retention periods of both forms. Confirmation of this to be sent to Locality Managers.	31/03/17	31/05/2017		July Update Meeting held with Health and Social Care early July to agree actions and evidence required. Finding owner currently on annual leave and will progress on return. IA has been advised that HSC awaiting evidence from Localities	Cathy Wilson, Business Support Manager, Health and Social Care
SW1601ISS.7	Social Work: Pre-Employment Verification	Medium	The HSC Recruitment Co-ordination Team carry out 'Bulk Interviews' on a monthly basis for Care Home and Homecare posts where there are a number of different posts required at different locations around the city. This is due to a high volume of staff movement within these posts, which due to the nature of the posts are required to be filled timeously. However, it was established that the 'Location Manager' who the nominated candidate reports to on their first day of work is not necessarily the same manager who has interviewed the candidate or taken the candidate through the pre-employment checks to check their identification. It is acknowledged that this carries the risk that the person who turns up for work may not be the person that was interviewed.	Risk of identification fraud resulting in the Council employing a candidate who does not have the skills or experience required to fulfil the duties of the post. Risk of financial sanctions re Right to Work in UK Legislation	All nominated candidates be requested to bring photographic identification with them which should be checked and verified by the 'Location Manager' on the candidates first day of work. Failure to bring the appropriate identification should result in the candidate being refused to start work within the Council. This should be embedded within H&SC and Safer and Stronger Communities procedures and communicated to all relevant staff.	Locality Managers to seek confirmation from either recruiting managers and/or location managers to ensure that candidates are being requested to bring photographic ID on their first day of work. This process will also be embedded within the H&SC and Safer & Stronger Communities procedures and communicated to all relevant staff.	31/03/17	31/05/2017		July Update Meeting held with Health and Social Care early July to agree actions and evidence required. Finding owner currently on annual leave and will progress on return. IA has been advised that HSC awaiting evidence from Localities	Cathy Wilson, Business Support Manager, Health and Social Care

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SW1601ISS.8	Social Work: Pre-Employment Verification	Medium	The Council's Recruitment and Selection Policy states that "all individuals in the recruitment and selection of potential candidates on behalf of the Council" must receive Council training in equality issues, Safer Selection, and the application of the policy". The CECIL Competency Based Recruitment and Selection module under "Safer Selection and Pre-employment Checks; notes the Council's approach to safer selection includes 'Mandatory training for all recruiters' and that if a manager recruits on a regular basis they should repeat the modules every 2 years. Checks were carried out on twenty individual managers who were involved in the recruitment of the nine nominated candidates whose PVG check had returned 'vetting information'. Testing highlighted that seven of the twenty managers have either not received the mandatory training or the fact that they have completed the training, has not been recorded on the iTrent system. Details of the seven managers noted above were subsequently provided to the HSC Business Manager.	Managers are not complying with Council Policy. Managers may be undertaking the recruitment process without having the required skills to make an informed decision as to whether the candidate is suitable for the post.	All managers identified through audit testing as not complying should be contacted to establish whether they have completed the mandatory training. The iTrent system should be updated with the date completed.	The HSC Business Manager will resolve this issue with the individual Locality Managers and ensure iTrent is updated on satisfactory completion.	31/05/17		Red	July Update Meeting held with Health and Social Care early July to agree actions and evidence required. Finding owner currently on annual leave and will progress on return. Managers have been reminded that mandatory training must be completed before undertaking any recruitment activity and to ensure that the iTrent system needs to be updated with the date training was completed. Awaiting evidence from the Locality Managers.	Cathy Wilson, Business Support Manager, Health and Social Care
		Medium					A review of the iTrent information held for each recruiting manager within Health and Social Care should be undertaken to establish any manager who has not completed the Recruitment and Selection training within the last 2 years. Any manager who is identified as not having complied with this training requirement should be requested to complete the training as soon as possible and not recruit staff until they have undertaken the training. A mechanism for monitoring the mandatory				
EJJB											
HSC1604ISS.3	IJB Data Integration & Sharing	Medium	During our audit procedures, we observed there are compatibility and connectivity issues when using CEC hardware at NHS locations or to access NHS owned systems and vice versa. CEC staff have experienced difficulties in connecting through Wi-Fi at NHS sites (and vice versa) in order to access their emails, and some systems cannot be accessed using specific hardware such as mobile devices (i.e. tablets, mobile phones).	There is a risk of the operational efficiency and effectiveness being impacted by an inability to access system in a timely manner.	The IJB should ask for a review of connectivity and hardware compatibility to be conducted in NHS and CEC sites, to ensure all staff can be fully operational wherever they are located.	The ICT and Information Governance Steering Group will request a review of connectivity and hardware compatibility to be conducted across all sites housing integrated teams and consider any recommendations arising from that review.	30/06/17	New date required	Yellow	Update requested 14/7/17	Wendy Dale, Strategic Commissioning Manager
ICT Solutions											
CW1601ISS.5	Monitoring of Contract Payments	Advisory	A '90 Day Plan' has been instigated by the Head of ICT to accelerate deliverables overdue, and the governance arrangements have been revised in line with this. A contract governance schedule (8.1 annex 1) notes the following key governance forums; ICT & Digital Board, Supplier Management Board and Programme Boards. These Boards were to meet monthly or more frequently, as agreed. In practice, the ICT & Digital Board was never constituted. It effectively merged with the Supplier Management Board into the Joint Management Board (JMB). The roles of these now form part of a composite 'Weekly Progress Meeting (WPM)'. The weekly meeting is attended by CGI and Council ICT Senior Management Teams, and includes a relationship meeting, workforce update, service issues & escalations and change management review, commercial review, and sessions for each major project. The 90 day plan is reviewed in the WPM sessions, and current actions and RAG status of key issues updated. It is intended to go back to the contract to ensure that the current arrangements meet the contractual obligations. It was noted that as the contract appendix does not actually prescribe the meeting titles, no contract rules have been broken by changing the arrangements. ICT Solutions governance arrangements outlined in the Orb reflect previous arrangements. Partnership management structures noted include forums no longer in place, such as the ICT Board.	Governance arrangements in the Orb are out of date and may lead to confusion.	ICT Solutions governance information published in the Orb requires to be updated to remove erroneous content.	Agreed.	31/05/17		Red	July Update Evidence of revised ICT governance framework provided and now published on the orb. IA has some follow-up questions based on evidence provided. Meeting scheduled for 25 July to discuss.	Ana Dragic, ICT Digital Team Lead
					Management should ensure that ICT systems within the Council have been identified and classified appropriately. Disaster recovery processes should be vigorously tested to validate the ability of the Council to successfully recover systems and data within the defined timescales set by stakeholders. For systems that are identified which are not managed by central ICT (Shadow IT), Management should consider how they could work with the system owners in ensuring that these systems are resilient and can recover following a major incident.	Management should ensure that ICT systems within the Council have been identified and classified appropriately. This will be conducted for all centrally managed IT. See below for consideration of 'Shadow IT'.	30/06/17	31/08/17	Yellow	July Update 8 key systems identified: full prioritisation/alignment with BCPs not completed. IA has requested rationale for the 8 key systems identified to understand the basis of selection. Meeting scheduled 25/7 for further update.	Neil Dumbleton, ICT Security Manager

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CW1603ISS.1	External Vulnerability Assessment	Medium	Following the transition of IT managed services from BT to CGI in early 2016, there have been remediation activities across the Council's estate to improve the security across infrastructure, networks and systems. Remediation plans to recertify for Public Sector Network (PSN) accreditation and ongoing progress with the Security Management Plan (which defines the baseline security measures CGI will implement) have helped to further secure the Council's defences since this time. The Council have attempted to define an overarching security programme to coordinate these security improvement efforts. However Management have been constrained by a need to remediate current control issues. As a result, this overarching programme has not been progressed. Security improvement activities are not being carried out as part of a wider programme (joining together the SMP as well as other security activities such as user education and identification of shadow IT elements) to ensure that efforts are coordinated and prioritised in such a way that would allow the most significant risks to the organisation to be addressed. Furthermore, the lack of security programme means that there is not a consolidated approach that would in form Senior Management of progress, provide oversight over the status of enterprise security and allow visibility over significant security gaps within the Council. It is therefore challenging for ICT Management to obtain the required engagement from stakeholders to make	Without an overarching programme of IT security, there is a risk that improvement activities are not coordinated appropriately or reported on to Senior Management. As a result, high risk items may not be prioritised effectively or attention is given to work that may provide little benefit in reducing significant vulnerabilities and securing the Council's enterprise security. Furthermore, costs to the Council may escalate if improvement activities are not challenged with sufficient rigour.	The Council, with the support of CGI, should implement a formal programme of security that would consolidate the security improvement and remediation activities across the organisation.	A security programme will be prepared by CGI, reviewed by the ICT Security Manager and subject to approval by the Head of ICT. CGI will be responsible for the implementation of the Security plan.	30/06/17	New date required		July Update Security Management Plan updated, and Security Programme developed. More information/work required on ICT security governance structures. Meeting scheduled for 25/7 to discuss whether finding can be downgraded based on work performed to date.	Neil Dumbleton, ICT Security Manager
Place											
CW1502ISS.1	Governance Arrangements - Arms Length Companies	Medium	The Director responsible for each Arms Length Company within the Council appoints an Observer for each company from within the Directorate. The role is to scrutinise the activities and performance of the company and raise any concerns arising with the Directorate. The Observer attends company meetings on behalf of the Directorate but is not a company officer. We understand that all Arms Length Companies are different and that they will require different levels of intervention and interaction with their Observer. We would however, as a minimum expect the following from Observers: Attendance as an observer at all Board and Audit Committee meetings; Regular receipt and scrutiny of risk registers; Regular receipt and scrutiny of management accounts and accompanying management information; and Regular access to management. We identified the following instances where these minimum requirements were not met: EICC: - the Observer attended 5 out of the 6 Board meetings tested but does not attend the Audit Committee meetings; and EDI: - the Observer attended 2 out of the 4 Board meetings tested. We did not identify any process documentation for the observer roles within any of the Directorates. This results in the Council being subject to an element key man risk in the control of each of these entities, as the loss of the Observer would leave the Council with a limited understanding of the scrutiny processes in place for that particular company.	Observers may not carry out scrutiny to the required level when carrying out their governance roles of Council Companies on behalf of the Council. Financial and reputational risks may remain unidentified with the potential to adversely affect the Council. The controls in place are reliant on the knowledge, skills and experience of the senior staff involved. This knowledge may be lost if there is not sufficient succession planning.	Process documentation covering as a minimum the following points, should be prepared and maintained for each of the Arms Length Companies within Place. Key management contacts; Basic structure of the entity; Key risks to the Council arising from the entity; Nature/timing of meetings attended; Key management information/reports received, their frequency and source; Use made of/procedures undertaken on management information received including any early warning thresholds/ KPI's; and Reporting requirements for the relevant scrutinising Council Committee.	To produce process documentation covering the above points for Transport for Edinburgh, Edinburgh Trams, and Lothian Buses.	31/12/16	31/05/17		Update requested 14/7/17	Paul Lawrence, Executive Director of Place and SRO
PL1601ISS.2	Recycling Targets	Medium	Contractors submit weighbridge tonnage data each month, which is used to calculate the recycling and landfill tonnage reported to the Transport and Environment Committee, and to prepare the annual SEPA submission. The current system for logging weighbridge tonnage submissions is manual as contractors provide their submissions in varying formats, some of which require further calculations to be made by Waste Services to establish the required figures. The data is entered manually into three separate databases, twice by the administrator and once by the Waste Collection Route Manager. The same data is entered into each database, with no significant differences in functionality between them.	Manual input could lead to errors in raw data used to calculate key performance measures; and Inefficient use of resources due to duplication of manual data input.	Automated data submission Contractors should be required to submit monthly weighbridge tonnage data in a prescribed format to support batch uploads of data to the tonnage database and reduce the need for manual data entry. Many contractors now have weighbridges which can produce tonnage data electronically and in real time. Management should investigate whether it is feasible to obtain this data directly. In the short term, a single database should be used for analysis and reporting. This will mean data only needs to be entered once.	There will be a review of the current process with the aim of implementing the recommendation of reducing the number of times data is inputted. This action will be taken forward on completion of the transformation process and once team structures are in place.	31/10/16	30/09/17		July Update Meeting held 10/7/17 for update. 1) Date of end September is unrealistic for resolving multiple data input challenges. 2) Also need to ensure that data has been entered correctly. 3) IA to remain close to finding and monitor progress with September implementation date. 4) Weighbridge data flow return is to be looked at as a detective control to identify variability on a month by month basis. This information is to be provided to internal audit to ascertain its use as a detective control. 5) The service is to identify if it is feasible to sample high value invoices to identify possible mismatches with weighbridge information.	Lesley Sugden, Waste Strategy Manager
						Within all new procurement exercises going forward part of the technical specification will address the potential for direct access to contractors weighbridge systems. Where this is not possible the Council will provide an appropriate format for the return of weekly tonnage information to reduce any requirements for double handling data. In addition the Council will investigate the use of the E-doc system with contractors which requires upload of weighbridge tickets to a secure cloud based portal.	31/03/17	31/03/17		July Update Meeting held 10/7/17 for update. Specification document has been updated and employed on the new dry mixed; food waste and residual waste contracts, which cover circa 70 - 75% of the tonnage weighed by the weighbridge. Calibration clauses are included in all recycling contracts. Weekly tonnage reports are also being provided by our Principal Contractors. [Closable on receipt of Evidence]	Lesley Sugden, Waste Strategy Manager
PL1601ISS.3	Recycling Targets	Medium	Waste service regulations require all weighbridges to be periodically calibrated by an independent regulator. The current contract specifications allow Waste Services to request these certificates for review. To date no contractor has been asked to submit their calibration certificates. Historic data had to be amended in February 2016, when errors on weighbridge downloads for food waste were identified for November 2015. The weighbridge was recalibrated. This was detected through a variance analysis completed by Waste Services, but may have been identified sooner had calibration certificates been requested from the contractor.	There is a risk that inaccurate weighbridge data is not identified resulting in higher payments to contractors and/or increased landfill tax if reported tonnage is higher than actuals.	Contract managers should request calibration certificates on a regular basis for assurance that accurate tonnage data is received from contractors.	A letter will be sent to all relevant contractors to request a copy of the most recent weighbridge calibration certificate. All future contracts will ensure that the annual requirement for a weighbridge calibration certificate is part of either the Terms and Conditions of Contract or will be contained within the Technical Specification itself. It may be considered to form a KPI within contracts going forward.	31/12/16	30/04/17		July Update Meeting held 10/7/17 for update. Letters to be sent to all contractors with a return date of 30/04/2017. IA to be provided with details of contractors who have provided calibration certificates, and a list of all calibration certificates requested.	Lesley Sugden, Waste Strategy Manager

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PL1601ISS.4	Recycling Targets	Medium	There are a number of Council service areas and divisions effected by the waste management strategy but are unaware of key issues, regulation changes and decisions. This appears to have been as a result of key stakeholders not having been appropriately identified and engaged in all areas of the process. The key stakeholders for the Council's overall waste management strategy are wide ranging, affecting related strategies and span both across the Council and externally.		As outlined within the response to Action 2, it is our intention to refresh the existing strategy and to consult with both internal and external stakeholders to help shape the final strategy. A series of commitments/actions will be a key output from the strategy and progress against individual actions/commitments will form a key part of reporting progress to stakeholders.	As outlined within the response to Action 2, it is our intention to refresh the existing strategy and to consult with both internal and external stakeholders to help shape the final strategy. A series of commitments/actions will be a key output from the strategy and progress against individual actions/commitments will form a key part of reporting progress to stakeholders.	31/03/17	30/09/17		July Update Work is continuing on the new Waste and Recycling strategy, this is not due to be presented to the Transport and Environment Committee until October at the earliest. A commitment to the date that the Waste and Recycling strategy is to be presented to committee, the committee papers and the outcome of the committee are to be provided to audit. The action can be reduced to low on the satisfactory receipt of this information. The strategy will then need to be communicated to stakeholders before the action can be closed	Angus Murdoch, Strategy Officer
PL1601ISS.5	Recycling Targets	Medium	Although there is considerable recycling internally within the council, there is currently no internal waste management policy. The Waste and Recycling Strategy 2010 - 2025 focuses on external, public waste but there is no supporting policy which specifically states how the Council itself as a major local employer, plans on reducing waste arising from its own operations (e.g. schools, council offices) and increasing recycling participation. The Council's strategic aim is to reduce overall waste being sent to landfill within the local authority by increasing recycling participation. Budgets have been set aside for schemes to increase public awareness and participation in an effort to achieve this strategic aim; however, a group of contributors to Edinburgh's overall waste (i.e. Council employees themselves) is being overlooked by not allocating sufficient resource to internal waste management schemes. In addition, there is a lack of data on how much waste is sent to landfill as a result of Council operations; therefore it cannot be accurately quantified how much the internally generated waste is costing the Council in landfill charges.		Our proposed management action is to approach the Sustainable Development Unit and Facilities Management to establish a working group to review any existing internal waste policy, the purpose being to incorporating this within, and consult on, a refreshed Waste Strategy Document (Ref Action 2). The inclusion of the Sustainable Development Unit is critical in moving forward this action as they hold responsibility for development of the Council's internal waste policy and recording data on internal waste arisings. Waste & Fleet Services will commit to taking the lead in establishment of the internal working group. Opportunities to improve the way in which the Council gathers and records data on its own waste arisings will be a key outcome of the working group. The Council's Trade Waste Service (part of the Waste & Fleet structure) has already met with Facilities Management to identify opportunities to increase the range of recycling opportunities across the Council estate. New services such as food waste recycling will be available in major Council offices such as Waverley Court and is already available across a number of schools.	Our proposed management action is to approach the Sustainable Development Unit and Facilities Management to establish a working group to review any existing internal waste policy, the purpose being to incorporating this within, and consult on, a refreshed Waste Strategy Document (Ref Action 2). The inclusion of the Sustainable Development Unit is critical in moving forward this action as they hold responsibility for development of the Council's internal waste policy and recording data on internal waste arisings. Waste & Fleet Services will commit to taking the lead in establishment of the internal working group. Opportunities to improve the way in which the Council gathers and records data on its own waste arisings will be a key outcome of the working group. The Council's Trade Waste Service (part of the Waste & Fleet structure) has already met with Facilities Management to identify opportunities to increase the range of recycling opportunities across the Council estate. New services such as food waste recycling will be available in major Council offices such as Waverley Court and is already available across a number of schools.	30/09/16	New date required		July Update - meeting held 10/7/17 to discuss Recycling bins have been provided to corporate buildings (Gareth Barwell believes this is over 60% complete) The capital for this project was around 75K overspent last year and has no budget this year, so unsure re feasibility of ongoing roll out Factsheet or Cecil leaning module could be provided and tracked to evidence that users know how to use the recycling bins. If it can be evidenced that 70% of buildings have recycling bins the action rating can potentially be reduced to low risk.	Karen Reeves, Technical Team Leader
PL1601ISS.6	Recycling Targets	Medium	There is no formal review plan in place for the Council's Waste & Recycling Strategy 2010-2025. In addition, there is no clear action plan with assigned responsible individuals that stems directly from the strategy and assists for overall monitoring and review of the strategy. Instead, individual projects are created from the strategy that are monitored and reviewed individually on an ongoing basis. This is deemed sufficient for operational purposes, but there should still be an overarching review of the strategy as a whole on a regular basis to ensure that it remains relevant.		It is recognised within the service that the Strategy needs to remain as a 'living' document with appropriate points in its delivery for review. A number of the commitments within the existing document have been delivered and it is the intention that the existing strategy undergoes a complete update/refresh. It is proposed that the refreshed strategy is consulted on with both key internal and external stakeholders to agree the contents and accompanying action plans. The key purpose is to develop a roadmap of commitments, projects and actions for the service. Waste & Fleet Services are currently in the latter stages of an organisational review, a key part of which has been the establishment of the Service Support Unit (SSU). A Waste Strategy Manager has been recruited and joins the SSU in early January. A number of project delivery roles also exist within the strategy team. This increases and strengthens capacity within Waste & Fleet in order that the review and refresh of the existing Waste Strategy can commence in line with the proposed target date.	It is recognised within the service that the Strategy needs to remain as a 'living' document with appropriate points in its delivery for review. A number of the commitments within the existing document have been delivered and it is the intention that the existing strategy undergoes a complete update/refresh. It is proposed that the refreshed strategy is consulted on with both key internal and external stakeholders to agree the contents and accompanying action plans. The key purpose is to develop a roadmap of commitments, projects and actions for the service. Waste & Fleet Services are currently in the latter stages of an organisational review, a key part of which has been the establishment of the Service Support Unit (SSU). A Waste Strategy Manager has been recruited and joins the SSU in early January. A number of project delivery roles also exist within the strategy team. This increases and strengthens capacity within Waste & Fleet in order that the review and refresh of the existing Waste Strategy can commence in line with the proposed target date.	31/03/17	30/09/17		July Update - meeting 10/7/17 Responsibility for the drafting and delivery of the waste and recycling strategy has been recognised within the scope of the Technical Co-ordinator role. This will involve a review of the existing strategy. Waste and Recycling strategy review is ongoing. Evidence to be provided to IA of the ongoing workplan and ownership of the Waste and Recycling review as well as an agreed frequency for this to be reviewed.	Angus Murdoch, Strategy Officer
PL1602ISS.2	Licensing	Medium	Schemes of delegation covering licensing powers and responsibilities are in place for civic licences (the Council scheme), and for licences governed by the Licensing Board. For civic delegated decisions where an application is a renewal and non-contentious, the Authorised Officer can be a Licensing CSO (GR6). This level of authority is not formalised in writing within the section. Delegated authority for granting licences was reviewed for a sample of twenty five applications processed in 2015/16. The following issues were noted: Licences for 60 market stalls required at short notice over the festive period should have been subject to Councillor consultation. As none were available, a Senior Officer countersigned the grant sheet; Supporting papers could not be found for one application. As grant sheets are not scanned in to the APP system, no evidence could be obtained as to the level of authority required to grant this licence. 3. All applications categorised as 'new' require Councillor consultation, however one new application reviewed appears to have been incorrectly categorised as a renewal and the decision delegated to an Officer. It was noted that for changes in ownership of existing HMOs notified within 28 days of change, the application can be signed off as a renewal. In this case, actual date of ownership was difficult to determine from the supporting documents held.	There is a risk that delegated authority is used to grant applications that should be considered by elected members.	Delegated powers within the section require to be formalised. A guidance note should be produced to accompany the scheme of delegation, outlining the categories of application that can be signed off by Officers, and at what grade. Guidance should cover the requirement for segregation of duties between CSOs processing an application and granting the licence. Guidance should also cover the procedure and any retrospective validation required where Councillor consultation is not available within the required timescale. Copies of signed grant decision sheets should be held in APP to evidence the granting or refusal of the licence.	A guidance note accompanying the Councils Scheme of Delegation to Officers will be prepared for all licensing staff and discussed with elected members. All staff will be briefed on this guidance. The Team will be instructed that all grant/refusal decision sheets must be scanned and indexed in the relevant action diary within APP.	31/10/16	30/06/2017 31/07/2017		July Update Amendment to scheme of delegation was agreed at full Council on 29 June (para 3.6 of the operational governance framework report). Paragraph 178 of the standing orders was amended to remove Councillors from role. A briefing note has been prepared explaining the change to the new Convenor. It was expected that this would take place in May but was delayed as the new administration was not in place. The existing deadline was agreed with an expected May completion date and has now been changed to end July. deadline was agreed when we expected a May report. Now that the change is agreed letters of delegation are being updated for Director approval. Once approval received, a staff briefing will be prepared reminding them all of the new procedure.	Andrew Mitchell, Regulatory Services Manager

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PL1603ISS.3	Mortuary Services	Medium	The current Bereavement Services risk register, dated July 2015, outlines a range of controls in place as part of the mitigation strategy to manage the body holding capacity risk. The risk was escalated to the Place risk register, and as at April 2016 was in the top 10 Departmental residual risks, categorised as one of the most controlled risks due to the controls noted as being in place. The mitigation strategy includes the following: Mortuary plan in place; and Staff training and participation in a Service quality action group. The Scientific, Bereavement and Registration Services Senior Manager noted that there are no formal mortuary plans in place covering arrangements to minimise storage times, and no such training is currently being delivered. In addition, no Service KPIs or performance / service standards are currently produced. Quality documents for the Mortuary covering forms, plans and procedures are being drafted. The mitigation strategy also notes that Funeral	The lack of an accurate risk register and formal mortuary plan increases the risk that intended controls are not implemented in practice leading to inefficient use of resources and demand not being managed effectively.	The Bereavement Services risk register requires to be updated to reflect current controls in place. Issues currently outwith Council control should be added to facilitate wider discussion on ways to better manage these. A mortuary plan should be prepared covering the management of body holding capacity. The plan should include: An outline of current arrangements; An outline of all key stakeholders; Service standards expected of Mortuary staff to ensure an efficient, prompt and respectful service; Standards expected of key stakeholders, for example, processes to be followed by Police when storing a body out of hours, prompt notification from Funeral Directors when assigned, and prompt collection by Funeral Directors when notified that a body has been released for uplift; and A	Work with Environment Service and Place Directorate to update the risk register post transformation review. A mortuary plan is under development and should be completed before the end of December 2016. Implementation by 31/01/2017 is anticipated.	31/03/17	New date required		July Update - meeting held 10/7 to discuss 1) A risk register is to be created. 2) Operational plan to be produced to track and forecast demand. This could be high risk as the Council is providing services to other local authorities and may not be able to meet the additional demand. 3) A contingency plan is to be produced to ease pressure on the council mortuary at times of high demand and it should be evidenced that this has been tested. 4) Potential for rating to be reduced to low if the risk register and operational plan can be evidenced. 5) Action can be closed on the receipt of evidence that that the risk register, operational plan and contingency plan have been implemented and tested.	Robbie Beattie, Scientific, Bereavement & Registration Services SeniorManager
PL1603ISS.5	Mortuary Services	Medium	The City Mortuary is a key stakeholder in the following plans: City of Edinburgh Council (CEC) Emergency Plan; interim update Jul 2014; CEC Corporate Business Continuity Plan; Oct 2013; CEC Corporate Pandemic Influenza Business Continuity Plan; Jul 2009 (re-issue due Apr 2017); Emergency Mortuary Management Arrangements Module of CEC Emergency Plan; draft Apr 2015; Services for Communities Contingency Plan (Bereavement Services); draft Jul 2015; and Services for Communities Business Continuity Plans for Bereavement Services; Dec 2013. There are inconsistencies and gaps between the plans including: The Bereavement Services contingency plan includes no detailed action plan covering body storage arrangements in the event of an extensive emergency, such as a pandemic, where National / reciprocal body storage resources will not be available. This area is currently under review nationally via the Scottish Government Silver Swan exercise; and The Emergency Mortuary Management Arrangements module, covering arrangements in response to intensive emergencies outlines the locations and number of body storage units within the Council and externally. This does not reflect: The basic storage available at the Mortuary; The current location of the Council emergency units; Average spare capacity for NHS Lothian, as determined at Easter 2016; and Average spare capacity of the Queen Elizabeth Hospital in	If contingency plans in place are not comprehensive, with accurate and up to date capacity information, the required actions to be undertaken by Council staff may be unclear, increasing the risk of inappropriate treatment of fatalities.	All Mortuary Service contingency plans require to be reviewed and redrafted to ensure that they are up to date, comprehensive and reflect current government guidance. Capacity and location information within contingency documents should be corrected to reflect current arrangements. Following review and update of plans in place: Training should be rolled out to staff; and The Corporate Resilience Unit should be provided with updated extracts.	Work with Corporate Resilience Unit to update contingency plans drafted before transformation review. Work with NHS Lothian to support them taking on the role of host mortuary for mass fatalities, thus easing pressure on Council mortuary.	31/03/17	New date required		July Update - as per finding above - actions to resolve both are linked.	Robbie Beattie, Scientific, Bereavement & Registration Services SeniorManager
SFC1403ISS.2	Community Recycling Centres	Low	The current CRC site policy appears very basic and inappropriate to adequately safeguard Council resources. Having such a basic policy exposes the CRCs to increased risk of commercial waste being passed off as household waste. The current policy may not be appropriate for modern CRC facilities and as a consequence, user guidance on the Council website is not sufficiently prescriptive or accurate to inform the CRC site user.	Loss of income to the Council Increased cost of disposal of commercial waste passed off as domestic waste Failure to meet residents expectation and reputational damage	CEC should consider a detailed and modern policy document to reflect the increased costs and environmental demands of providing this service. This should be considered at the same time as the chargeability of certain types of household items (i.e. reclassification of waste created from improvements, repairs and alterations to a household). Once the policy has been modernised and approved, an accompanying user guidance document and customer charter should be created and published. This should cover the following: Items accepted Permitted vehicles (including hired vehicles, trailers, vans) Household and commercial waste requirements When customers need to register with the Council to use the sites Charging policy and methods of payment Hazardous waste Charity waste Health and safety requirements	A policy and procedures document is to be drafted and consulted upon before being released.	31/03/15	31/07/17		July Update - meeting held 10/7/17 to discuss The policy cannot be approved until the August Transport and Environment committee at the earliest and the procedures implemented after the approval of the policy. Date noted s no longer achievable given timing of committee. Actions: 1) A revised date of completion is to be provided to Internal Audit 2) A commitment to the date the CRC policy is to be presented to the Transport and Environment Committee is to be provided to Internal Audit and well as the draft committee papers. 3) Finding can be closed once the policy has been approved at committee.	Bob Brown, Waste & Cleansing Operations (Waste) Manager
SFC1403ISS.3	Community Recycling Centres	Low	It was noted that physical security and enforcement measures for the CRC sites was not sufficiently robust. There is no number plate recognition technology in place, CCTV coverage is incomplete and it is possible for individuals to enter and remove items of value both during opening and closing hours. There are no CCTV cameras covering the weighbridge that would protect the integrity and safety of weighbridge staff and ensure that no cash transactions are taking place.	Safety of site officials compromised Risk that valuable items can be removed Abuse of Council service results in loss of income and/or increased costs	Security at each of the three CRC sites should be reviewed and strengthened. The use of CCTV and monitoring at each site should be carefully considered to ensure that coverage is adequate and covers the high risk areas (metal disposals, weighbridge and re-use cabin). Consideration should be given to using automatic number plate recognition (ANPR) technology in conjunction with CCTV to make sure that CRCs are used appropriately, safely & securely, to monitor vehicle usage (including detecting any patterns) and to assist with disputes & complaint procedures. As both a preventative and detective measure, use of a dedicated enforcement officer for a short period of time at each of the sites might highlight whether there is a wider issue of abuse of the system. A robust enforcement and site security infrastructure would be a vital requisite for any strengthening of site usage policy and charging structure.	Constant monitoring of site security is to be implemented. CCTV images re-directed to the main office at Powderhall with images also mirrored at the security office. The weighbridge software is being changed to accommodate ANPR piloting at Powderhall. This is to be rolled out to Sighthill and Seaford CRC sites and be operational by March 2015. Discussions with Community Safety regarding the implementation of an enforcement approach and associated support will be held.	31/03/15	31/12/17		July Update - meeting held 10/7/17 to discuss 1) CCTV has been installed at all sites and monitored centrally by Security. The CRC policy is required to allow staff to enforce the correct usage. 2) Automatic number plate recognition is to be implemented to identify repeat visitors and produce hot spot reports. ALready in place at Seaford and Sighthill depots. 3) A conflict resolution training programme has been implemented for CRC staff. 4) The enforcement of the usage policy is now the responsibility of the CRC staff not community safety and enhanced security has been implemented at Craigmillar CRC. Actions: • This action can be closed on the receipt of evidence that constant monitoring of site security has been implemented.	Bob Brown, Waste & Cleansing Operations (Waste) Manager

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Resources											
CF1402ISS.1	School Meals	Low	<p>For the school meals service delivered by SFC, the roles and responsibilities of key officers within SFC and C&F were not clearly defined in a formal document such as a service level agreement (SLA) or working protocol.</p> <p>Although processes have not been formalised, good cross departmental working was evidenced between the C&F Development Officer and SFC Catering Performance Officer. This collaboration was specifically noted within the menu planning process. Similarly Facilities Managers (FMs) and Kitchen Supervisors work closely with School Business Managers to resolve issues on site.</p> <p>It is understood that Corporate Facilities Management are producing SLAs for cleaning and janitorial services, however catering is not in scope at present. It is viewed differently as the end user of the service delivered is external, i.e., the pupils rather than Council staff.</p>	In the absence of any documentation the service is reliant on the knowledge of key members of staff and staff changes may impact on the effectiveness of the service.	Consideration should be given to preparing an SLA to outline the respective responsibilities within key cross departmental processes in delivery of the school meals service.	As part of a wider Facilities Management Review for the clarity on roles and responsibilities of key offices within SFC who have responsibility for delivering the schools meals service it is proposed that an SLA between C&F and SFC be put in place to ensure a first class school meals service is delivered.	30/04/15	30/09/2017 31/12/2017		July Update SLA completion is dependent on organisational reviews. Initial expected completion date was Sept 2017 and this has now been revised to December 2017.	Mark Stenhouse, Facilities Management Senior Manager
CG1503ISS.1	Continuous Controls - One Time Payments	Medium	<p>The One Time Payment Form (OTP) is defined as being for 'one time' payments which do not relate to a contract for supplies and services. However, the audit review highlighted that the OTP system is being heavily used for multiple payments in the following categories: System workarounds: Oracle payment system cannot make payments to non UK bank accounts; and Historically suppliers such as the DVLA and Sheriff Clerk required individual cheques provided with each application for Vehicle Tax or Council Tax Summary Warrant. This practice remains when other more efficient debit or electronic payment options should be available.</p> <p>Inefficient Channel: Due to either a lack of knowledge of options available; or lack of access to CEC systems; a large number of cheques are raised by CEC to CEC or to suppliers already on the database. Key examples of this are: Replenishment of Libraries Petty Cash Imprest; and Client account transfers in H&SC.</p>	By their frequency and nature one time payments are subject to less rigorous verification controls on set up. The system also holds less data, for example supplier number and authoriser are not held. This increases the risk of: fraud and error being undetected; payments being made to inappropriate individuals or companies; key vendor system controls being bypassed leading to increased costs; incorrect financial figures being given in respect of FOI or other monitoring requests; and inefficient use of resources.	Channel shift should be embraced to move regular multi-payments to a more efficient platform.	Business World system is implemented. Procurement state that any methods of making payments to DVLA and Post Office is a statutory requirement and will have to continue at present. OTP 'S relating to vendors will only be accepted if payment is for a rebate only. [wef 18/1/16] Payment Services will request that these types of payments are set up in the new BW system as a sundry account and paid via BACS/Cheque. It must be noted that the new BW e-solution will not have the facility to convert currencies that are not British pounds.	31/10/16	01/10/2017 31/07/2017		July Update Whilst these actions are intrinsically linked to the implementation of the new Business World system (now expected to deliver April 2018), management has confirmed that revised interim controls have been implemented to mitigate this risk. A walkthrough of the enhanced controls has been scheduled for week commencing 17 July 2017. If the revised controls are assessed as adequate and evidence of their operation provided, this finding will be closed. <p>Ongoing focus in the short term has resulted in volumes of OTPs being minimised, with OTPs now limited to rebates since Jan 2016. However as noted DVLA and Post Office payments are statutory.</p>	Neil Jamieson, Customer Senior Manager
CG1511ISS.2	Continuous Testing-Standby, On Call & Disturbance Payments	Medium	<p>Guidance is published on the Orb for standby, on call and disturbance payments, setting out the rules and rates applicable. This guidance is supported by frequently asked questions. It is however a complex area with a range of common and less common situations, and in practice various combinations of allowances are claimed. The complexity of the process does not help scrutiny of claims and provides opportunity for inaccurate or inappropriate claims to be approved. Issues contributing to weakening the control framework, whether intended or otherwise are outlined below:</p> <ol style="list-style-type: none"> 1. Lack of relevant detail in narrative fields preventing proper scrutiny of claim. Claims often just have "Call" and not enough information to identify separate or repeat incidents; 2. There are different claim forms for "Standby and Call-out", Overtime, "Non-Standby Call-out". The fact that these are separate and often input at different times makes robust scrutiny more difficult; 3. Core and standby periods used by areas often differ from the published times provided by the Service Area; and 4. Frequent failure to reset claim forms leading to conflicting dates appearing on forms. 	Claims being made and authorised in excess of what is appropriate as claims are accepted at face value with insufficient data to validate them.	The claim process should be simplified where possible on the migration to the new payroll system.	Management are aware of the weaknesses of the current HR/Payroll solution and have retested the functionality to confirm the findings contained in the report. Configuration of the Business World solution will where possible include reduced complexity to prevent the recurrence of these issues going forward. Ongoing we will document specific system controls that have been configured within the new system to preclude recurrence of these issues. This will be shared with Internal Audit for the purposes of completeness and ensure we have in fact closed out the weaknesses identified.	31/10/16	30/09/2017 01/04/2018	Date has been changed to reflect delayed Business World Implementation	July Update Whilst these actions are intrinsically linked to the implementation of the new Business World system (expected delivery date April 18), management has confirmed that they are implementing new controls into the existing process to mitigate the risk. It is expected that these will be in place by end of August 2017. <p>Audit will arrange time to perform walkthroughs and obtain supporting evidence in early September. If the revised controls are assessed as adequate and evidence of their operation provided, this finding will be closed.</p>	Grant Craig, People Support Manager
CG1511ISS.3	Continuous Testing-Standby, On Call & Disturbance Payments	Medium	<p>The iTrent payroll system in its current configuration lacks basic automated input controls to validate the quality of information submitted. This leads to a high number of erroneous claims being accepted. A key example of this found during the review was a claim from 22:30 to 12:00 which led to a 1.5 hour claim being paid at 13.5hrs. This led to an overpayment of £316.80 which had not been identified. The money was recovered when we notified payroll. Lack of basic automated controls has led to the following types of errors being accepted, all identified during the course of this review:</p> <p>Conflicting standby header and week commencing dates, Incorrect mixture of 12 and 24 hour clock affecting claimed times, Invalid times accepted e.g. 2430, Future dates accepted, Historic dates from previous financial years accepted, Standby disturbance claims accepted when not on standby, and Mutually exclusive elements accepted at same time.</p>	The lack of basic automated application controls increases the risk of invalid claims being made, approved and paid.	As part of the development of and migration to the new payroll system logical validation checks over input should be incorporated wherever possible.	Management are aware of the weaknesses of the current HR/Payroll solution and have retested the functionality to confirm the findings contained in the report. Configuration of the Business World solution will where possible include increased validation to prevent the recurrence of these issues going forward. Ongoing we will document specific system controls that have been configured within the new system to preclude recurrence of these issues. This will be shared with Internal Audit for the purposes of completeness and ensure we have in fact closed out the weaknesses identified.	31/10/16	01/04/18		July Update Whilst these actions are intrinsically linked to the implementation of the new Business World system (expected delivery date April 18), management is currently investigating the costs associated with upgrading the iTrent system input controls to mitigate this risk. <p>If these costs are significant, then this finding will remain open until the Business World implementation is complete.</p>	Grant Craig, People Support Manager

Unique Ref	Project Name	Issue Type	Finding	Business Implication	Recommendation	Agreed Management Action	Estimated Implementation Date	Revised	RAG Status	Status Update	Owner
CW1501aISS.1	Procurement Arrangements	Medium	<p>Contract Register Updates It is the responsibility of Service Areas to provide complete, accurate and up to date contract information. Data is entered online via a contract register form in the Orb, downloaded to C&PS and used to update the register manually. This ensures that fields are updated in the same format as much as possible. The online form is being simplified to improve consistency of data provided. A sample of 12 contracts awarded by the Finance & Resource Committee in 2014/15 were selected to establish if details were reflected in the register. Most contracts had been updated, however in four cases contract end dates & values, and cross referencing between the live contract and live framework tabs required further validation. The Senior Commercial Operations Officer recognised the need for better validation of data provided online by Service Areas prior to updating the register. It is also recognised that a formal system to track activity within and improve the links between the contract and pipeline registers is required. Access to the Registers The registers are currently held in excel with shared open access within C&PS. There are plans to set up the pipeline register as a web application, with a link to an access database which will hold the contract register. Contract Register Overviews & Feedback Bi-monthly contract register overviews sent to each Directorate include lists of all contracts due to expire within 18 months, for example, details of 105 contracts were issued to Services for Communities (SfC) in March</p>	Information inaccuracies on the contract register risk best value not being achieved and potential savings lost. Open access leaves the registers vulnerable to deliberate or accidental manipulation. The quantity of data provided creates additional work for both sides and may distract from the key information required.	Robust data validation checks are required to ensure the accuracy and completeness of contract register entries, including framework contract details. The Procurement Reform (Scotland) Act 2014 proposes a requirement for all Local Authorities to publish a register of contracts over £50,000, likely to come into effect within the next year. This pending wider scrutiny re-inforces the need to ensure that information is robust. Action should be taken to secure the pipeline and contract registers. This should include implementing password protection, restricting edit rights and creating an audit trail so that modifications can be tracked and monitored. Improvements need to be made to the process to ensure more targeted information in respect of expiring contracts is sent out focusing attention on areas where management feedback is required.	Validation checks are now in place. Each Category manager has reviewed the Register to validate entries aligned to their Category. The transfer of the pipeline to a Sharepoint database provides an audit trail reducing vulnerability to deliberate or accidental manipulation. In the short term we will introduce password protection for the contracts register or move the live version into a folder with restricted access, but in the medium term intend also to move the register to a database that provides an audit trail and provide wider access to staff to input their updates. Reporting of contracts approaching expiry is a recent development. The early reports have identified gaps in our procedures for capturing the current status of actions being taken against each expiring contract. We will address this by developing and documenting a clear process for recording status updates. In addition we will ensure that both Delivery Teams and Commercial Partners review reports before they are circulated to services.	31/03/16	30/04/2017 01/08/18		<p>July Update Short-term - the pipeline register is now held on the Sharepoint database. The contract register is now password protected; only 4 members of the Commercial Operations Team now have access to update the master. Completed.</p> <p>The contract register and pipeline will be held within Business World 4 when this is implemented. As a consequence of delays to ERP programme the expected dates have not been met as CPS are reliant on Business World implementation.</p> <p>Whilst final implementation is dependent on Business World Implementation (expected April18), Audit are working with Procurement team to walkthrough the key controls (July) to establish whether the risk has been mitigated and the rating can be reduced.</p>	Tammy Gillies, Acting Head of Procurement
MIS1601aISS.3	Non Housing Invoices	Medium	<p>The system used to manage repairs and maintenance to operational buildings, AS400, is due to be replaced in the Autumn/Winter 2016. The system is over 40 years old and is limited in its capabilities and links to other Council systems. This means it is difficult to obtain information about repairs carried out. Only one officer is able to use AS400 reporting functions, and none we spoke to in Corporate Property knew how to access information about EBS non-housing recharges through the Frontier financial reporting system. This limits the management information available to Corporate Property about the volume and value of repairs. It also delayed our audit fieldwork and restricted the scope of our audit. For example, the AS400 (works ordering), Total (billing) and Oracle (finance) systems do not use the same reference numbers. A manual log is kept to record the invoice number for each works order raised on AS400. This was not consistently updated, so, despite the help of the non-housing administration team and Accounts Payable, we were able to trace invoices for only 4 of the 60 charges reviewed. We also identified occasions where details of work orders charged to Corporate Property had not been transferred into the Oracle data warehouse. This means we (and Corporate Property) were unable to validate the accuracy of the charge for those periods. The total charge only was recorded.</p>	Lack of management information about the volume and value of non-housing repairs.	Management will not have ready access to accurate and reliable information about the volume and cost of repairs and maintenance until AS400 is replaced by CAFM in Autumn/Winter 2016. We note that the introduction of CAFM has been delayed, and every effort should be made to meet the new target implementation date.	It is anticipated that CAFM will be in operational use (services being implemented on a rolling programme thereafter) in early 2017 with a non-Housing R&M implementation process in place for FY 2017/18	01/04/17	31/12/17		<p>July Update This has progressed. However, following the PPP structural wall issue plus reports to CLT, the condition module has now been prioritised and, with assistance from external surveyors, this will be complete for the non-housing estate in autumn 2017. This will identify the backlog maintenance, both capital and revenue, and allow prioritisation and budget planning in detail going forward. The remaining property maintenance modules will be rolled out in 2017/18 and this is progressing.</p>	Peter Watton, Acting Head of Corporate Property
RES1603ISS.1	Leavers Process	High	<p>We selected a sample of 45 employees who left the Council in August 2016. 11 (25%) still had an open Active Directory account at the time of our audit in November 2016. An Active Directory account permits access to core Council IT systems including computer terminals, email and the intranet. User accounts for other Council systems such as Oracle (finance), Swift (social work), iTrent (HR and payroll) and Seemis (schools) are linked to the user's Active Directory account. Note that we did not review access to other Council systems, or systems</p>	Risk of a breach of data protection laws if sensitive data is accessed by staff who no longer work at the Council. Risk of inappropriate or fraudulent use of ICT systems access remaining active post employment, both by leavers accessing systems remotely, and by current employees with access to former colleagues' accounts. Once web-based Outlook and One Drive accounts are introduced in 2017, leavers will have access to sensitive data and mobile assets at risk.	Active Directory accounts must be closed when a member of staff (whether payroll or non-payroll) leaves the Council. Access to other Council IT systems, including those hosted by third parties such as eIRD (which holds child protection records and is hosted by NHS Lothian), must be terminated when the member of staff leaves the Council, or moves to a role where access to that system is no longer required.	As Finding 1, a process review workshop will be held on 29 March when issues and improvements in the leavers process (including HR, Customer Services and ICT) will be mapped and identified. HR guidance will then be refreshed. This will include mechanisms to notify administrators of systems hosted by third parties.	30/06/17	30/09/17		<p>July Update Workshop sessions have been held on leavers process. We still have some work to do and a lot hinges on the work ICT & CGI are currently doing around asset management. CGI are reviewing best practice across all of the clients they work with to design the best process possible for CEC and we have set a date of 30 September 2017 for this to hopefully be completed.</p>	Katy Miller, Head of Human Resources
RES1603ISS.5	Leavers Process	Medium	<p>We selected a sample of 45 employees who left the Council in August 2016. Security passes held by 18 of those employees (40%) had not been returned or disabled.</p>	Security passes could be used to fraudulently gain access to Council buildings putting sensitive data and mobile assets at risk.	Security passes should be collected from payroll and non-payroll leavers and returned to the Facilities Management Hub. We recommend that Facilities Management are also provided with a daily or weekly list of leavers, so security passes can be deactivated.	All security passes which have not been used for 3 weeks will be deactivated on 1 April. Cardholders will need to contact Security to reactivate them.	30/04/17	30/06/2017 31/08/2017		<p>July Update 1) The Business Information team will run the leavers report every Monday, capturing the previous month's data, and this report will be sent to our security team who will action as appropriate; 2) The leavers report that we have been sent from February, c850 entries, will now be checked and passes deactivated as appropriate, as a matter of priority; 3) Once the cross check of staff on maternity leave / long term sickness has been completed, the exercise to deactivate unused passes will commence; 4) Revised date to clear the c900 backlog is considered reasonable, however, if this becomes doubtful, we will intimate this to IA; 5) Security has been requested team to send IA confirmation of the weekly leavers list having been received and evidence that it has been actioned; 6) Our intention is to send IA the evidence that will confirm deactivation of the c900 unused passes by 31.08.17, once the staff on maternity leave / long term sickness have been identified; 7) Quarterly review will be implemented to ensure that we capture everything, including those passes that had not been used for a while which may not necessarily be due to staff leaving.</p>	Mark Stenhouse, Facilities Management Senior Manager
						All temporary passes will be deactivated on 1 April. Cardholders will need to contact Security to reactivate them.	30/04/17	30/06/2017 31/08/2017		<p>Linked with action above- management actions are the same.</p>	Mark Stenhouse, Facilities Management Senior Manager

Unique Ref	Project Name	Issue Type	Finding	Business Implication	Recommendation	Agreed Management Action	Estimated Implementation Date	Revised	RAG Status	Status Update	Owner
RES1605ISS.1	Service Level Agreements with Outside Entities	Medium	We reviewed the arrangements in place with 5 organisations to which the Council provides professional services. Organisation Services provided 2015/16 Fees Lothian Valuation Joint Board Payroll services Accountancy services Internal Audit £ 20,100 SEStran Accountancy services Payments and procurement Insurance Treasury management Internal Audit Payroll services £ 23,350 Lothian & Borders Community Justice Authority Accountancy services Payments Internal Audit £ 22,000 CEC Holdings Accountancy services £ 20,000 Royal Edinburgh Military Tattoo Payroll services Treasury management Internal Audit £ 1,500 There was a current Service Level Agreement (SLA) in place with only one of those 5 entities (SEStran). The agreement had been set up in June 2013 for a period of 12 months, and has been extended a further 3 times since then. There was a further SLA with the Lothian & Borders Community Justice Authority. This SLA expired in March 2010. The Council has continued to provide accounting support including accounts preparation to LBCJA at the rates agreed in 2009. Additional services including accounts payable and internal audit were not included in this SLA. There were no SLAs in place with the remaining 3 entities. Services provided and fees charged were understood to be historic arrangements.	If service levels are not formally agreed with the other organisation, there is a risk that: There is reputational damage and increased resource pressure if the Council does not deliver services as expected by the counterparty; The Council may not receive appropriate remuneration for services provided; and Arrangements in place may not be appropriate or may conflict with other Council duties.	Service Level Agreements with the organisations to which the Council provides professional services should be reviewed and/or established. These should set out services provided, key activities and deliverables, and the respective roles and responsibilities of the Council and the counterparty. Service Level Agreements should be for a defined period and refreshed regularly to ensure that agreed services and charges remain appropriate.	A service level agreement with the Edinburgh Integration Joint Board is currently being developed. This template will be rolled out to other third party organisations to which the Council provides services as a generic service level agreement, with the exact terms (fees, services, dates) appended as a delivery schedule.	31/01/17	30/06/2017 29/09/2017		July Update The IJB SLA is signed and a generic SLA to be used as the basis for agreements with ALEOs as required has now been shared with all Service Areas. Directors / Heads of Service have been requested to confirm (for their areas) that service level agreements have been established to support all third party relationships where the Council provides services. If individual responses are not provided by end August 2017, individual actions will be raised allocated across all Service Areas to ensure that SLAs are implemented.	Nick Smith, Head of Legal and Risk
Strategy & Insight											
CSE1601ISS.2	Review of Grant Management	Rating reduced from High to Medium 19/7/17.	Conflicts of interest are difficult to define due to their inherent subjectivity and are often the subject of public scrutiny. The Culture and Sport Committee consists of 15 elected members. They approve grant funding to cultural organisations on an annual basis. A review of Companies House records and the Register of Interests found that ten of the elected members are current or recent directors of one or more of the funded organisations. This could result in the perception of conflicts of interest as in effect, elected members are awarding grants to organisations that they are connected to and have an interest in. The Councillors' Code of Conduct set by the Standards Commission for Scotland defines holding office in a company or voluntary organisation as a declarable non-financial interest (section 4.22). The Code states that an elected member must withdraw from the meeting room until any discussion or vote on an item where they have a declarable interest is concluded (section 5.7). The Code further advises that councillors should not accept a role or appointment if it would mean they frequently declare an interest at a particular committee on which they sit (section 5.22). There is an exemption within the code (section 5.18-d) where the appointment has been approved by the councillor's local authority and the company or voluntary organisation was: Established wholly or mainly for the purpose of providing services to the councillor's local authority; and Entered into as a contractual arrangement	Risk that public confidence is damaged by perception that the Committee's decisions are influenced by factors other than the public interest; and Risk of Contravention of the Councillors' Code of Conduct	In accordance with the Councillors' Code of Conduct, Councillors must declare an interest where they are a member or director of a public body, company, or other organisation. Unless the exemption discussed above applies, councillors must withdraw from the meeting room until discussion or voting on an item where they have a declarable interest. This includes scrutiny or funding of charities of which they are a director. To meet best practice governance standards, we recommend that councillors do not sit on Committees which award grants to and scrutinise the activity of charities of which they are a director.	Mandatory induction training for new elected members in May 2017 on these areas will be in place.	30/06/17	New date required		July Update Mandatory code of conduct training was scheduled as part of the new Councillor training programme with three scheduled sessions (9, 10 and 15 May) and two additional sessions delivered. . Strategy and Insight has provided evidence of the training packs, however 19 of the Councillors (16 returning and 3 new Councillors) have not yet completed this mandatory training. A training needs analysis will be carried out in August after recess, which will inform the Autumn training programme to be delivered in October/November. This will include training on the Code of Conduct. Based on the above, the rating has been reduced from High to Medium.	Kirsty-Louise Campbell, Strategy & Governance Manager
RES1605ISS.2	Service Level Agreements with Outside Entities	Medium	There is no complete record of professional services provided by the Council to outside entities.	Lack of a contract register makes it difficult to monitor services provided to other organisations and ensure that current contracts are in place. There is a risk that the resources required to provide professional services to other organisations are not fully understood and accommodated.	A contracts register should be created which includes: Counterparty Date of agreement Period of contract and expiry date Services provided Contract manager Key contact at organisation Contracted fees The contracts register should be reviewed periodically to ensure that all professional services provided to external organisations are captured, and that there is a current service level agreement in place for each one.	The findings of this audit review will be presented to the Corporate Leadership Team. Executive Directors will be asked to detail professional services provided to other organisations and to ensure that these are underpinned by Service Level Agreements. The Governance Unit within Strategy & Insight will maintain the Council's Register of Service Level Agreements and shall liaise with service areas to ensure that these are regularly reviewed.	31/10/16	30/04/2017 New date required		All Service Area responses have now been received. Further clarity had been requested from 2 service areas. This has now been received and these submissions will be reviewed with a view to closing this action by the Outturn date of 30 April 2017.	Andy Nichol, Governance and Democratic Services Manager
				Risk that staff do not properly understand the implications of data security within their role and the steps they can take to minimise risk to the Council.	All staff should complete the e-learning module and role-specific training courses should be conducted, as planned, by Q2 2017.	Existing Council employees who have not yet completed the IG eLearning module will be instructed/strongly encouraged to do so. Once the elearning module is complete, staff will be expected to update their knowledge of the Information Governance related policies on an annual basis as part of the annual policy refresher process. However, completion of the elearning module may be considered excessive for front line manual workers who have minimal or no information governance responsibilities and a briefing note, prepared by the Information Governance Manager, will be used as an alternative for these particular employee groups. The above has been replaced with a revised action detailed below: We are introducing quarterly policy spotlights in August 2017 for all Council employees. The first policy spotlight will be the Information Governance related policies. We will use this opportunity to promote the eLearning, the GDPR Cake and Compliance Sessions, and Privacy Impact Assessment workshops. The Information Governance Team are currently summarising the key elements of all of the related policies and we will launch this as part of the policy spotlight as well as the briefing note for manual workers.	30/05/17	31/08/17		July Update A revised action and date has been agreed with the Learning and Development Manager	Margaret-Ann Love, Learning & Development Manager

Unique Ref	Project Name	Issue Type	Finding	Business Implication	Recommendation	Agreed Management Action	Estimated Implementation Date	Revised	RAG Status	Status Update	Owner
RES1607ISS.1	Online Customer Services	Medium	Communication with the Head of Service and Service Manager for Licensing about the development and delivery of the HMO Licensing work stream has been irregular and limited to date. There was a 2-week consultation period in winter 2015 at the beginning of the project, but there has been limited communication since. There is no representative from the service area on the Project Board, and key programme documents have not been shared with the service area including: The Project Initiation Document (PID); The design document (which maps both the existing and the proposed processes); ICT and Transformation Service Level Agreements; Risk registers (with no process of escalation of the risks from the Service Area to the programme); Agendas and minutes from Project Board and other are not captured Service Area	Stakeholder expectations are not adequately managed as critical stages of the project are not communicated; The Project Board may not have a full understanding of the service requirements for each work stream, meaning that it may not deliver the expected benefits; The needs of users are not considered in the development of the system, meaning that it may not deliver expected benefits; Barriers to implementation that the service area is able to identify from experience, but which may not be obvious to the programme team (for example, legislative requirements)	Stakeholder Engagement The Project Board should include representatives from the live Service Area projects to ensure all critical documentation is shared and service and legislative requirements are considered, managing stakeholder expectations at each stage of the project. The Project Board may decide that this is most effectively managed through the creation of working groups for key work streams.	As part of the Programme rest (detailed in the 'Current Status Update' above), the programme governance and model used for business engagement is being reviewed, clarified and improved. This will include standardised documentation. When the detailed plan is received from CGI/Agilisys in April 2017 Working Groups for each "Dr op" will be convened to include Subject Matter Experts from each of the relevant service areas. Re-engagement across senior and frontline stakeholders is currently being planned to refresh the message and planned outcomes of the Programme to support buy-in across the organisation.	31/05/17	31/08/17	Yellow	July 2017 Business Engagement Approach and Internal/External comms plans provided by Clare Mills (Project Manager). These set out the general principles of stakeholder engagement, with heads of service identified as key stakeholders to attend working group. However, no detail as yet on who those stakeholders are, frequency of meetings, nature of engagement etc. No workstream has progressed far enough at this stage for active engagement with stakeholders: expect progress by end of August. Rating reduced to 'Medium' given Business Engagement Approach now developed.	Clare Mills, Project Manager
RES1616ISS.1	Facilities Management	Medium	The plans to transform the Facilities Management service are ambitious and rely on staff adopting significant changes to working practices, and building users understanding and accepting agreed service levels. During our review of the project plans and documentation, it was noted an implementation plan to embed the new service and minimise disruption during and immediately following the launch of the new operating structure has not yet been developed.	There is a risk of loss of stakeholder support if disruption occurs during the implementation phase which would result in the programme failing to deliver the expected benefits.	Formalise the project implementation plan to include mitigating controls which minimise disruption to service delivery.	The following action plan will be put in place: Hold a team workshop to discuss detailed Work Breakdown Structure for project preparation and implementation Develop programme including identifying critical path and key dependencies Finalise resource schedule for implementation and seek formal approval from CLT to implement any change within pre-agreed budget parameters Review governance for FM roll out and ensure it is sufficiently robust and in line with the wider AMS governance arrangements Continue to monitor progress and report in line with existing arrangements	30/01/17	New date required	Red	July Update Awaiting receipt of evidence from Service Area - IA chased 10/7/17. A team workshop was held and a detailed work break down structure and programme plan produced with key dependencies identified. All resource is now in place for programme delivery and it will be held within agreed budget parameters within AMS. The implementation team are currently re-programming the key milestones due to a decision taken by CLT to push the launch of consultation until after the Election and split the consultation into phases, launching with janitorial in mid May and cleaning and others after the summer holiday period. The FM implementation will continue to be monitored as part of the AMS governance arrangements and through the wider Change Board.	Emma Baker, Project Manager
Investment & Pensions											
CG1509ISS.1	Pensions Compliance	Medium	The LGPS Regulations state that monies held by or received by an administering authority, in this case City of Edinburgh Council, for a local government pension scheme must be held in a separate account with a deposit taker. Purchase ledger transactions and miscellaneous income receipts are processed through the main Council bank account and are posted to a nominal holding account on the Council ledger along with Council pension contributions. The nominal holding account is cleared down to a reserve of £ 3 million each month, with any balance above that transferred to a Pension Fund bank account. This means that at any point in time the Council will hold between £ 3 million and £ 12 million belonging to the Pension Fund in its own bank account.	The Council is in breach of statutory regulations. Pension Fund monies are not fully ring-fenced from Council liabilities.	Pension Fund monies should be fully ring-fenced. Management should consider whether it would be feasible and efficient to maintain a separate ledger for the Pension Fund and process all purchase and sales ledger transactions internally.	In summary, the Pension Fund is committed to fully address this issue and will seize the opportunity afforded by the Council procurement of a new financial payroll and ledger system. Appropriate process amendments will therefore be implemented by the go-live date for this new software, estimated at 1 October 2016. Where possible, some changes will be introduced much sooner. It is not proposed, however, to amend the pensioner payroll processes, given the prime customer service and also efficiency drivers. Full details and rationale is provided below: The Pension Fund has operated its own separate bank accounts since 2007, this only became mandatory from 1 st April 2011 under the 2010 regulations. Historically, Local Government Pension Schemes (LGPS) have been set up with a heavy reliance on the administering authorities systems and IT infrastructure. Owing to the inflexibility of these systems, it is our understanding that no Scottish LGPS administering authority is fully compliant with regulations. Audit Scotland is aware of this issue and has adopted a pragmatic approach in recognising that this may not be possible, given the cost implications in securing absolute bank account segregation. That said, Local Pension Fund wishes to take all practical steps to achieve regulatory compliance. To that end, liaison with senior City of Edinburgh Council Finance staff has already effected change in that pension strain costs payable by the Council will now be made by bank transfer. Further measures are shown as follows: Pension Contributions - to be paid via	01/10/16	New date required	Yellow	July update: The Fund has considered options to minimise the use of holding accounts and to this end the Council now pays pension contributions directly into the Fund bank account each month. However, a holding account is still maintained to facilitate purchase ledger transactions and miscellaneous income receipts through the Council's main bank account. The possibility of developing separate sales and purchase ledgers for the Fund through the Council's ICT has been explored but is considered prohibitively expensive. The Fund intends to explore the option of procuring a standalone ledger solution.	John Burns, Chief Finance Officer, LPF

Governance, Risk and Best Value Committee

10am, Tuesday 1 August 2017

External Audit - National and Local Scrutiny Plans 2017/18

Item number 7.3

Report number

Executive/routine

Wards

Executive Summary

Audit Scotland published the National and Local Scrutiny Plans in May 2017. This report details the planned scrutiny activity for The City of Edinburgh Council from April 2017 to March 2018.

Links

Coalition Pledges

Council Priorities

Single Outcome Agreement

National and Local Scrutiny Plans 2017/18

1. Recommendations

- 1.1 The Committee is asked to note the report and appendices.

2. Background

- 2.1 National Scrutiny Plan and Edinburgh Local Scrutiny Plan 2017-18 were published in May 2017.
- 2.2 The plans provide a summary of the scrutiny activity and are based on the risk assessment. The Plans are designed to provide assurance to the public and to identify where scrutiny will make the most difference in service improvement.
- 2.3 The National Scrutiny Plan summarises all planned strategic scrutiny activity from April 2017 to March 2018 in each of Scotland's 32 councils. It also covers work between scrutiny bodies and councils to validate self-evaluation that is designed to support improvement.

3. Main report

- 3.1 The new approach for auditing Best Value was agreed in June 2016. Best Value will be assessed over the five year audit appointment with a Best Value Assurance Report (BVAR) for each of the councils, considered by the Accounts Commission at least once during this five year period.
- 3.2 The City of Edinburgh Council will not be subject to the BVAR this year. The audit work will only focus on Best Value demonstration in financial and service planning, financial governance and resource management. The Local Area Network (LAN) will continue to monitor the Council's financial position and plans as part of the annual audit process.
- 3.3 City of Edinburgh Council will be subject to a range of risk-based and nationally driven scrutiny activity between April 2017 and March 2018. This includes:
- Audit work undertaken by Audit Scotland in areas such as: Arms Length External Organisations (ALEOs), City Deals, Children's Mental Health, Health and Social Care Integration.
 - Follow up scrutiny activity within 12 months of publication of the report on the joint inspection of Health and Social Work Services for older people.

- Scheduled audit and inspection work of school and care establishments, as well as further strategic inspection of Community Learning and Development (CLD) and CLD provision in the south-west area of the city.
 - Inspection of Scottish Fire and Rescue Service local delivery across Scotland.
 - Scottish Housing Regulator (SHR) engagement with the Council to monitor progress in addressing areas identified such as: satisfaction with home standards, non-emergency repair completion times, gas safety and some aspects of homelessness service.
- 3.4 LAN noted significant reductions in staff following transformation activities, as well as potential reductions in subsequent reviews. It is keen to understand how these reductions have been distributed across service areas and the potential impact of the staff losses. Therefore these issues will be explored during 2017/18.
- 3.5 There have been other key risk areas that LAN has considered within its scope, but has concluded there are no further scrutiny risks that require specific work during this year. LAN is satisfied that:
- Further information has been gathered to demonstrate performance in areas where previously, further information was required.
 - The Council has demonstrated self awareness of the standards of performance required at a service level.
 - The Council has demonstrated awareness of and monitoring of the key risks to meeting outcomes and service delivery.
- 3.6 The Council will continue to support auditors in their planned audit work covering the main risk-based and nationally driven scrutiny activity.

4. Measures of success

- 4.1 Measures of success for The City of Edinburgh Council are noted as part of the annual audit process.
- 4.2 Progress in the scrutiny areas will be monitored and reported regularly to senior managers and partners.

5. Financial impact

- 5.1 There is no financial impact resulting from the report.
- 5.2 The Council budget framework updates are presented to Council Leadership Team and Committee on a regular basis and the next update will be considered by the Finance and Resources Committee in September 2017.

6. Risk, policy, compliance and governance impact

- 6.1 The National and Local Scrutiny Plans complement the council's own internal risk management plans.

7. Equalities impact

- 7.1 Consideration of the equalities and rights impact forms part of the Best Value Audit assessment.

8. Sustainability impact

- 8.1 Consideration of the sustainability impact forms part of the Best Value Audit assessment.

9. Consultation and engagement

- 9.1 The Council has an ongoing dialogue with the auditors and will support them in their planned audit work covering the main risk-based and nationally driven scrutiny activity.

10. Background reading/external references

- 10.1 [The City of Edinburgh Council Best Value Audit Report 2016](#), City of Edinburgh Council, 10 March 2016
- 10.2 [The City of Edinburgh Council External Audit Plan 2016-17](#), Governance, Risk and Best Value Committee, 9 March 2017

Andrew Kerr

Chief Executive

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11. Links

Coalition Pledges	All
Council Priorities	All
Single Outcome Agreement	All
Appendices	Appendix 1 – National Scrutiny Plan 2017/18 Appendix 2 – Edinburgh Local Scrutiny Plan 2017/18

National scrutiny plan 2017/18

A summary of local government
strategic scrutiny activity



Prepared on behalf of the Strategic Scrutiny Group
May 2017

ACCOUNTS COMMISSION 

 AUDIT SCOTLAND



Inspectorate of
Prosecution in
Scotland



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.

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Links

-  PDF download
 -  Web link
-


Background



1. The National Scrutiny Plan for local government has been jointly prepared by members of the Strategic Scrutiny Group (SSG). This group comprises Scotland's main public sector scrutiny bodies – the Accounts Commission, Audit Scotland, Education Scotland, the Care Inspectorate, Healthcare Improvement Scotland, Her Majesty's Inspectorate of Constabulary in Scotland, Her Majesty's Fire Service Inspectorate, Her Majesty's Inspectorate of Prisons, Her Majesty's Inspectorate of Prosecution and the Scottish Housing Regulator. Details of each body can be found in [Appendix 1](#). In this report, they are collectively referred to as scrutiny bodies.

2. The SSG was established in February 2008 to support the delivery of better coordinated, more proportionate and risk-based local government scrutiny. Since then, local government scrutiny bodies (including appointed auditors from private sector audit firms) have worked together through Local Area Networks (LANs) to share intelligence and agree the key scrutiny risks in each of Scotland's 32 councils. Annually, each LAN prepares a Local Scrutiny Plan (LSP) setting out the planned scrutiny activity for the council to respond to those specific risks. LSPs also include nationally programmed scrutiny, such as the Care Inspectorate's joint inspections of services for children, young people and families and joint inspections of adult health and social care services. This approach, called Shared Risk Assessment (SRA), is designed to ensure well coordinated, proportionate and risk-based scrutiny.

3. This 2017/18 National Scrutiny Plan (NSP) for local government is one of the key outputs from the SRA process. It summarises all planned strategic scrutiny activity from April 2017 to March 2018 in each of Scotland's 32 councils¹. It also covers work between scrutiny bodies and councils to validate self-evaluation that is designed to support improvement.

4. A separate table showing planned scrutiny activity is available on the [Audit Scotland website](#) .

¹ Strategic scrutiny work does not include scrutiny activity carried out at service unit or institution level, such as inspections of individual schools or care homes, or the annual financial audit of public bodies.

Part 1

Strategic context



5. This year's NSP has been prepared at a time when councils, other public bodies and their partners continue to review the way they deliver services in light of the financial and demographic challenges they face.

6. The last twelve months have seen unprecedented political, social and financial change in Scotland, the UK and internationally, and it's clear that the future holds more uncertainty. Public scrutiny has a vital role to play in holding public bodies to account and helping them to improve, and this is even more important in times of change.

7. The devolution of powers and responsibilities set out in the Scotland Acts of 2012 and 2016 requires a more strategic approach to Scottish public financial management and reporting as public bodies need to work within an increasingly complex budget process.

8. The outcome of the European Union (EU) referendum, the triggering of Article 50 and the options for Brexit bring significant uncertainty. This creates capacity pressures on the UK and Scottish Governments and has wide-ranging consequences for funding streams to public bodies. The outcome of the Brexit vote and the ongoing negotiations have also reframed the debate about Scottish independence and the prospects for a second independence referendum.

9. The demand for public services is changing, reflecting the make-up of Scotland's population, with greater pressures in particular on health and social care services. Major changes are taking place to how public services are delivered, for example through the integration of health and social care services and greater community empowerment. A consistent theme of much recent scrutiny activity has been the scale of the challenge of delivering transformational change and improving outcomes at a time of rising demand and reducing resources.

10. Public services are increasingly provided through a diverse range of public, private and third sector organisations or through partnership arrangements. This means that services can be delivered in new and innovative ways, but it also creates more complex lines of responsibility and accountability.

11. In this context, it is important that public scrutiny continues to support councils and their partners to work with their populations to ensure they have access to the services and support they need. Equally, objective and authoritative public scrutiny is essential in supporting a strong and effective system of service delivery and financial accountability and transparency in Scotland.

Part 2

Scrutiny activity



National scrutiny programmes

12. There is a range of national scrutiny activity planned across councils over the next year and beyond. Where activity has been identified for 2017/18 that impacts on individual councils and their delivery partners, it is included in the National Scrutiny Plan. In addition, there may be a range of other unplanned scrutiny that takes place across councils during the year. For example, Education Scotland undertook a focused review of local authorities' actions to tackle unnecessary bureaucracy and undue workload in schools in August 2016. This was at the request of the Cabinet Secretary for Education and Skills and was one strand within a wider set of actions announced in the Scottish Government's Delivery Plan. Education Scotland visited each of the 32 local authorities to review the demands placed on schools by local authorities in relation to Curriculum for Excellence. A summary of review findings was published in September 2016.

13. Significant pieces of national scrutiny activity that are planned during 2017/18, as well as developments in scrutiny approaches are outlined below.

Audit Scotland

Best Value


14. In December 2014, the Accounts Commission concluded its review of Best Value and set out principles for a new approach to auditing Best Value. These principles include the need for more frequent assurance on Best Value across all 32 councils, integrating the audit processes, an increased emphasis on driving improvement, and a strong focus on the quality of service experienced by the public and the outcomes achieved.

15. The new approach began to be rolled out from October 2016. It includes an assessment each year of aspects of Best Value as part of an integrated annual audit and a public Best Value Assurance Report (BVAR) for each council at least once in a five-year period that will bring together an overall picture of the council drawn from a range of audit activity. BVARs for the six councils in the first year of the programme will be reported to the Accounts Commission during 2017/18.

16. The five-year rolling Best Value programme will be reviewed and refreshed annually in agreement with the Accounts Commission. The results of the SRA process will make a significant contribution to the audit intelligence that inform decisions about the programme, both in terms of the sequencing and timing of audits and the focus of audit work at individual councils.

National performance audits

17. Audit Scotland carries out a programme of national performance audits that it undertakes on behalf of the Accounts Commission and Auditor General

for Scotland. Audit Scotland has several performance audits covering local government planned during 2017/18. It will be carrying out audits covering arm's-length external organisations (ALEOs), city deals, children's mental health and health and social care integration. Any engagement with individual councils is still to be determined. Details of the performance audit programme for 2017/18 is available [here](#) 

Housing benefit risk assessments

18. Audit Scotland will also continue to carry out a national programme of housing benefit risk assessments across councils during 2017/18. It will review its future approach to the scrutiny of benefits in light of the changing powers around social security in Scotland and recent changes to Best Value auditing.

Care Inspectorate

Alcohol and drugs partnerships

19. During 2016/17, the Care Inspectorate carried out Validated Self-Evaluation (VSE) activity with Alcohol and Drug Partnerships (ADPs). The purpose of this activity was to support the validation of ADP and services' self-assessment of local implementation and service compliance with the Quality Principles: Standard Expectations of Care and Support in Drug & Alcohol Services. The findings from this validation work will inform the future programme of national support for continuous improvement. The Care Inspectorate provided feedback from its work to individual ADPs in December 2016 and is due to publish a national overview report in May 2017.

Joint inspection of services for children

20. As part of the Child Protection Improvement Programme announced by the Minister for Childcare and Early Years in March 2017, the Care Inspectorate will lead the development of a future model of joint inspection of services for children that focuses on the experiences of, and outcomes for, the most vulnerable children. In developing the revised framework, the Care Inspectorate is chairing a short-life working group, which includes scrutiny partners, to consider all recommendations from inspections relevant to the Child Protection Improvement Programme. In particular, the group is looking at systems review, data, evidence and leadership. The group is also considering how scrutiny and improvement work can best be provided for services for all children and families, including collaborating with other partners to develop and improve the use of self-evaluation tools. The Care Inspectorate is scheduled to provide a report to ministers by 31 May 2017, recommending the way forward for a revised inspection framework, including the proposed scope of future inspections. This framework is to be in place by the time the current framework concludes in December 2017.

Coordinating national and local scrutiny of progress with health and social care integration

21. There are a number of scrutiny bodies with an interest in the performance of integration authorities and the progress that is being made nationally and locally in delivering health and social care integration:

- The Accounts Commission is responsible for appointing external auditors to integration authorities.
- During 2017/18 the Auditor General for Scotland and the Accounts Commission will be undertaking their second national performance audits on health and social care integration. This audit will follow up on

the emerging risks highlighted in their initial December 2015 report and will assess the early impact that health and social care integration is having in shifting the balance of care and improving outcomes for older people. It will consider issues such as: governance arrangements; budget setting; strategic planning; engagement with the voluntary sector, GPs, and housing providers; the development of locality planning; and, carer and user involvement.

- From 1 April 2017, the Care Inspectorate and Healthcare Improvement Scotland (HIS) have new responsibilities to inspect the planning, organisation or coordination of the services that health boards and local authority's delegate to integration authorities, as set out within their integration schemes. The Care Inspectorate and HIS must also review and evaluate the effectiveness of the integration authority's strategic plan, and encourage improvement in the effectiveness of that plan if necessary. They will commence a programme of joint inspections of health and care partnerships in 2017/18, focusing on joint strategic planning and commissioning, governance and leadership and outcomes for adults/older people.

22. Audit Scotland, the Care Inspectorates and HIS will coordinate their various audit and inspection interests in integration authorities and health and social care integration, drawing on each other's work and deploying joint teams where appropriate.

Thematic review of adult support and protection

23. Adult support and protection was included as a focus area during the Care Inspectorate-led joint inspections of services for older people undertaken between 2012/13 and 2016/17.

24. In light of reviewing the methodology for joint inspections of services for older people to focus on the quality of strategic commissioning, in 2017/18 the Care Inspectorate will lead on developing a joint approach to scrutinising adult support and protection. This is an approach that should identify strengths and areas for improvement that can be disseminated relatively quickly across partnership areas. It may also help inform policy planning, development and implementation, support improvement nationally and identify whether additional more targeted scrutiny and assurance may be required.

Thematic review of self-directed support implementation

25. This remains a key Scottish Government policy. Self-directed support was included as a focus area during the joint inspections of services for older people undertaken between 2012/13 and 2016/17. In light of the review of the methodology for joint inspections of services for older people, during 2017/18 the Care Inspectorate will lead on developing a thematic review of aspects of self-directed support. As with adult support and protection, this approach should help inform policy planning, development and implementation and identify whether additional more targeted scrutiny and assurance is required.

26. The Care Inspectorate's work on self-directed support will complement and build on the audit work that Audit Scotland has been carrying out over the past year in following up its first audit on [Self-directed support](#)  in June 2014. The outputs of the current audit work will be published during the summer of 2017.

Education Scotland

27. Education Scotland is currently reviewing arrangements for providing public assurance on the quality of the education functions of local authorities. Its inspectors

will undertake appropriate independent or joint evaluative activity within local authorities to report publicly on raising educational attainment and closing the attainment gap. During 2017/18, Education Scotland's scrutiny programme will continue to include validated self-evaluation of educational psychology services; strategic inspection of community learning and development provision; and scrutiny work on the quality of careers information and guidance services delivered by Skills Development Scotland across council areas.

Her Majesty's Fire Service Inspectorate (HMFSI)

28. HMFSI will continue to inspect Scottish Fire and Rescue Service (SFRS) local service delivery across Scotland. These inspections will examine, among other things, local scrutiny and engagement between the SFRS and councils. As part of its programme, HMFSI intends to inspect service delivery in three local authority areas during 2017/18. HMFSI also has a programme of thematic inspection planned, but this work is unlikely to result in contact with local authorities. However, HMFSI may also carry out ad hoc inspections in response to specific events, which could involve contact with local authorities.

Her Majesty's Inspectorate of Constabulary in Scotland (HMICS)

29. HMICS will continue to inspect local policing divisions across Scotland. Divisional inspections will cover partnership working and in particular, local scrutiny and engagement between Police Scotland and councils and the local Community Planning Partnership and Community Safety Partnership. Local police inspections also include a 'plus' element, which aims to investigate national issues through a local lens. These elements are subject to separate reports published on its website www.hmics.org.uk .

Her Majesty's Inspectorate of Prisons for Scotland (HMIPS)

30. HMIPS will inspect prisons in Scotland, jointly with Healthcare Improvement Scotland, Education Scotland, the Care Inspectorate and the Scottish Human Rights Commission. Each prison will be monitored on a weekly basis by volunteer Independent Prison Monitors who are allocated to each prison. Reports of findings from both inspection and monitoring are published regularly throughout the year. In 2017/18, HMIPS will also publish its report of a study of the lived experience of older prisoners in Scotland's prisons.

Inspectorate of Prosecution in Scotland (IPS)

31. The IPS will publish the findings of its thematic inquiry work completed during 2016/17, including a review of the investigation and prosecution of sexual crimes in Scotland, having regard to the availability of support agencies for victims provided in local authority areas. As part of its programme, IPS will continue to inspect service delivery by the Crown Office and Procurator Fiscal Service at both national and local level.

Scottish Housing Regulator (SHR)

32. The SHR will publish the findings of its thematic inquiry work into gas safety and repairs completed during 2016/17. It may carry out further thematic inquiries during 2017/18. The SHR will also review the Scottish Social Housing Charter data submitted by landlords and carry out data accuracy visits during the second quarter of 2017/18. Where councils are to be involved in a thematic inquiry or a data accuracy visit, the SHR will confirm this directly with the council and the LAN lead.

33. The SHR has identified four local authorities for scrutiny this year – Glasgow City, Dumfries & Galloway, Shetland Islands, and Highland councils. The SHR's engagement with Glasgow City and Dumfries & Galloway councils is continuing from last year because of serious performance issues around homeless services. Shetland Islands and Highland councils have been identified for scrutiny this year, because of their poor performance around a range of tenant service performance indicators, and in the case of Shetland, scrutiny risks in relation to its homeless service.

34. The SHR plans to carry out its scrutiny with these four councils by means of ongoing engagement throughout the year. It has not identified the need for any specific on-site scrutiny work and as such, its engagement with the councils is not reflected in the national scrutiny plan for 2017/18.

Part 3

Strategic scrutiny group priorities



35. Since it was established in 2008, the Strategic Scrutiny Group (SSG) delivered more coordinated scrutiny in local government by implementing the SRA process in Scotland's 32 councils.

36. The SSG also continues to act as a forum for scrutiny bodies to discuss key strategic scrutiny developments (eg, Accounts Commission's new approach to auditing Best Value in local government, Healthcare Improvement Scotland's new approach to assessing the quality of care in Scotland and building improvement capacity in the NHS, Education Scotland's developments in inspection approaches, and the Care Inspectorate-led joint review of approaches to inspecting children and adults' services) and identifying opportunities for aligning assessment frameworks and methodologies.

37. A key ambition for the SSG is to move beyond the coordination of scrutiny towards greater collaboration and integration of scrutiny activity and approaches.

38. Over the next year the SSG's priorities are to focus its collective efforts in areas that:

- will deliver improvements in efficiency and add value to how scrutiny is delivered;
- create more public value through greater collaboration and the alignment of scrutiny assessment frameworks and approaches; and
- will deliver more sharing of skills and expertise across scrutiny bodies and ensure that scrutiny partners are learning from each others good practices and from scrutiny approaches and methodologies.

39. The SSG has identified several cross-cutting themes (Community Empowerment, Integrated public service delivery, prevention, addressing inequalities and improvement) as potential lenses through which any future collaborative scrutiny can be viewed. There are also several practical areas already identified for scrutiny activity where greater collaborative scrutiny between SSG members can be developed, including:

- Health and social care integration
- Fire reform
- Mental Health (including prisoner healthcare and support)
- Housing

- Children's Services
- Educational attainment.

40. The SSG is keen to use future collaborative scrutiny activity as an opportunity to test new approaches to scrutiny in line with the recommendations of its 2016 short-life working group on 'Scrutiny in the 21st century'. This would mean:

- focusing on the impact that implementation of the community empowerment and integrated children's services agendas are having on improving outcomes and addressing inequalities within specific communities
- adopting more flexible approaches to resourcing scrutiny activity (shared leadership of scrutiny teams, staff secondments, etc.)
- testing common methodologies and scrutiny approaches.

Appendix 1

The Local Government Scrutiny Coordination Strategic Group members



Accounts Commission	The Accounts Commission is a non-departmental public body (NDPB). The Accounts Commission is the public's independent watchdog for local government in Scotland. Its role is to examine how Scotland's 32 councils manage their finances, help these bodies manage their resources efficiently and effectively, promote Best Value and publish information every year about how they perform.
Audit Scotland	Audit Scotland is a statutory body providing services to the Accounts Commission and the Auditor General for Scotland (AGS). Working together, the Accounts Commission, the AGS and Audit Scotland ensure that public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.
Care Inspectorate	The Care Inspectorate is a non-departmental public body (NDPB). Its purpose is to provide robust, independent assurance and protection for people who use social work and social care services and support innovation and improvement. It undertakes work itself or with scrutiny partners as in the case of children's services inspections.
Education Scotland	Education Scotland is an executive agency. It is the Scottish Government's national development and improvement agency for education. It is charged with providing support and challenge to the education system, from early years to adult learning, in line with the government's policy objectives.
Healthcare Improvement Scotland	Healthcare Improvement Scotland (HIS) is a health body. The function of HIS is to improve the quality of the care and experience of every person in Scotland every time they access healthcare by supporting healthcare providers.
Her Majesty's Fire Service Inspectorate	Her Majesty's Fire Service Inspectorate in Scotland exists to provide independent, risk based and proportionate professional inspection of the Scottish Fire and Rescue Service. Its purpose is to give assurance to the Scottish public and Scottish ministers that the Service is working in an efficient and effective way, and to promote improvement in the Service. Through this, the Inspectorate provides external quality assurance to the Service, and provides support to the Service in delivering its functions.
Her Majesty's Inspectorate of Constabulary in Scotland	Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) provides independent scrutiny of both Police Scotland and the Scottish Police Authority. Its approach is to support Police Scotland and the Authority to deliver services that are high quality, continually improving, effective and responsive to local needs. It can inspect other UK police services that operate in Scotland and are members of the National Preventive Mechanism, inspecting police custody centres to monitor the treatment and conditions for detainees.
Her Majesty's Inspectorate of Prisons for Scotland	Her Majesty's Chief Inspector of Prisons for Scotland provides oversight and scrutiny of the 15 prisons in Scotland, by way of inspection and monitoring, in order to report on the conditions in prison and the treatment of prisoners. Monitoring is conducted by volunteer Independent Prison Monitors, who are required to visit every prison every week, to respond to prisoners' requests and to monitor conditions. HMIPS also has responsibility for inspecting court custody cells and the conditions in which prisoners are transported.

Inspectorate of Prosecution in Scotland	The Inspectorate of Prosecution in Scotland is headed by HM Chief Inspector who reports directly to the Lord Advocate. The aim of the Inspectorate is to enhance the quality of service and public confidence in the Crown Office and Procurator Fiscal Service through independent inspection and evaluation.
Scottish Housing Regulator	The Scottish Housing Regulator (SHR) is a non-ministerial department. The statutory objective of the SHR is to safeguard and promote the interests of people who are or may become homeless, tenants of social landlords, or recipients of housing services provided by social landlords.

Appendix 2

Glossary



Local Scrutiny Plan (LSP)	Document which captures agreed areas of risk and good practice, and the resulting scrutiny response for each council. It is the primary planning document for scrutiny bodies.
Local Area Network (LAN)	There is a LAN for each council, comprising representatives of all the scrutiny bodies who engage with the council. LAN members ensure that information and intelligence held by each scrutiny body is shared.
Local Government Benchmarking Framework (LGBF)	The LGBF reports on how much councils spend on particular services, their performance and how satisfied people are with these services. It supports evidence-based comparisons between similar councils so that they can work and learn together to improve their services.
National Scrutiny Plan (NSP)	The aggregation of the individual council's scrutiny plans into a national plan detailing all the scrutiny work planned across Scottish councils.
Scottish Social Housing Charter	The Scottish Social Housing Charter sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities. The Charter was approved by the Scottish Parliament and came into effect from 1 April 2012 and has been revised with effect from 1 April 2017.
Shared Risk Assessment (SRA)	A joint approach using key information about local government to plan scrutiny activity that is proportionate and based on risk.
Validated self-evaluation (VSE)	Assistance provided by Education Scotland to councils on request, to help them develop their own methods and quality of self scrutiny.

National scrutiny plan 2017/18

A summary of local government strategic scrutiny activity

This report is available in PDF and RTF formats,
along with a podcast summary at:

www.audit-scotland.gov.uk 

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City of Edinburgh Council

Local Scrutiny Plan 2017/18



City of Edinburgh Council

Local Scrutiny Plan – April 2017 to March 2018

Introduction

1. This local scrutiny plan sets out the planned scrutiny activity in City of Edinburgh Council during the financial year 2017/18. The plan is based on a shared risk assessment undertaken by a local area network (LAN), comprising representatives of all the scrutiny bodies who engage with the council. The shared risk assessment process draws on a range of evidence with the aim of determining any scrutiny activity required and focusing this in the most proportionate way.
2. This plan does not identify or address all risks in the council. It covers only those risk areas that the LAN has identified as requiring scrutiny, or where scrutiny is planned as part of a national programme. Planned scrutiny activity across all councils in Scotland informs the National Scrutiny Plan for 2017/18, which is available on the Audit Scotland website.

Scrutiny risks

3. The Accounts Commission agreed the overall framework for a new approach to auditing Best Value in June 2016. Best Value will be assessed over the five year audit appointment, as part of the annual audit work. In addition a Best Value Assurance Report (BVAR) for each council will be considered by the Accounts Commission at least once in this five year period. The BVAR report for City of Edinburgh Council is not planned in the period covered by this scrutiny plan. The Best Value audit work planned this year will focus on the council's arrangements for demonstrating Best Value in financial and service planning, financial governance and resource management. Consideration will also be given, where applicable, to the council's response to previous Best Value reports. The findings for this work will be reported in the Annual Audit Report.
4. The council has an approved financial strategy and medium-term revenue budget framework covering the period until 2020/21. The assumptions within the framework are reviewed on an at-least quarterly basis. While the assumptions are, by extension, indicative, a high-level, ten-year financial planning model is also maintained.
5. The potential for further pressures to emerge relative to the budget framework assumptions for 2018/19 and subsequent years has been acknowledged and the Council Leadership Team (CLT) has initiated a process whereby a programme of potential options will be made available to the incoming Administration in May 2017.

6. The LAN will continue monitoring the council's financial position and plans as part of the annual audit process.
7. The council is implementing a transformation programme aimed at building a lean and agile organisation with a focus on individuals and communities. Four core projects around localities, business and support services, customer and asset management have been developed and are supported by a number of cross-cutting workstreams. Total recurring annual savings of £70 million (revised from £77 million in January 2017) are anticipated through the delivery of the programme with the savings coming from organisational reviews of services, implementation of a new asset management strategy and reducing payments to third parties.
8. The council continues to make good progress in implementing the programme. Improved senior officer and elected member scrutiny of the development, implementation and monitoring of savings has contributed to a marked increase in delivery, with over 92 per cent of approved savings on track to be delivered in 2016/17. Significant savings have been delivered through staffing efficiencies, with the implementation of the transformation programme resulting in overall staff numbers reducing by 1,008 FTE between October 2015 and January 2017 (6.6 per cent reduction). The paybill for the same period has reduced by 6.5 per cent. Organisational reviews are either complete or underway. Those underway are expected to be complete by August 2017. At the outset, heads of service were tasked with designing new staffing structures which could support the continued delivery of quality services whilst ensuring the necessary cost savings were delivered.
9. A new structure for executive directors was approved in December 2015. This rearranges some responsibilities, with areas such as ICT, Strategy & Insight, and Communications now reporting directly to the chief executive and the deputy chief executive post now replaced by an executive director of resources. Permanent appointments to the posts of executive director of communities and families and executive director of resources were made in March 2017.
10. In August 2015 the council awarded CGI the contract for the provision of ICT services. Following a transition of services in late 2015 and early 2016, the CGI contract went live on 1 April 2016. The council has reported a number of benefits from the first phase of implementation of the contract, including significantly increased network bandwidth in council schools and council offices.
11. A further 12 projects will be delivered through 2017 as part of the CGI contract, with joint governance arrangements in place involving the council, CGI and supply chain partners. Most of these projects have commenced, although officers have acknowledged that timescales for implementation of some projects, such as Enterprise Integration and Enterprise Resource Planning, have slipped due to technical, contractual and resource challenges. Progress updates on the workstreams are reported regularly to management team and committee.

12. The LAN will continue monitoring progress on these IT projects through the annual audit process.
13. A joint inspection of health and social work services for older people was carried out by the Care Inspectorate and Health Care Improvement Scotland in the autumn of 2016. This was concluded in December and the draft report with evaluations has since been shared with the Edinburgh Partnership. The inspection has highlighted several areas that have been evaluated as weak and one area where the inspection has evaluated performance as unsatisfactory. As a result of local election timetable, the final report is likely to be published in May 2017. There are a number of recommendations for improvement which the partnership is required to take forward.
14. In March 2017, Education Scotland carried out a strategic inspection of community learning and development (CLD) in the council and CLD provision in the south-west area of the city. This inspection highlighted strengths, including the safe and nurturing environment which helped to facilitate life-changing impacts for learners and the well-targeted interventions which addressed health inequalities and tackled social isolation. Areas for improvement included: the need to strengthen the governance of CLD at all levels; agree shared outcomes and methods of reporting with partners and improve communication with all stakeholders; and improve the use of self-evaluation supported by robust data to inform planning. Education Scotland will provide support for the authority in implementing its improvement agenda and will carry out a further inspection by June 2018.
15. The council has spent all of its allocated Scottish Attainment Challenge (SAC) funding. Plans for taking forward the Pupil Equity Fund (PEF) are under discussion.
16. To assess the risk to social landlord services the Scottish Housing Regulator (SHR) has reviewed and compared the 2015/16 performance of all Scottish social landlords to identify the weakest performing landlords. It found that City of Edinburgh is in the bottom quartile for all social landlords in relation to: tenants satisfied with the standard of their home when moving in; gypsies/travellers satisfied with the management of the site; factored owners satisfied with the factoring service; time to complete non-emergency repairs; repairs completed right first time; gas safety; rent collected; gross arrears and some aspects of its homelessness service.

Planned scrutiny activity

17. As shown in Appendix 1, the council will be subject to a range of risk-based based and nationally driven scrutiny activity between April 2017 and March 2018. For some of their scrutiny activity in 2017/18, scrutiny bodies are still to determine their work programmes which specific council areas they will cover. Where a council is to be involved, the relevant scrutiny body will confirm this with the council and the appropriate LAN lead.
18. In addition to specific work shown in Appendix 1, routine, scheduled audit and inspection work will take place through the annual audit process and the ongoing

inspection of school and care establishments by Education Scotland and the Care Inspectorate respectively. Individual audit and inspection agencies will continue to monitor developments in key areas of council activity and will provide support and challenge as appropriate. This will help to inform future assessment of scrutiny risk.

19. Audit Scotland plans to undertake performance audit work in a range of areas covering local government during 2017/18. These include Arms Length External Organisations (ALEOs), city deals, children's mental health and health and social care integration. Any engagement with individual councils is still to be determined. Details of future audit work are available on the Audit Scotland [website](#).
20. Audit Scotland will also continue to carry out a national programme of housing benefit risk assessments across councils during 2017/18 and this includes Edinburgh. It will review its future approach to the scrutiny of benefits in light of the changing powers around social security in Scotland and recent changes to Best Value auditing.
21. Following the findings of the joint inspection of health and social work services for older people in 2016, the Care Inspectorate envisages that ongoing work will be undertaken to support improvement. There will also be a clear expectation that the Care Inspectorate and Health Care Improvement Scotland will undertake follow-up scrutiny activity within a 12 month period of the report being published.
22. HMFSI will continue to inspect Scottish Fire and Rescue Service (SFRS) local service delivery across Scotland. These inspections will examine, among other things, local scrutiny and engagement between the SFRS and councils. As part of its programme, HMFSI intends to inspect service delivery in Edinburgh during 2017/18.
23. In relation to its housing and homelessness services, SHR will engage with the council to monitor its progress in addressing the weaknesses identified in relation to: tenants satisfied with the standard of their home when moving in; gypsies/travellers satisfied with the management of the site; factored owners satisfied with the factoring service; time to complete non-emergency repairs; repairs completed right first time; gas safety; rent collected; gross arrears and some aspects of its homelessness service. The council will submit quarterly progress reports in relation to its proposed improvement actions and outcomes. SHR will meet with council officials as necessary.
24. SHR will publish the findings of its thematic inquiry work into gas safety and repairs completed during 2016/17. It may carry out further thematic inquiries during 2017/18. SHR will also review the Scottish Social Housing Charter data submitted by landlords and carry out data accuracy visits during the second quarter of 2017/18. Where councils are to be involved in a thematic inquiry or a data accuracy visit, the SHR will confirm this directly with the council and the LAN lead.
25. The LAN notes the significant reductions in staff arising from transformation activities to date, as well as the potential for the remaining reviews to result in further reductions. The LAN is keen to understand how staff reductions have been distributed across council departments and services and the potential impact of the loss of both numbers

and skills. The LAN will explore these issues in more detail with the council during 2017/18.

26. The LAN has considered other key risk areas within its scope and concluded that there are no further scrutiny risks that require specific work this year. This does not mean that the council has addressed all risks, or that all areas of performance are improving. However, it does mean that the LAN is satisfied that:

- there has been further information gathered by the LAN to demonstrate performance in areas where, previously, further information was required
- the council has demonstrated self awareness of the standards of performance required at a service level
- there is evidence to demonstrate the council's awareness of, and monitoring of, the key risks to meeting outcomes and service delivery.

May 2017

Appendix 1: Scrutiny plan

Scrutiny body	Scrutiny activity	Date
Audit Scotland	Audit Scotland has four planned performance audits covering local government in 2017/18 focusing on Arms Length External Organisations (ALEOs), City Deals, Children's Mental Health and Health and Social Care Integration.	To be determined
	Audit Scotland will also continue to carry out a national programme of housing benefit risk assessments across councils during 2017/18 and this includes Edinburgh.	January – March 2018
Care Inspectorate and Healthcare Improvement Scotland	There are no planned joint inspections for adult or children's services for 2017/18. The Care Inspectorate will be undertaking themed inspections/reviews around adult support and protection and self-directed support, though it is not yet known if the Edinburgh partnership will be included in these.	To be determined
	The Care Inspectorate and Health Care Improvement Scotland will undertake follow up scrutiny activity within a 12 month period of the report on the joint inspection of health and social work services for older people being published.	To be determined.
Education Scotland	Career Information, Advice and Guidance (CIAG) reviews and follow-up visits.	November 2017
	Education Scotland will carry out a further strategic inspection of Community Learning and Development (CLD) and CLD provision in the south-west area of the city.	January – March 2018
Her Majesty's Fire Service Inspectorate (HMFSI)	HMFSI will continue to inspect Scottish Fire and Rescue Service (SFRS) local service delivery across Scotland. These inspections will examine, among other things, local scrutiny and engagement between the SFRS and councils. As part of its programme, HMFSI intends to inspect service delivery in Edinburgh during 2017/18.	January – February 2018
Scottish Housing Regulator (SHR)	SHR will engage with City of Edinburgh Council to monitor its progress in addressing the weaknesses identified in relation to tenants satisfied with the standard of their home when moving in; gypsies/travellers satisfied with the management of the site; factored owners satisfied with the factoring service; time to complete non-emergency	Quarterly

Scrutiny body	Scrutiny activity	Date
	repairs; repairs completed right first time; gas safety; rent collected; gross arrears and some aspects of its homelessness service. The council will submit quarterly progress reports in relation to its proposed improvement actions and outcomes. SHR will meet with council officials as necessary.	
	The Scottish Housing Regulator (SHR) will publish the findings of its thematic inquiry work into gas safety and repairs completed during 2016/17. It may carry out further thematic inquiries during 2017/18. If the council is to be involved in a thematic inquiry or a data accuracy visit SHR will confirm this directly with the council and the LAN lead.	To be determined

City of Edinburgh Council

Local Scrutiny Plan

2017/18

A summary of local government strategic scrutiny activity

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Governance, Risk and Best Value Committee

10.00am, Tuesday, 1 August 2017

Property Conservation Project Closure Review

Item number 7.4
Report number
Executive/routine
Wards

Executive summary

The legacy statutory repairs resolution projects are now close to completion. At its meeting on 22 December 2016, the Governance, Risk and Best Value Committee requested that Internal Audit conduct a project closure review to establish whether there are any lessons to be learned from the Council's handling of the Property Conservation service closure.

Internal Audit has concluded this review and identified a total of 23 lessons learned opportunities (which also include examples of good practice) that have been discussed and agreed with senior management. These cover governance and decision making, the Council's policies, and engagement with owners. The full report is included at Appendix 1.

The findings of a separate Internal Audit review of the new Edinburgh Shared Repairs Service are reported in Appendix 2. We were pleased to find that robust governance arrangements have been implemented for the new ESRS, and that the Service has embedded the lessons learned from the operational failings of the former Property Conservation service.

Links

Coalition pledges
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Single Outcome Agreement

Property Conservation Project Closure Review

1. Recommendations

- 1.1 Committee is requested to note the 'lessons learned' from the Property Conservation service closure set out in Appendix 1, and the findings of the Internal Audit review of the Edinburgh Shared Repairs Service described in Appendix 2.

2. Background

- 2.1 At its meeting on 22 December 2016, the Governance, Risk and Best Value Committee (GRBV) requested that Internal Audit conduct a project closure review to establish whether there are any lessons to be learned from the Council's handling of the Property Conservation service closure.
- 2.2 The project closure review did not include an investigation of the operational failings of the former Property Conservation service, or the development of the new Edinburgh Shared Repairs Service (ESRS). However, a review of the Enforcement stage of ESRS was included in the 2017/18 Internal Audit Plan and was completed in June 2017. The results of this review are included as Appendix 2.

3. Main report

Property Conservation Project Closure

- 3.1 At the request of GRBV, Internal Audit conducted a 'lessons learned' review of the projects implemented by the former Services for Communities and Corporate Governance directorates to resolve the significant problems inherited from the Property Conservation service when it was closed in April 2011.
- 3.2 The Property Conservation service closure was extremely complex. Many property owners were affected by the poor project management and service culture at the former Property Conservation service. The former Services for Communities Directorate inherited a caseload of 986 complaints, £30m unbilled work and £7.8m suspended debt to resolve.
- 3.3 Six years later, the challenges inherited from Property Conservation are largely resolved. C. £24m was billed to owners through Project Joule and the earlier

Property Conservation closure work, of which 80% has now been recovered. £13.9m was written off as unbillable work-in-progress and in settlements with owners.

3.4 The Property Conservation closure has cost the Council at least £8.3m in consultancy costs since 2011 with, at its height, a team of 42 seconded staff and consultants from Thomson Bethune and Deloitte working on the closure programme.

3.5 Internal Audit reviewed the full closure programme from the point where problems in the Property Conservation service first became apparent in 2010. At each stage, Internal Audit considered:

- programme governance and decision-making arrangements;
- the application and adequacy of Council procedures and policies; and
- the level of the Council's engagement with and communication to owners.

3.6 A total of 23 lessons learned were identified in relation to governance and decision making, the Council's policies, and engagement with owners. These have been discussed and agreed with senior management. The lessons learned include examples of good practice developed during the programme which should be drawn on in future, as well as areas where we feel the Council's response could have been improved.

3.7 The full report on this 'lessons learned' review can be found in Appendix 1.

Edinburgh Shared Repairs Service

3.8 A review of the ESRS was included in the 2017/18 Internal Audit Plan which was approved by GRBV in March 2017.

3.9 Internal Audit assessed the design and operating effectiveness of ESRS controls over project and contract management, drawing our conclusions from a review of the three projects which have so far been delivered under the new Enforcement service.

3.10 We were pleased to find that robust governance arrangements have been implemented for the new ESRS, and that the Service has embedded the lessons learned from the operational failings of the former Property Conservation service. We have made two low priority and one advisory recommendations for improvement.

3.11 The full Internal Audit report on the ESRS can be found in Appendix 2.

4. Measures of success

- 4.1 An improved response to future events with significant reputational, legal and financial repercussions as a result of lessons learned from the Property Conservation closure programme.

5. Financial impact

- 5.1 None.

6. Risk, policy, compliance and governance impact

- 6.1 Four 'lessons learned' relating to policy and governance were identified from the Property Conservation service closure programme:
- Scrutiny and challenge from elected members from 2010 onwards meant reporting was increasingly clear and decisions were transparent. As a result, there was sustained pressure on management to investigate the allegations against Property Conservation thoroughly and take decisive action to remedy the problems endemic to the Service;
 - The role of Governance, Risk and Best Value in scrutinising investigations and significant projects led by other Council committees should be clarified. This includes the flow of information to GRBV, and extent of its powers in decision-making;
 - Officers had no authority to settle with owners where they identified problems with the project and/or errors in the bill before 2013. A clear delegation of authority gives officers the ability to resolve complex complaints efficiently and at a lower cost to the Council; and
 - Officers have implemented the Council's Corporate Debt Policy to maximise recovery as they are duty bound to do. Any decision to deviate from policy for contentious matters such as legacy statutory repairs must be a political decision taken by elected members.

7. Equalities impact

- 7.1 No full ERIA is required.

8. Sustainability impact

- 8.1 None.

9. Consultation and engagement

- 9.1 Members of GRBV and the Finance and Resources Committee, property owners, and external experts were interviewed during fieldwork for the Property Conservation Project Closure review.

10. Background reading/external references

- 10.1 None.

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Links

Coalition pledges

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Single Outcome Agreement

Appendices

Appendix 1 – Property Conservation Project Closure Review
Appendix 2 – Internal Audit review of the Edinburgh Shared Repairs Service

The City of Edinburgh Council

Internal Audit

Property Conservation: Project Closure Review
Final Report

June 2017

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This internal audit review is conducted for the City of Edinburgh Council under the terms of reference approved by the Governance, Risk and Best Value Committee in February 2017. The review is designed to help the City of Edinburgh Council assess and refine its internal control environment. It is not designed or intended to be suitable for any other purpose and should not be relied upon for any other purpose. The City of Edinburgh Council accepts no responsibility for any such reliance and disclaims all liability in relation thereto.

The internal audit work and reporting has been performed in line with the requirements of the Public Sector Internal Audit Standards (PSIAS) and as a result is not designed or intended to comply with any other auditing standards.

Although there is a number of specific recommendations included in this report to strengthen internal control, it is management's responsibility to design, implement and maintain an effective control framework, and for the prevention and detection of irregularities and fraud. This is an essential part of the efficient management of the City of Edinburgh Council. Communication of the issues and weaknesses arising from this audit does not absolve management of this responsibility. High and Critical risk findings will be raised with senior management and elected members as appropriate.

Executive summary

The former Property Conservation service effectively closed in April 2011, when Services for Communities took on management responsibility for the Service and issued a moratorium on new Property Conservation works. Services for Communities, and later Corporate Governance, inherited significant challenges with:

- 986 complaints from owners;
- 84 projects on site, with over 100 more in the pipeline in April 2011;
- Over £30 million of unbilled work;
- 11,500 historic unenforced Statutory Notices;
- 74 defects projects;
- £7.8 million suspended debt where invoices had been challenged;
- Claims from contractors for loss of profit and late payment totalling £1.6 million.

This is a 'lessons learned' review of the projects implemented by the Council to resolve these issues. It has been an extremely complex programme, with at its height a team of 42 seconded staff and consultants from Thomson Bethune and Deloitte working on the Property Conservation closure at a cost of at least £8.3 million since 2011.

The problems inherited from the service were not solely financial. Many property owners across the City were affected by the poor project management and service culture at the former Property Conservation service. There were escalating costs on statutory notices and lengthy building work which will inevitably have caused significant disruption to owners. In many cases there were concerns over the quality of work, and whether the work undertaken by the Council was necessary in the first place.

The Council has put significant resources into an independent review of unbilled work and disputed invoices so that owners do receive accurate bills for work completed within the statutory notice. However, this does not alter the fact that owners have received significant bills (in some cases as high as £45,000) for work which was completed several years earlier. As owners and elected members interviewed told us, the problems with Property Conservation have caused considerable distress to many.

6 years later, the challenges inherited from Property Conservation are largely resolved. £17.4 million was billed to owners through Project Joule, of which 82% has now been collected; all but 2 defects projects are completed and billed; payouts to contractors were limited to £0.4 million with only £0.2 million still to settle; and suspended debt has been cleared to £0.3 million.

The cost has been in excess of £22 million before considering internal costs. As well as consultant costs, the Council has written off £13.9 million to date, of which £7.4 million was unbillable Work-in-Progress, and £4.2 million relates to settlements with owners. There is still £4.5 million of debt outstanding, with cases at various stages of the collection process.

Key observations and lessons learned

It is clear to Internal Audit that the service provision by the former Property Conservation service fell below the standards that would have been expected and that the problems experienced have caused distress to owners.

Our key observations and lessons learned relating to governance and decision making, the application and adequacy of Council procedures and policies, and engagement with owners are set out below. Our detailed observations and lessons learned can be found in **Section 2**, and the Lessons Learned summary in **Appendix 1**.

Governance & Decision-Making

- There was a high level of scrutiny from elected members throughout the Property Conservation Closure Project, with regular and detailed reporting to both the Finance and Resources Committee, and the Governance, Risk and Best Value Committee. This meant there was sustained pressure on management to investigate and resolve the complaints regarding Property Conservation.
- This was a long and complex project. Programme governance and progress were reviewed at key stages

and action was taken to address 'blocks' and advance the progress: notably with the transfer of management responsibility to Services for Communities in 2011, and with the appointment of Deloitte to set up a Project Management Office in 2014.

- Authority to settle or write-off Property Conservation debt and unbilled WIP was not delegated to the Director of Services for Communities until 2013, at which time it was set at just £3,000 per project. This meant that the Resolution Team did not have the ability to correct billing errors or agree settlements with owners so 'complex' cases were put on hold.

Application and adequacy of Council procedures and policies

- As legal settlement was made on a case by case basis, there has been instances where a commercial decision was taken to settle with one owner (because the costs of and risks inherent in seeking recovery were deemed too high), and the settlement not extended to others in the building. As a result, owners in a single building may pay several different amounts for the same repairs.

We consider this to be the correct application of the Corporate Debt Policy which states that 'it is essential that all monies due to the Council are actively pursued' and also emphasizes the importance of proportionality 'in striking an appropriate balance between the potential loss of income to the Council and the costs of recovery'¹. Any decision to deviate from policy for contentious matters such as legacy statutory repairs must be a political decision taken by elected members. It cannot be made by officers.

- Accounting policies encouraged the accumulation of a large Work-in-Progress balance as income was recognised by the service as soon as the cost was incurred (and the contractor paid), but there was no impact on the Service's budget if the costs were not successfully recovered from owners.

This created the impression that Property Conservation was a successful income-generating service for the Council, but in fact, cash was not being collected.

This continued under Services for Communities when there was a focus on completing active sites and pipeline works, but 31 of the 94 projects completed were not billed until Project Joule in 2014. This impacted on the Council's cash flow and is likely to have increased costs of billing and collection.

Engagement with owners

- A general apology to owners affected by the failings of the former Property Conservation service should be considered. Apologies have been issued to specific owners following appeals to the Scottish Public Services Ombudsman.
- In future investigations or significant projects where there is likely to be a high level of public engagement, project teams should consider setting up a single point of contact to help the public navigate the Council and find the information or answers they need, as the Property Conservation closure team did in September 2014. We would also recommend defining a communications strategy to help respond to enquiries from members of the public efficiently and clearly.
- Owners interviewed as part of this review, and Elected Members and third parties speaking on their behalf, reported that they found the Council difficult to navigate and frustrating. In future investigations or significant projects where there is likely to be a high level of public engagement project teams should consider appointing an independent person to act as 'owners' advocate' and support them in their dealings with the Council.
- In a proportion of cases both the Council and owners may have benefited from the option of commercial arbitration, with costs shared between the Council and owners. This is not a recommendation to reopen Property Conservation cases which have already been closed or are in legal proceedings, but commercial arbitration should be considered as an option in future disputes.

¹ Item 7.6: Corporate Debt Policy, Policy & Strategy Committee, 2 December 2014
The City of Edinburgh Council
Internal Audit Report – Property Conservation: Project Closure Review

1. Background

Background

Sections of Central, South & North East Edinburgh have a high population density with the majority of residents in some areas living in tenement flats. The age of this accommodation ranges from 200+ years old (Old Town) to modern new build construction. A significant cohort of this accommodation was constructed in the Victorian and early Edwardian period. These buildings are now between 100 & 150 years old and as a result of weathering are requiring increasing levels of maintenance/refit to ensure that they remain in good condition as they start to approach the end of their original design lives.

Given that the majority of stairs of this vintage are not factored it has historically been difficult to arrange for any necessary common repair works to be undertaken, due to the problems inherent in securing agreement from all owners.

These circumstances were recognised in the City of Edinburgh District Council Order Confirmation Act 1991 which uniquely in Scotland gave the Council the ability to compel the undertaking of common repairs and in the absence of compliance by owners, undertake the work themselves and recover *'expense reasonably incurred in doing so'*.

The Property Conservation Service was charged with making use of this legislation to help owners reach agreement on works that required to be undertaken, or where agreement could not be reached, organising for the work to be undertaken. Where works were undertaken under Council control, owners were re-charged the costs plus an administrative fee of 15% of the total project value. This administration charge resulted in the Service being seen as an income-generating operation for the Council.

Concerns over the activities of the Service started to emerge in 2010 with owners making complaints in relation to:

- Quality of workmanship;
- Quality of materials used;
- Cost of works undertaken;
- Time taken to undertake the works;
- Necessity of works undertaken ;
- Works being undertaken outside the scope of the notice;
- Effectiveness of the contractor procurement process; and
- Contractor behaviour & probity.

A series of investigations performed by the Council, the Council's Internal Audit function, Deloitte Real Estate and Police Scotland in 2010 & 2011 established that on many projects, there was substance to at least some of these concerns. Although these investigations did not find any evidence of demonstrable illegality, they did identify evidence of unacceptable and in-appropriate behaviour by Council officials, a number of whom were subject to disciplinary action.

As a consequence of these findings, the Council launched the Resolution Panel process to review projects where complaints (which ultimately reached 986) had been made and ceased undertaking new projects unless they were 'emergency' works. Projects that were in progress were to be completed and property and construction consultants Thomson Bethune were appointed in April 2011 to assist in that process.

Owing to concerns over the progress being made by the Resolution Panel process, the Council subsequently appointed Deloitte Real Estate to review unbilled WIP (Project Joule) and take over the consideration of the validity of complaints (Project Momentum).

As part of Project Momentum, Deloitte Real Estate were requested to determine the lessons arising from the problems experienced within Property Conservation and make recommendations to inform the creation of a new Edinburgh Shared Repairs Service, which launched on 1 September 2015.

Timeline

Opening position:

- £28 million unbilled WIP relating to 800 projects
- 83 projects on site
- Over 100 'pipeline' projects
- £7.8 million suspended debt
- 11,500 unenforced historic Statutory notices

June 2010

- Elected members request a full review of the statutory notice process.
- Internal Audit report on their findings and make 18 recommendations for improvement in October 2010.

March/April 2011

- **Property Conservation is transferred to Services for Communities.**
- Deloitte's investigation into financial irregularities ('Project Solar') and review of 33 statutory repairs projects ('Project Power') begin.
- Thomson Bethune appointed to review legacy projects and develop programme for completing them.

October 2011

- **Resolution Team set up to review c.500 complaints received in the months leading up to October 2011**

March 2013

- **Deloitte appointed to verify accounts before they are billed to owners ('Project Joule')**
- £22 million unbilled WIP across 414 projects reviewed as part of Project Joule.

May 2013

- **Resolution Team completes review of 986 complaints**
- Maclay Murray Spens LLP appointed to review the 278 complex complaints where no decision had been reached (28%) and meet the complainants with a view to reaching settlements.

January 2014

- **First Project Joule invoices are issued.**

February 2014

- **Property Conservation is transferred to Corporate Governance**

June 2014

- **Deloitte contract extended to set up Project Management Office covering all workstreams ('Project Momentum')**
- Project Board; Case Reviews (legacy Project Joule); Complex Complaints (legacy MMS); Billing; Customer Services; Debt Collection; Defects Projects; development of new Shared Repairs Service

March 2015

- **Deloitte completes case reviews of 414 unbilled projects and 102 projects subject to 'complex complaints'**
- Billing and debt collection in progress

Closing position:

- £17.4 million billed to owners, of which 82% has been collected
- £4.2 million settled with owners relating to complex complaints
- The 84 projects on site in 2011 and 72 further defects project completed and billed
- Suspended debt cleared to £0.3 million

Scope and approach

The Scope of this internal audit review was to review the closure of the former Property Conservation service and the Council's response to complaints about legacy statutory repairs, and identify lessons to be learned for the future.

This includes, and is limited to, a review of:

- The completion of 'active sites' and the cessation of activities by the Property Conservation service, subsequent to the decision to close the service;
- The process of determining the recoverability of the un-billed WIP at cessation and its subsequent billing – Project Joule;
- The Council's handling of and response to complaints from owners – the Resolution Team / Panel and their subsequent replacement by Project Momentum ; and
- The management of the debt collection process and its adherence to the Council debt collection policy.

For each stage we will consider:

- Governance and decision-making arrangements;
- Application and adequacy of Council procedures and policies; and
- The level of the Council's engagement with and communication to owners.

Limitation of Scope

As part of this scope we have not reviewed (and were not expecting to) review in detail or draw conclusions on the quality of works undertaken, the validity of works undertaken or decision making on any individual properties given that Internal Audit are aware that:

- A number of properties remain subject to ongoing court proceedings and Internal Audit would not want to prejudice these proceedings; and
- Internal Audit does not have the expertise to draw any conclusions on technical construction matters.

For the full terms of reference see Appendix 1.

2. Closure of Property Conservation service

1a. The cessation of activities by the Property Conservation service

Background

The earliest indication of 'service challenges' in Property Conservation emerged in a report to the Finance and Resources Committee on 16 March 2010. This highlighted a work-in-progress balance of £28 million relating to c. 800 projects. The report observed that this had a negative effect on the Council's cash flow, as contractors were paid for building works before owners were billed. Owners could only be billed on the completion of the contract as 'there [was] no legal or statutory recourse to interim billing'.²

As a result of this, at their meeting on 24 June 2010 the Council instructed the Director of City Development (who was the director responsible for Property Conservation at that time) to 'conduct a full review of the statutory notice process, including lessons learned from recent large projects and a focus on how to involve residents in decisions about progressing works at an earlier stage'.³ The Director of City Development asked Internal Audit to carry out this review.

Internal Audit reported on their findings in October 2010, and made 18 recommendations for improvement. There is limited evidence that effective action was taken in response to these recommendations, or to address concerns raised by elected members in the previous 6 months. Indeed, activity in Property Conservation increased in 2010/11:

	2009/10	2010/11	2011/12
Number of statutory notices issued	716	890	102
Number of Statutory notices enforced	332	649	96
Number of statutory notices not yet enforced	384	241	6
Percentage of Statutory Notices enforced	46%	73%	94%
Value of contractor Payments	£18.4m	£13.9m	£7.9m

Fig.1 Number of statutory notices issued relating to non-emergency works⁴

Property Conservation was transferred to Services for Communities (SfC) in March 2011. Property Conservation work was limited to emergency work and projects already on site, and Deloitte were appointed to investigate the Property Conservation service. The Deloitte investigation took two parts:

Project Solar A forensic investigation into alleged financial irregularities in the Property Care and Property Conservation services.

Project Power A 'deep dive' review of 33 statutory repairs projects by the Deloitte Real Estate team which included site visits by chartered surveyors.

These projects ran in parallel to the police investigations into the Property Care and Property Conservation services.

² Item 20: Property Conservation Service, Finance & Resources Committee, 16 March 2010

³ Item 22: Statutory Notices, City of Edinburgh Council, 24 June 2010

⁴ Item 10: Property Conservation Service Recovery, Policy & Strategy Committee, 7 August 2012

Disciplinary action was taken against a number of staff following these investigations, though no charges were brought as a result of the police investigation into Property Conservation. Both the Deloitte and police investigations highlighted significant problems in working practices and culture within the Property Conservation service, which we have discussed in the initial Background section. 'Lessons learned' from these, and from the subsequent Project Momentum, informed the development of the new Edinburgh Shared Repairs Service and interim service provision (focussed on emergency works and active sites) from October 2011. The operational 'lessons learned' from the Property Conservation service and the development of the new Edinburgh Shared Repairs Service are not in scope for this review.

A further report was considered by the full Council on 27 October 2011. This updated members on the findings of the Deloitte investigation and actions taken and planned. It proposed a Resolution Panel to investigate c. 500 complaints logged, and sought approval from the elected members to end the 'moratorium' on Property Conservation works imposed in April 2011 which would enable the Service to progress with pipeline works where contractors had already been appointed.⁵

The Service also sought approval to issue statutory notices for new projects where strict conditions were met, but indicated that work volumes would be restricted to c. £7m per annum, a third of previous volumes. In reality, work was focussed on completing projects already on site and delivering pipeline projects. Statutory notices were not issued for new projects after April 2011.

Observations

Scrutiny by elected members

City Development was slow to recognise and address concerns about the Property Conservation service. The report to the Finance & Resources Committee in March 2010 reported a £28 million work-in-progress balance, but observed that 'it is normal for Property Conservation to be holding an unbilled value of ongoing work in its accounts'.⁶

The scale of the problems relating to the Property Conservation service was brought to light through the persistence of elected members in tabling questions at full Council meetings and thorough scrutiny of reports presented to the Council and its committees.

Lesson Learned: This demonstrates the value of elected member scrutiny in highlighting significant service failings and ensuring that they are fully investigated.

Lack of follow up of Internal Audit actions

The Internal Audit report issued in October 2010 made 18 recommendations for improvement. At that time, audit findings were not risk rated, and actions were not formally agreed with management. Management actions to address audit findings were not tracked.

There was limited evidence that effective action was taken by the Property Conservation service to address audit findings before the service was transferred to SfC in March 2011.

Lesson Learned: Actions to address audit findings are now agreed with management at the end of each audit. Implementation is tracked through monthly reporting to the Corporate Leadership Team and quarterly reporting to the Governance, Risk and Best Value committee.

New management once crisis emerged

A focussed attempt to reform the service and deal with complaints began when the service was transferred to Services for Communities in March 2011 (one year after concerns were first raised by members). At this time, a new senior management team was put in place who had had little or no prior involvement with Property

⁵ Item 8.3: Property Investigation & Service Update, City of Edinburgh Council, 27 October 2011

⁶ Item 20: Property Conservation Service, Finance & Resources Committee, 16 March 2010

Conservation and as such was sufficiently independent to acknowledge the problems in the service and take remedial action. Emergency measures were immediately put in place:

- No new projects were commissioned, unless emergency works; and
- Complaints were logged, and holding letters sent to complainants informing them that their complaint would be investigated but it was likely to take a considerable period of time due to the volume of complaints received.

SfC also acknowledged the limitations of the Council's existing team and recognised the need for external support both in the investigations (through Deloitte), and in completing projects which were on site in April 2011. Property and construction consultants Thomson Bethune were appointed to assist with this.

Lesson Learned: Transferring responsibility for the Service to another Directorate allowed a full assessment of the pervasive problems in the Property Conservation Service and decisive action to be taken to remedy them.

Governance

Reporting to the Council and its committees once SfC took over was frank and recognised the significant weaknesses in the service and the need for a fundamental redesign. SfC acknowledged the number and complexity of complaints received, and that the investigation would be slow and difficult. The estimate of the time it would take to investigate the complaints and develop a new service was very optimistic (c. 6 months) but the key issues were identified and the complexities of the task acknowledged.

We note that elected members were informed of actions taken by SfC in this period, and asked to approve key decisions, through reports to the full Council in April and October 2011. This reporting included:

- A moratorium on new Property Conservation works in April 2011;
- The interim findings of the Deloitte investigations;
- The principles of interim service delivery when a decision was taken for political reasons to resume Property Conservation works in October 2011; and
- The establishment of the Resolution Panel to review c.500 complaints received in 2010/11.

Lesson Learned: Scrutiny and challenge from elected members from 2010 onwards meant reporting was increasingly clear and decisions were transparent. As a result, there was sustained pressure on management to investigate the allegations against Property Conservation thoroughly and take decisive action to remedy the problems endemic to the Service.

1b. The completion of 'active sites'

Background

There were 83 projects on site when SfC took over the Property Conservation service in March 2011 and over 100 in the 'pipeline' where contractors had been appointed but work had not yet begun on site.

Property & construction consultants Thomson Bethune were appointed in April 2011 to review legacy projects and develop a programme for completing them. Thomson Bethune were appointed from an existing Council framework, but had had no prior involvement in the Property Conservation service.

Thomson Bethune provided senior management support to the service and helped develop interim procurement arrangements and operating procedures to address the high risk shortcomings in the Service. It was recognised

that there was a need to complete works already on site quickly, and to progress with works where contracts had already been agreed in order to reassure owners and the local building trade.

Where possible, work was completed by the initially appointed consultants and contractors. However, there were cases where contractors had gone into administration or were otherwise unable or unwilling to complete the project. As it was recognised that the contract framework had been compromised, mini-competitions were held between contractors on minor and major works contract frameworks rather than continuing with direct awards.

A Property Conservation Project Panel was set up to improve project oversight and control of costs during the project. Variances in project costs from the original estimate were considered by Panel, which included members of the new senior management team and surveyors from Thomson Bethune.

Observations

Project oversight

As reported to Council in April 2011, Property Conservation operating procedures were reviewed to improve financial control on 'active sites'. All active projects were to be reviewed to determine a current projected cost, and any variation from that was to be 'subject to a rigorous authorisation process.'⁷ This role was taken by the Property Conservation Project Panel.

A report to the full Council in October 2011 further developed the key principles for the interim operating model which included:

(v) The scope of works (except for emergencies) is properly defined before work begins and this has been communicated to owners;

vi) The Property Conservation Management Team ['PCMT'] has approved the project at initial inception and when any further notices are to be served; and

vii) Any projected increase in project costs requires approval by the PCMT and [is] the subject to communication with owners.'⁸

We saw some evidence of this on one project which was onsite from March 2011 to March 2012. SfC was responsible for Property Conservation at this time. A defect was discovered while onsite which required work outwith the original statutory notice. Chartered surveyors were appointed to produce a structural report which confirmed the need for repairs, an emergency notice was issued, and the required repairs were completed. However, during these repairs, it was found that a number of stones were in too poor a condition to be left and needed to be replaced.

There is evidence of oversight by the Property Conservation Project Panel: at their instruction a meeting was held with the owners to discuss the additional stoneworks in November 2011. All owners were contacted by the architects following the meeting to obtain approval for the additional stoneworks.

However, it is not clear that the Property Conservation Project Panel followed up on this instruction or ultimately approved the additional stoneworks. Some owners did not agree to the additional stoneworks in writing, but they were completed nonetheless. A second emergency notice was issued retrospectively in May 2012, two months after project completion.

This project was reviewed by Deloitte Real Estate ('Deloitte') as part of Project Joule. Deloitte determined that the Council could not recover £14,501 because the additional stoneworks were out of scope (by definition, the emergency notice could not cover them: there was sufficient time to consult owners, which indicates the works were not urgent), and a written mandate had not been obtained from all owners.

⁷ Item B1: Property Conservation, City of Edinburgh Council, 28 April 2011

⁸ Item 8.3: Property Investigation & Service Update, City of Edinburgh Council, 27 October 2011

Lesson Learned: the 'rigorous authorisation process' did not appear to be formalised or enforced. The additional works went ahead without documented approval from the Property Conservation Project Panel and all owners. As a result the Council was unable to recover a significant proportion of project costs from owners where there was a demonstrable enrichment (i.e. the owners had benefited from the works), and the majority of owners had agreed in writing to that work taking place.

Communication with owners

It was recognised that poor customer care was a failing of the Property Conservation service. It was positive to note that there was good communication between the Council surveyor, the architect and the owners during both 'active site' projects reviewed by Internal Audit. Responses to owner queries were prompt, and both the conservation surveyor and architect gave owners regular updates on progress during these projects which were on site in 2011/12.

Lesson Learned: none noted.

Billing

Both 'active site' projects reviewed completed in Spring/Summer 2012, but were not billed until Summer 2014 as part of Project Joule. This delay was unfortunate: as noted above communication with owners was good during the projects themselves. Owners had received reasonable estimates of cost as the project progressed (though we appreciate that in one case this was considerably more than the probable costs originally indicated to owners), and had had the opportunity to arrange appropriate financing.

By the time the project was billed 2 years later a number of properties had changed hands, financing arrangements had expired and goodwill generated through the project appears to have dissipated. Responses to owner's questions, including requests for invoices, during this period were cursory and slow. It is conceivable that delays in billing affected debt recovery on projects where charges would otherwise have been collectible.

Lesson Learned: Property Conservation did not capitalise on improved project management procedures and customer relationships by billing work promptly. This may have adversely affected collection rates.

It also meant that the Council incurred additional costs in cases where a Deloitte review and Morton Fraser involvement in debt recovery may not have been necessary had owners been billed promptly.

We further note that the significant Work-in-Progress balance was the first indicator of problems in Property Conservation in March 2010. Contractors were paid during the project, but owners could not be billed until project completion. Costs were recovered in full with a 15% surcharge for administration. This was recognised as income for the service as soon as the contractor's invoice was received. As such, there was no pressure on conservation surveyors to bill projects when completed: the income had already been credited to Property Conservation, and would not be reduced if they failed to recover the costs from owners.

This remained the case for the 'active sites'. Thomson Bethune and Property Conservation surveyors made good progress in completing the active sites, reducing the number on site from 83 in March 2011 to 42 in October 2011.⁹ However, as with the original Property Conservation service, there appears to have been a focus on completing work on site, but a failure to bill owners in complex cases. £5.6 million was billed by Property Conservation on 63 projects in 2012/13, but 31 complex projects (including the two 'active site' projects reviewed by Internal Audit) were not billed until Project Joule in 2014.

⁹ Item 8.3: Property Investigation & Service Update, City of Edinburgh Council, 27 October 2011
The City of Edinburgh Council
Internal Audit Report – Property Conservation: Project Closure Review

Lesson Learned: Accounting policies encouraged the accumulation of a large Work-in-Progress balance as income was recognised by the service as soon as the cost was incurred (and the contractor paid), but there was no impact on the Service's budget if the costs were not successfully recovered from owners.

A false financial picture was created as the Service appeared to be successfully generating income for the Council, but in fact did not collect the cash. This could be avoided through more sophisticated management accounting with automatic provisions for aged WIP and debt being put in place.

This continued under SfC when there was a focus on completing active sites and pipeline works, but work completed was not always billed until Project Joule in 2014. This adversely impacted on the Council's cash flow and is likely to have increased costs of billing and debt collection.

1c. Defects work

Background

A contract was awarded to Thomson Bethune in January 2014 to project manage the remedial works programme ('defects work'). This was a direct award with the approval of the Finance & Resources Committee on the grounds that Thomson Bethune were considered the sole supplier able to deliver the contract due to their work supporting the Property Conservation service since 2011 (see **Section 1b**).¹⁰

'Defects work' was site work to complete and/or remedy projects which had been closed under the former Property Conservation service, but which had not yet been billed to owners or which had been the subject of a complaint about the quality of work. The Council cannot reclaim the cost of defects work from owners, but equally, could not bill owners the original project cost until the project had been completed satisfactorily.

74 completed projects were returned to site as defects work. These were identified through Thomson Bethune's review of project files, complaints to the Property Conservation service and Deloitte's Project Joule. Thomson Bethune managed a 'quick quotes' tender process to appoint new contractors, and acted as contract manager for these sites. All but two defects projects are now complete, with the final two currently on site.

Observations

The defects work cost the Council £1.4 million, which cannot be recovered from owners. The defects work stream was considered a success by the service, with procurement exercises completed to appoint new contractors for all but 2 projects. The projects were managed to completion by a combined Thomson Bethune and Council team and all 72 completed projects have now been billed to owners.

By 31 January 2017, all invoices relating to 43 of the 72 completed projects had been settled or otherwise closed, with 22 settled before reaching debt recovery through Morton Fraser (see **Section 4**).

Lesson Learned: None noted.

¹⁰ Item 7.5: Property Conservation Surveying Support, Finance & Resources Committee, 16 January 2014
The City of Edinburgh Council
Internal Audit Report – Property Conservation: Project Closure Review

1d. Contractor claims

Background

The moratorium on Property Conservation projects and publicity around service failures led to 38 claims from contractors against the Council. Claims predominantly related to loss of income and late payments.

Claims were assessed and defended by a combined Thomson Bethune and Council team. The Council paid out £0.4m on 11 claims. This is 18% of the £1.9m claimed by contractors (builders and tradesmen) and consultants (architects, surveyors and project managers). Three claims totalling £0.2m are still live, but it is not anticipated that the Council will be required to pay the full amount claimed: the highest settlement to date has been 70% of the amount claimed by the contractor.

The Council also considered whether to pursue claims against contractors and/or consultants where it was considered that costs were unrecoverable from owners. Construction consultants Turner & Townsend were appointed to conduct a review of 5 cases with irrecoverable sums totalling £1.3m, and Brodies LLP were appointed to provide a legal review of the risks to recovery.

It was determined that the possibility of recovering losses through claims against contractors was limited as there was no breach of contract by contractors: contractors undertook work on the instruction of the consultant, and that work was authorised and certified by the consultant.

The barriers to making successful claims were reported to the Finance & Resources Committee in May 2016, these were:

- 1) The cost of claims considered against the chances and potential value of success;
- 2) Prescription rules: retrospective claims may be legally timed out;
- 3) Departures from obligations may not be sufficiently robust as to directly cause loss;
- 4) Consultants may hold better information than the Council that will allow them to better defend any case; and
- 5) Claims are retrospective and may lack credibility.

As a result, it was recommended to the Finance & Resources Committee that claims against contractors and consultants for irrecoverable sums should not be pursued.¹¹

Observations

Certification of works

The primary reason it was decided not to pursue claims against consultants used by the Property Conservation service was that the 5 year period in which the Council could have brought such a claim may have expired. Legal advice held that this began at the point where the Council certified payment to the contractor: the point at which it could be argued they should have been aware of any breach in performance obligations.

This highlights the importance of quality control during a project. There was a lack of control over payments to contractors in the Property Conservation service which has been highlighted in earlier reviews of the service: there was no authorisation protocol, and payments were made with no evidence that work had been completed to an acceptable standard.

The report to the Finance & Resources Committee in May 2016 offers the following lessons learned to be adopted by the new Edinburgh Shared Repairs Service:

'i) The inclusion in contracts for the provision of records of vouching to be provided by the consultants to the Council prior to billing.

¹¹ Item B1.1: Property Conservation Claims Recovery, Finance & Resources Committee, 12 May 2016
The City of Edinburgh Council
Internal Audit Report – Property Conservation: Project Closure Review

ii) The awareness and appreciation by consultants of the Council's limits in relation to the recovery of costs through the legislation.

iii) The Council are satisfied that the consultant is aware of his obligations under the building contract conditions in relation to contractual claims submitted by contractors, particularly the requirement for supporting documents in relation to loss and expense claims.¹²

Lesson Learned: Quality Assurance processes have been built into the new Edinburgh Shared Repairs Service which include site visits, scrutiny and authorisation of stage payments, and retention from final accounts.

¹² Item B1.1: Property Conservation Claims Recovery, Finance & Resources Committee, 12 May 2016
The City of Edinburgh Council
Internal Audit Report – Property Conservation: Project Closure Review

2. The process of determining the recoverability of the un-billed WIP at cessation and its subsequent billing – Project Joule

Background

Early billing

In March 2010, Property Conservation reported a Work-in-Progress ('unbilled WIP') balance of c. £28 million.¹³ As well as genuine work in progress, this included projects which were complete but which had not been billed. Thomson Bethune were appointed when SfC took over in April 2011 to review project files and conduct site visits to close final accounts and identify any defects work which needed to be completed before the project was billed.

Thomson Bethune were charged with obtaining final accounts for projects sitting as unbilled WIP so the Property Conservation finance team could bill owners. Thomson Bethune surveyors worked alongside Council surveyors to do this. A project completion checklist was introduced to encourage project managers to provide Thomson Bethune with the information they needed to accurately assess the value of work completed.

Some progress was made in 2012/13, and the unbilled WIP balance was reduced by £5m. However, the suspense account grew when: bills were contested by owners, a complaint was received relating to a project, the invoice was suspended. The reduction in unbilled WIP was also a net figure: the finance team billed c. £8m on the more straight forward cases but, as we have seen ('Billing'), active sites completed in 2011/12 and 2012/13 were not often billed immediately. £5.3m was billed on 63 cases, while the remaining 31 were billed under Project Joule in 2014.

This left a debt balance of £35.9m in March 2013:

	31/05/2012	31/03/2013	Change (£)	Change (%)
Unbilled Work	26,762,986	21,988,661	(4,774,325)	(18%)
15% Admin Fee	4,014,448	3,298,299	(716,149)	(18%)
Unpaid Invoices	8,855,403	10,592,170	1,736,767	20%
Total Outstanding Debt	39,632,837	35,879,130	(3,753,707)	(9%)

Fig.2 Debt at March 2013 (Internal Audit report RS1230)

Project Joule

Deloitte Real Estate ('Deloitte') was appointed in March 2013 to independently verify accounts before they were billed out to owners. This appointment was subject to competitive tender between suppliers on the Government Procurement Services Multi-Disciplinary Consultancy Framework and was approved by the Finance & Resources Committee at their meeting on 21 March 2013. Deloitte achieved the highest score on both quality and price.¹⁴

£22m unbilled WIP across 414 projects formed the Project Joule workload. These were assessed against 3 key questions:

- Was there a valid statutory notice?
- Was the cost reasonable?
- Are works complete, and completed to a satisfactory standard?

Deloitte developed a suite of over 100 questions to enable them to assess the value that could and should be billed consistently across the projects. These became known as the 'Deloitte Principles'. They were refined through an initial in-depth review of a sample of 10 projects, and were developed in consultation with the Council's legal team, Maclay Murray Spens LLP (who were involved in complaints resolution at that time), Brodies LLP, and Jonathon

¹³ Item 20: Property Conservation Service, Finance & Resources Committee, 16 March 2010

¹⁴ Item 8.9: Property Conservation Financial Recovery, Finance & Resources Committee, 21 March 2013

Lake QC as legal counsel. The fundamental point of reference was the 1991 Confirmation Act: legal advice was taken to determine how it should be interpreted, and what could and could not be recovered under the Act.

Whilst elected members were not asked to approve the 'Deloitte Principles', they were discussed with the Convenor and Vice-Convenor of the Finance & Resources Committee in private briefings. At a meeting on 31 October 2013, members of the Finance & Resources Committee were briefed on the billing and debt recovery process and asked to agree 'that the cost of work found not to be recoverable under the City of Edinburgh District Council Order Confirmation Act 1991 (the "1991 Act") should not be billed to owners'.¹⁵ This was the core principle of Project Joule and all subsequent billing. The first 'Project Joule' bills were issued to owners in January 2014.

Deloitte reviewers used 4 key sources of information to assess the amount to be billed:

- Hard copy project files;
- Information held on the Property Conservation shared drive;
- The Oracle and Visa systems to verify the amount paid to contractors; and
- The Property Conservation address book for details of ownership and share allocation.

Physical surveys of sites were not conducted.

A Project Board was set up to oversee Project Joule. This was attended by Deloitte and senior council officers. A detailed report which had been through three internal quality assurance checks was submitted for each project, with recommendations of the amount to be billed, and explanations for sums which should not be recovered.

The Director of Services for Communities was initially authorised to write off up to £3,000 per project. Responsibility for legacy statutory repairs was transferred to the Director of Corporate Governance in February 2014, and in June 2014 delegated authority was given to the Director of Corporate Governance to write-off unbilled sums and approve and pay settlements, compensation or refunds up to the value of £100,000 per project.

Write-offs over £100,000 on a single project were approved by the Finance & Resource Committee.

A new billing process was developed for Project Joule in consultation with the Communications service, recognising that the programme would have a direct impact on a significant number of property owners. There was a three-step approach to billing:

1) A notification issued to owners reminding them of the statutory notice and to inform them that Deloitte had completed an independent assessment of the works carried out to their property. Owners were notified that they would receive an 'end of works statement' within a few weeks followed by a bill.

2) An end of works statement followed one week later. The end of works statement set out the final account per statutory notice after Deloitte's adjustment, the cost per share, and the cost per share including the 15% management fee. It did not indicate how much had been written off the bill.

3) Invoices were issued two weeks after the end of works statement.

The cost of Deloitte's Project Joule was borne by the Council and was not passed on to owners.

Observations

Authority to write off contested amounts

Three of the 6 projects we reviewed were assessed by Thomson Bethune in this period, but ultimately were not billed until Project Joule because of difficulties such as unidentifiable 'day works' charges or disputes over the allocation of shares. Deloitte deducted significant amounts from the contractors' Final Account before billing owners: in one case reviewed, £439k (40%) was deducted.

¹⁵ B1.1: Property Conservation Resolution of Financial Issues, Finance & Resources Committee, 31 October 2013
The City of Edinburgh Council
Internal Audit Report – Property Conservation: Project Closure Review

These were frequently issues which had been identified by Thomson Bethune: where no statutory notice had been issued for example, or there was not an adequate breakdown of a 'day works' charge. However, these cases were put on hold for investigation. Officers did not have the authority, or the will, to write off charges which could not be substantiated. As a result, the project was not billed and no monies were recovered.

Lesson Learned: An acceptance that losses would be sustained, and a mandate to write off significant sums were required before billing could progress. Until the Project Joule Project Panel was given that authority, with a bad debt provision of £17.9m, limited progress was made in billing legacy Property Conservation projects.

Appointment of Thomson Bethune

Thomson Bethune were originally appointed to the Council's Building Surveying Services contract framework (2011), and were later instructed to project manage the remedial works programme as a 'direct award (2014)'. Thomson Bethune never completed a formal tender exercise to deliver the Property Conservation closure project for the Council.

The support provided by Thomson Bethune in progressing key Property Conservation work streams in the period 2011-2014 was crucial. It is recognised by the Service that they were proactive project managers and were successful in completing active sites and defects work. Their file reviews and site visits for unbilled WIP laid the groundwork for Deloitte's Project Joule.

However, Thomson Bethune worked in partnership with Property Conservation staff in a combined team. They were primarily there to supplement internal resources. There were a number of different work streams in this period (active sites, investigations, Resolution, billing) but they were not treated as a significant programme and managed as such. A review carried out by the Director of Corporate Governance and reported to the Finance & Resources Committee in 2014 found that there was little communication between the work streams and a fragmented approach to the Property Conservation closure.¹⁶

Lesson Learned: It was apparent that this was a significant programme from 2011, but it was not treated as such. The Property Conservation closure programme would have benefitted from a project management structure providing oversight and governance across all work streams.

The Director of Corporate Governance also observed that the Service was struggling with significant pressure on resources. This is apparent if we compare progress made between 2011 and 2013, and between 2013 and 2015 when Deloitte became involved. Deloitte had the capacity available to be able complete the detailed review of a significant number of complaints the project required, and the independence and reputation to progress the project in a potentially difficult political environment.

Lesson Learned: While it was sensible to bring in external support at an early stage of the programme, a tender exercise to identify a provider with the capacity and experience to deliver the full programme efficiently would have been beneficial once the extent of work required became clear in 2011.

Deloitte contract

A number of interviewees expressed the view that Deloitte could not be considered independent given that they were appointed and paid by the Council, and 'set their own scope'.

Project Joule did emerge from the earlier Project Power as a recommended work stream to review unbilled WIP. However, Project Joule was awarded as a separate contract subject to competitive tender. Council officers developed the invitation to tender.

¹⁶ Item 7.2: Property Conservation Complaints Resolution, Finance & Resources Committee, 5 June 2014
The City of Edinburgh Council
Internal Audit Report – Property Conservation: Project Closure Review

Deloitte, in consultation with the Council, developed the scope of the project and the principles or assumptions according to what work could be billed under the 1991 Confirmation Act. External law firms were consulted in preparing the 'Deloitte principles'. The Finance & Resources Committee agreed to the application of the core principle that 'the cost of work found not to be recoverable under the [1991 Confirmation Act] should not be billed to owners', and endorsed the three stage approach to billing and debt recovery at their meeting on 31 October 2013.¹⁷ Members were reminded of the principles and the assumptions used in assessing final accounts each time they were asked to approve the write off of unrecoverable WIP.

Deloitte reported when interviewed that they had never come under pressure from senior management to recommend recovery of sums they had assessed as unrecoverable. Their fee was a standard rate per project and was not contingent on billing or recovery rates.

We found no evidence that Deloitte's independence was compromised during Project Joule or Project Momentum. Ultimately, Deloitte recommended that unbilled WIP to the value of £6.4 million should be written off. This is a significant sum which we would suggest is an indicator that Deloitte were able to conduct an independent assessment of unbilled projects without undue influence from management.

Lesson Learned: None noted.

'Desktop' Review of Projects

Project Joule was a desktop review of available project documentation. The primary sources of evidence were hard copy project files (often incomplete), documents on the Property Conservation shared drive, Council finance systems (Visa and Oracle) and the Property Conservation address book.

For complex projects where key documentation was missing, there was evidence that Deloitte (where possible) held face-to-face meetings with the original project consultants and obtained missing documentation directly from them.

The project reports produced by Deloitte were highly detailed with clear reasoning for their recommendations. There was evidence that their review of project files was thorough.

In our view, a desktop review was a reasonable approach to this exercise – and perhaps the only feasible approach given the volume of projects to view and bill, and the length of time since many projects were completed. It may not be possible to verify the need for a statutory notice by a physical inspection 10 years after the notice was originally issued, for example.

This approach allowed Deloitte to progress through 414 project files, and the Service to invoice owners £17.6 million, with £6.4 million written off.

Lesson Learned: None noted.

Challenge to Deloitte recommendations

Project Joule billing processes '[were] based on the understanding that the bill issued is a final one in that the Council is satisfied that all bills which result from the Deloitte work are correct. The Council will not be in a position to re-investigate any aspects of work based on owner's enquiries that are received following the issue of bills (other than in exceptional circumstances).'¹⁸

Assessment of a project could only be re-opened if '*previously unavailable information were to come to light*'. This led to frustration for owners who submitted questions, reports and evidence either themselves or through an intermediary.

¹⁷ B1.1: Property Conservation Financial Recovery, Finance & Resources Committee, 31 October 2013

¹⁸ B1.1: Property Conservation Financial Recovery, Finance & Resources Committee, 31 October 2013

We obtained a number of reports and questions submitted by owners and their representatives directly from owners, from elected members, and from Property Conservation files. In each case we were able to confirm that the report or question had been considered by either Deloitte or by a Property Conservation senior surveyor (who had not been involved in Property Conservation before 2013). However, we note that:

- Responses to owners and their representatives could be read on occasion as formulaic and discouraging, for example 'costs invoiced to owners have been based on an independent assessment of this project and the associated costs by Deloitte Real Estate. The Council will stand by their findings and have nothing further to add on this matter.'
- In many cases, challenges to bills came from surveyors who represented a large number of owners affected by Property Conservation. The Council responded in these cases to the surveyor, not the owner. We are unable to confirm that the Council's full responses reached owners.
- Council officers were engaged in lengthy written correspondence with these surveyors regarding multiple properties. They found the quality of reports and evidence submitted was variable.
- In other cases, the case had already reached litigation and the Council was only able to respond to owners through lawyers.

Lesson Learned: Surveyors and lawyers acting on behalf of groups of owners played a significant role in the Property Conservation Closure Project in generating and sustaining action by owners, and in their communications with the Council on behalf of owners.

In future investigations and significant projects, third parties acting on behalf of owners and community activists should be considered as key stakeholders in the communications strategy and project plans.

Governance and oversight

Oversight of the Project Joule billing process by both senior management and elected members was strong. There were clear levels of delegated authority for writing off unrecoverable amounts and reaching settlements, and members of both the Project Board and the Finance & Resources Committee received both information about the principles and assumptions used and detailed reports on individual projects.

However, members of both the Finance & Resources Committee and the Governance, Risk & Best Value Committee ('GRBV') acknowledged some difficulties in the relationship between the two committees. The Finance & Resources Committee is responsible for the Council's revenue and capital budgets, and the Council's expenditure and budget policy. They set policy on Property Conservation closure and resolution. There was a sense from owners and from some members of GRBV that their primary aim was to maximise the amount that could be recovered as opposed to achieving a 'fair' solution.

The GRBV was responsible for scrutiny. However, members of both Committees noted that there was a disconnect in the feedback loop back to Finance & Resources: it was not clear what powers the GRBV had to make recommendations or act on that scrutiny. Members of the Finance & Resources Committee also observed that members of GRBV did not always seem to be aware of the decisions made by Finance & Resources Committee or reports that committee had received. We note that much reporting to the Finance & Resources Committee on Property Conservation was by 'B' agenda: some members of the GRBV may not have had sight of those reports.

Lesson Learned: Clarify role of Governance, Risk & Best Value in scrutinising investigations and significant projects led by other Council committees including flow of information to GRBV, and extent of its powers in decision-making.

3. The Council's handling of and response to complaints from owners – the Resolution Team/Panel and their subsequent replacement by Project Momentum

Background

Resolution Panel

With increasing publicity surrounding the investigations into Property Conservation, complaints from owners mounted in 2010-11. By October 2011 the Council had received over 500 complaints.¹⁹

The Resolution Team was set up to review and respond to these complaints. They investigated complaints received from owners and reported to the Resolution Panel, which was chaired by the Head of Housing and Regeneration. The Head of Housing and Regeneration had had no previous involvement in Property Conservation.

The Resolution Panel made a decision on whether the complaint was upheld or not, and whether any further action was required. They did not have the authority to settle with owners or write down unbilled amounts.

If the owner was dissatisfied with their response, they could appeal to the Director of Services for Communities. The Director either upheld the Resolution Panel's decision, referred the complaint back to the Resolution Team for further investigation, or put the complaint on hold (67 complaints).

Finally, owners could refer their complaint to the Scottish Public Services Ombudsman.

The Resolution Panel reviewed 986 complaints regarding 607 projects between October 2011 and December 2012.²⁰

Complaints considered by Resolution Panel	986	100%
Stage 1: decision by Resolution Panel	708	72%
Complex cases: no decision reached	278	28%
Stage 2: Appeal to Director of SfC after Stage 1	137	14%
Resolution Panel decision upheld	65	47%
Referred back to Stage 1	5	4%
Decision pending	67	49%
Referred to Scottish Public Services Ombudsman after Stage 2	10	1%
Upheld	0	0%
Upheld in part	4	40%
Not upheld	6	60%

Fig.3. Complaints considered by the Resolution Panel

278 complaints, concerning 129 properties, were considered complex, and no decision was reached. These cases were referred to Maclay Murray Spens LLP (MMS) for legal advice. MMS were asked to engage directly with complainants and set up an 'informal meeting [with complainants] to listen to their concerns and obtain information about any losses they may have suffered' with a view to reaching a settlement. It was envisaged that if agreement

¹⁹ Item 8.3: Property Investigation & Service Update, City of Edinburgh Council, 27 October 2011

²⁰ Item 7.2: Property Conservation Complaints Resolution, Finance & Resources Committee, 20 March 2014

could not be reached with the complainant, then both parties would have the option to proceed to commercial mediation. The fees for this would be split between the Council and the complainant.²¹

This approach ran as a pilot in the latter half of 2013. It did not continue beyond the pilot, and no cases were brought to commercial mediation or arbitration. As reported to Finance & Resources Committee in June 2014, it was felt that the Resolution process as a whole took many months to complete, and the meetings between MMS and owners did not get to the heart of owners' complaints and appeared to mark the beginning of long correspondence between the two parties.²²

This was echoed by those involved in the MMS process: owners had expected the meetings to be an opportunity to discuss their complaint, but instead reported that they felt obliged to state and defend a claim against the Council in a legal setting. It was not the opportunity for discussion and mediation they had expected.

Project Momentum

The Property Conservation Closure Project as a whole was reviewed by the Director of Corporate Governance in Spring 2014. His findings were reported to the Finance & Resources Committee in June 2014. He found that there was a fragmented approach with the various work streams working in silos: there was little communication between the Resolution Team, the Thomson & Bethune active sites and defects team, and the Deloitte unbilled WIP reviewers. The Service was struggling with significant pressure on resources and progress was slow: complex complaints identified by the Resolution Team in 2011 were still on hold.

Deloitte Real Estate were appointed to begin 'Project Momentum'. This set up a Project Management Office to manage all streams of the Property Conservation closure, including the development of the new Shared Repairs Service. The review process applied to Project Joule was extended to complex complaints as part of Project Momentum. The final accounts for these projects were reviewed according to the established 'Deloitte Principles'. Credit notes and refunds were issued where it was considered that owners had overpaid previously.

A Project Board chaired by the Chief Executive was also set up to improve governance over all work streams.

Customer Services

The Property Conservation Closure team recorded 3,367 customer contacts and 595 Freedom of Information ('Fol') requests between January 2014 and March 2017. Data is incomplete before 2014.

Customer contacts included frontline enquiries (e.g. queries about when a bill would be received), elected member and senior officer enquiries and complaints. Many contacts from owners after Project Joule also came as Fol requests. Owners and independent surveyors requested extensive documentation relating to their project including contract award information, contractor bills, quotes, final and interim accounts, and the Deloitte Project Joule assessments.

Until September 2014, customers were expected to contact the relevant officer directly: questions or complaints about billing would go directly to the billing team, Freedom of Information requests were processed by the Information Rights team. Customer contacts were not routinely recorded, tracked and monitored.

Under Project Momentum, a single customer service phone number and email address were set up. Enquiries would be directed to the correct officer internally, with responses given by frontline customer service advisors where possible. The Customer Service team, Fol officers, billing and debt collection were all located in the same office to ease communication, and customer contacts were recorded, tracked and monitored.

²¹ Item B1.2: Complaints Resolution Phase 2, Finance & Budget Property Sub-Committee, 31 May 2013

²² Item 7.2: Property Conservation Complaints Resolution, Finance & Resources Committee, 5 June 2014

	January – October 2014	November 2014 – March 2017	Target
Enquiries	82%	88%	90%
Stage 1 Complaints	76%	83%	90%
Stage 2 Complaints	64%	82%	90%
Freedom of Information requests	87.7%	98%	100%

Fig.4. Percentage of customer contacts closed by target date

Observations

Flexibility of approach

Deloitte's contract was extended in 2014 to encompass project management of all work streams and the development of the new Shared Repairs Service. This was a direct result of the Director of Corporate Governance's review of the Property Conservation Closure Project in June 2014.

Lesson Learned: The Property Conservation Closure Project benefited from a critical review of project progress and a willingness to act on its results and seek external support. This meant that greater progress could be made in 2014 and 2015.

Authority to resolve owner's complaints

In investigating owners' complaints, the Resolution Team identified issues (such as a significant sum billed for 'day works') which were later written off by Deloitte. As with the Thomson Bethune review of unbilled work, where issues were identified the Resolution Panel put bills 'on hold' and returned the matter to the Resolution Team for investigation.

In 2013, delegated authority was granted to the Director of Services for Communities to write-off or settle amounts relating to disputed Property Conservation Projects up to the value of £3,000.²³ Before that date, officers had no authority to settle with owners where they identified problems with the project and/or errors in the bill. This contributed to the accumulation of 278 'complex cases' handed to MMS in 2013. The legal and professional fees incurred in settling these cases added considerably to the amounts written off, and may have been avoided if officers had been given delegated authority to decide on the appropriate treatment early on.

Lesson Learned: A clear delegation of authority gives officers the ability to resolve complex complaints efficiently and at a lower cost to the Council.

Tracking decisions of the Resolution Panel

We reviewed three cases where complaints had been considered by the Resolution Panel. In two cases, the Resolution Panel recommended that the Resolution Team write to owners to apologize or respond to their complaints. We found no evidence that those letters were sent to the owners. In the third case, a response was sent to the owner, but two years after the original complaint was received.

Lesson Learned: The decisions of project boards should be tracked to ensure that timely action is taken.

²³ Item B1.1: Property Conservation Resolution of Outstanding Financial Issues, Finance & Resources Committee, 31 October 2013
The City of Edinburgh Council
Internal Audit Report – Property Conservation: Project Closure Review

Customer Services

Owners interviewed as part of this review, and Elected Members and third parties speaking on their behalf, reported that they found the Council difficult to navigate and frustrating.

This appeared to be alleviated to some extent when Project Momentum was introduced, as the performance statistics in Fig.4 show. A multi-disciplinary Customer Services team was established to deal with customer enquiries, FoI requests and complaints, with a single point of contact for owners. There was evidence of increased collaboration and consultation between the teams from 2014 onwards.

Lesson Learned: In future investigations or significant projects where there is likely to be a high level of public engagement, project teams may wish to consider setting up a single point of contact to help the public navigate the Council and find the information or answers they need.

We would also recommend defining a communications strategy to help respond to enquiries from members of the public efficiently and clearly.

Owners' Advocate

Independent surveyors working on behalf of groups of owners played a significant role in the Property Conservation closure programme. They represented owners in their interactions with Council officers, found support from elected members, and engaged with the local and national media. Owners and members with links to these surveyors said they used them because they felt the surveyors 'understood the problems'. They expressed the view that the Council (and particularly the Finance & Resources Committee) was intent on recovering as much money from owners as possible, and found that elected members willing to help them individually were 'outside the process' and as such had limited powers to intervene.

It was unclear in some cases how much the independent surveyors were able to help these owners. They appeared to take a different approach to the Council to closing cases: the Council was clear that new evidence was required before a bill could be re-assessed, but surveyor's reports relating to the 6 projects we considered proposed blanket deductions or requested detail of sums already written off by Deloitte. These would not constitute 'new evidence' which would allow the Council to reopen a case under the conditions set by the Finance & Resources Committee.

We note that the Council responded directly to the surveyors in these cases. We do not know what information was passed on to owners, as this would not be held in the Council's records. There have been allegations that one prominent surveyor working on the Property Conservation cases did not produce the reports paid for by owners.

It may be that owners and the Council would have been able to reach a settlement sooner if communication had been supported by someone familiar with the Council and trusted by both sides. Individual elected members did support owners and were able to facilitate meetings between the Council and owners, but their involvement was necessarily ad hoc.

Lesson Learned: In future investigations or significant projects where there is likely to be a high level of both controversy and public engagement, project teams may wish to consider appointing an independent person to act as an 'owners' advocate' and support them in their dealings with the Council.

We would also recommend defining a communications strategy to help respond to enquiries from members of the public efficiently and clearly.

Apology

A number of those we interviewed told us that they had never received an apology from the Council for the well-documented failings of the former Property Conservation service.

Apologies have been issued to owners on individual cases through the complaints process or where the Scottish Public Services Ombudsman has found against the Council when a complaint reached the final appeal.

Lesson Learned: A general apology to owners affected by the failings of the former Property Conservation service should be considered.

4. The management of the debt collection process and its adherence to the Council debt collection policy

Background

Debt recovery on legacy statutory repairs invoices followed the Corporate Debt Policy and usual Accounts Receivable procedures. Debt falls due 28 days after the invoice is issued to owners. At that point a reminder is automatically sent to the owner, followed by a final notice 28 days after that. The debt is passed to Morton Fraser LLP for collection if the debt is not paid when the final notice is issued, 56 days after the original bill was sent.

Morton Fraser manage the debt recovery process from that point on, including agreeing and monitoring payment plans, arranging voluntary inhibitions on properties, negotiating settlements and proceeding to Court action. The Council retains the authority to decide on action to be taken at each stage: whether to accept or decline settlements, proceed to Court action, or write off debt when recovery options had been exhausted. This authority has not been delegated to Morton Fraser.

Whilst the Corporate Debt Policy was followed for legacy statutory repairs debt, a number of changes were made to the policy in order to improve collection rates and in recognition of the fact that some owners had received very high bills which they may not be able to pay over the maximum 4-year payment plan.

- A three-month interest free payment plan could be issued to all owners in receipt of a statutory notice;
- The maximum duration of a payment plan was extended to 10 years where owners owed more than £10,000;
- The interest rate was lowered from the Court-approved 8% per annum to 6% per annum; and
- Owners without the means to repay statutory repairs debt could be offered the option of entering into a voluntary inhibition on their property.

These changes were proposed by the Finance & Resources Committee and approved by the Corporate Strategy and Policy Committee in December 2014.²⁴

£17.6 million was billed to owners as part of Project Joule. By the end of January 2016, 82% had been collected. £7.3 million from Project Joule, Project Momentum and legacy debt had been passed to Morton Fraser for recovery. At the end of January 2016, £2.8 million had been collected, and settlements or payment arrangements had been agreed for a further £3.2 million.

Observations

Equal shares

There has been debate over the concept of 'equal shares' as applied to legacy statutory repairs. Under the 1991 Confirmation Act the cost of work is split equally between the 'units' (usually flats) affected. Legacy statutory repairs, including those billed through Project Joule, were billed on that basis. Where deductions were identified on projects which had been billed previously during Project Momentum, credit notes and refunds were offered to all owners.

However, there are occasions when a legal settlement has been reached with some owners affected by a single statutory notice but not others. In other cases, for example when one owner cannot be traced or is in insolvency

²⁴ Item 7.6: Corporate Debt Policy - Amendments to Sundry Debt Policy, Corporate Policy and Strategy Committee, 2 December 2014

proceedings, the debt recovery process has been exhausted and a decision is taken to write off the amount due from that owner. In both scenarios, owners in a single building may pay several different amounts for the same repairs.

A number of those affected by Property Conservation argue that this is not 'fair', and that all other owners should receive a credit note or refund so that all pay the same amount.

However, this treatment does align to the principles of the Corporate Debt Policy, which is within the control of elected members.

The Council's Corporate Debt Policy in its first paragraph states that 'Customers, citizens and businesses within Edinburgh have a responsibility to pay for the services they receive and the charges and rents they are liable for. It is essential that all monies due to the Council are actively pursued and this document sets out the general debt principles to be applied in doing so.'

The Policy also emphasizes the importance of proportionality: 'striking an appropriate balance between the potential loss of income to the Council and the costs of recovery'.

These principles are applied both where the Council reaches a settlement with an owner and where a debt is written off. In neither case does the Council admit technical fault or an inaccuracy in the bill: it is a commercial decision to settle or to write off that debt because the legal risk and the costs of recovery, whether financial or reputational, are too high.

There is a clear delegation of authority to settle with owners and write off statutory repairs debt. The Director of Corporate Governance has authority to offer and accept settlements or write off debt up to the value of £100,000 per project (and can sub-delegate that authority as appropriate). Any settlements or write offs above that value must be approved by the Finance & Resources Committee. All settlements and write offs below £100,000 per project are reported to the Finance & Resource Committee for information.

Lesson Learned: Officers have implemented the Council's Corporate Debt Policy to maximise recovery as they are duty bound to do. Any decision to deviate from policy for contentious matters such as legacy statutory repairs must be a political decision taken by elected members. It cannot be made by officers.

'On hold' debt

Project Joule was an effective means of reviewing and billing a large volume of historic projects. The collection rate on Project Joule is high at 82% especially given the sensitivities and controversy surrounding Property Conservation. Significant process has also been made in clearing legacy suspended debt.

However, at the end of January 2017 there was still £4.5 million of outstanding debt. This included Project Joule, Project Momentum and legacy suspended debt. Of these, 42 cases totalling £0.7 million were recorded on the Morton Fraser status report as being 'on hold' or 'sisted for investigation'.

Some of these cases are on hold while it is decided whether to proceed with litigation. In other cases, however, there is either no indication of why the case is on hold, or the last update was a note in 2015 or early 2016 indicating that there is 'no Deloitte review/Project Joule' or that a surveyor's report is expected from owners.

Lesson Learned: We suggest that a review of cases which are currently on hold should be carried out to determine whether a legal or technical review is required, and whether further action can and should be taken to recover the debt.

Arbitration

A comment made frequently in our interviews with owners and others affected by Property Conservation was that the Council was 'aggressive' in its pursuit of legacy statutory repairs debt, and quick to take legal action.

We recognise that with a project of this nature, and particularly given well-publicised problems in Property Conservation and large debts contested, there will be a small cohort of owners determined to contest bills up to and including Court action 'on principle' and/or in an attempt to avoid a genuine liability.

However, this has been an emotive and drawn-out saga for many owners who wish to pay for repairs at a 'fair' rate but disagree with the Council on the calculations and facts of their bill. In such cases, commercial arbitration may have enabled a settlement to be reached more quickly and a lower cost to the Council. This option was considered in 2013, but no cases reached arbitration as dispute resolution with Maclay Murray Spens LLP was abandoned after the pilot and it was decided by the Council to apply the Project Joule methodology consistently to all projects including those where there was an unresolved complaint.

Lesson Learned: In a proportion of cases both the Council and owners may have benefited from the option of commercial arbitration, with costs shared between the Council and owners.

This is not a recommendation to reopen Property Conservation cases which have already been closed or are in legal proceedings, but commercial arbitration should be considered as an option in future disputes.

3. Compilation of this report

This report has been complex to prepare and involved interviewing multiple individuals and considering the documentation that has survived.

The co-operation of the following individuals was vital in preparing this report and their time spent assisting this investigation was much appreciated.

Cllr Alasdair Rankin (Convenor, Finance & Resources Committee)
Cllr Bill Cook (Vice Convenor, Finance & Resources Committee)
Cllr Jeremy Balfour (former Convenor, Governance, Risk & Best Value Committee)
Cllr Melanie Main (Member, Governance, Risk & Best Value Committee)
Cllr Stefan Tymkewez (Member, Governance, Risk & Best Value Committee)
Fiona Powell (Owner)
Anonymous Owner
Philip Lowe (Quantity Surveyor acting for owners)
Joby Howard (Deloitte Real Estate)
Peter Wilkinson (Deloitte Real Estate)
Maggie Moodie (Morton Fraser LLP)
Rory Alexander (Morton Fraser LLP)
Andrew Field (Head of Shared Repairs Service)
Jackie Timmons (Edinburgh Shared Repairs Service Manager)
Cicely Poulton (Records Management Officer, Edinburgh Shared Repairs Service)
Robert Main (Financial Accountant, Edinburgh Shared Repairs Service)
Elaine Dickson (Debt Recovery Manager, Edinburgh Shared Repairs Service)
Elaine Finlay (Emergency Team Leader, Edinburgh Shared Repairs Service)
Russell Henderson (Case Review Officer, Edinburgh Shared Repairs Service)
Linda Murray (Finance Manager, Edinburgh Shared Repairs Service)
Hugh Dunn (Acting Executive Director of Resources)
Peter Watton (Head of Corporate Property)
Keith Irwin (Principal Commercial Solicitor)
Bryan Denny (Customer Services Manager, Edinburgh Shared Repairs Service)

Appendix 1 – Lessons Learned

Ref	Summary	Lesson Learned
1a) The cessation of activities by the Property Conservation service		
1.1	<p>City Development was slow to recognise and address concerns about the Property Conservation service. The report to the Finance & Resources Committee in March 2010 reported a £28 million work-in-progress balance, but observed that 'it is normal for Property Conservation to be holding an unbilled value of ongoing work in its accounts'.²⁵</p> <p>The scale of the problems relating to the Property Conservation service was brought to light through the persistence of elected members in tabling questions at full Council meetings and thorough scrutiny of reports presented to the Council and its committees.</p>	<p>Scrutiny by elected members</p> <p>This demonstrates the value of elected member scrutiny in highlighting significant service failings and ensuring that they are fully investigated.</p>
1.2	<p>The Internal Audit report issued in October 2010 made 18 recommendations for improvement. At that time, audit findings were not risk rated, and actions were not formally agreed with management. Management actions to address audit findings were not tracked.</p> <p>There was limited evidence that effective action was taken by the Property Conservation service to address audit findings before the service was transferred to SfC in March 2011.</p>	<p>Lack of follow up of Internal Audit actions</p> <p>Actions to address audit findings are now agreed with management at the end of each audit. Implementation is tracked through monthly reporting to the Corporate Leadership Team and quarterly reporting to the Governance, Risk and Best Value committee.</p>
1.3	<p>A focussed attempt to reform the service and deal with complaints began when the service was transferred to Services for Communities in March 2011 (one year after concerns were first raised by members). At this time, a new senior management team was put in place who had had little or no prior involvement with Property</p>	<p>New management once crisis emerged</p> <p>Transferring responsibility for the Service to another Directorate allowed a full assessment of the pervasive problems in the Property Conservation Service and decisive action to be taken to remedy them.</p>

²⁵ Item 20: Property Conservation Service, Finance & Resources Committee, 16 March 2010

	Conservation and as such was sufficiently independent to acknowledge the problems in the service and take remedial action. Emergency measures were immediately put in place and external consultants were appointed to support the investigations.	
1.4	Reporting to the Council and its committees once SfC took over was frank and recognised the significant weaknesses in the service and the need for a fundamental redesign.	<p>Governance</p> <p>Scrutiny and challenge from elected members from 2010 onwards meant reporting was increasingly clear and decisions were transparent. As a result, there was sustained pressure on management to investigate the allegations against Property Conservation thoroughly and take decisive action to remedy the problems endemic to the Service.</p>
1b) The completion of 'active sites'		
1.5	<p>As reported to Council in April 2011, Property Conservation operating procedures were reviewed to improve financial control on 'active sites'. All active projects were to be reviewed to determine a current projected cost, and any variation from that was to be 'subject to a rigorous authorisation process.'</p> <p>However, we reviewed one project completed in this period where additional works were completed without a written mandate from each owner, despite the instructions of the Property Conservation Project Panel to obtain these. This project was later reviewed by Deloitte, and it was considered that the Council could not recover the costs relating to these works.</p>	<p>Project oversight</p> <p>The 'rigorous authorisation process' did not appear to be formalised or enforced. The additional works went ahead without documented approval from the Property Conservation Project Panel and all owners. As a result the Council was unable to recover a significant proportion of project costs from owners where there was a demonstrable enrichment (i.e. the owners had benefited from the works), and the majority of owners had agreed in writing to that work taking place.</p>
1.6	Both 'active site' projects reviewed completed in Spring/Summer 2012, but were not billed until Summer 2014 as part of Project Joule.	<p>Billing</p> <p>Property Conservation did not capitalise on improved project management procedures and customer relationships by billing work promptly. This is likely to have adversely affected collection rates.</p> <p>It also meant that the Council incurred additional costs in cases where a Deloitte review and Morton Fraser involvement in debt recovery may not have been necessary had owners been billed promptly.</p>
1.7	Thomson Bethune and Property Conservation surveyors	Unbilled Work-in-Progress

	<p>made good progress in completing the active sites, reducing the number on site from 83 in March 2011 to 42 in October 2011.²⁶ However, in both 'active site' cases reviewed, owners were not billed until Project Joule in 2014. As with the original Property Conservation service, there appears to have been a focus on completing work on site, but a failure to bill owners.</p>	<p>Accounting policies encouraged the accumulation of a large Work-in-Progress balance as income was recognised by the service as soon as the cost was incurred (and the contractor paid), but there was no impact on the Service's budget if the costs were not successfully recovered from owners.</p> <p>A false financial picture was created as the Service appeared to be successfully generating income for the Council, but in fact did not collect the cash. This could be avoided through more sophisticated management accounting with a provision for bad debt.</p> <p>This continued under SfC when there was a focus on completing active sites and pipeline works, but work completed was not always billed until Project Joule in 2014. This adversely impacted on the Council's cash flow and is likely to have increased costs of billing and debt collection.</p>
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1d) Contractor claims

<p>1.8</p>	<p>The primary reason it was decided not to pursue claims against consultants was that the 5 year period in which the Council could have brought such a claim may have expired. Legal advice held that this began at the point where the Council certified payment to the contractor: the point at which it could be argued they should have been aware of any breach in performance obligations.</p> <p>This highlights the importance of quality control during a project. There was a lack of control over payments to contractors in the Property Conservation service which has been highlighted in earlier reviews of the service: there was no authorisation protocol, and payments were made with no evidence that work had been completed to an acceptable standard.</p>	<p>Certification of works</p> <p>Quality Assurance processes have been built into the new Edinburgh Shared Repairs Service which include site visits, scrutiny and authorisation of stage payments, and retention from final accounts.</p>
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2) The process of determining the recoverability of unbilled WIP at cessation and its subsequent billing

<p>2.1</p>	<p>Three of the 6 projects we reviewed were assessed by Thomson Bethune in this period, but ultimately were not billed until Project Joule because of difficulties such as unidentifiable 'day works' charges or disputes over the</p>	<p>Authority to write-off contested amounts</p> <p>An acceptance that losses would be sustained, and a mandate to write off</p>
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²⁶ Item 8.3: Property Investigation & Service Update, City of Edinburgh Council, 27 October 2011

	<p>allocation of shares. Deloitte deducted significant amounts from the contractors' Final Account before billing owners: in one case reviewed, £439k (40%) was deducted.</p> <p>These were frequently issues which had been identified by Thomson Bethune: where no statutory notice had been issued for example, or there was not an adequate breakdown of a 'day works' charge. However, these cases were put on hold for investigation. Officers did not have the authority, or the will, to write off charges which could not be substantiated. As a result, the project was not billed and no monies were recovered.</p>	<p>significant sums were required before billing could progress. Until the Project Joule Project Panel was given that authority, with a bad debt provision of £17.9m, limited progress was made in billing legacy Property Conservation projects.</p>
2.2	<p>There were a number of different work streams active between 2011 and 2014 (active sites, investigations, Resolution, billing) but they were not treated as a significant programme and managed as such. A review carried out by the Director of Corporate Governance and reported to the Finance & Resources Committee in 2014 found that there was little communication between the work streams and a fragmented approach to the Property Conservation closure.</p>	<p>Project management</p> <p>It was apparent that this was a significant programme from 2011, but it was not treated as such. The Property Conservation closure programme would have benefitted from a project management structure providing oversight and governance across all work streams.</p>
2.3	<p>In June 2014, the Director of Corporate Governance also observed that the Service was struggling with significant pressure in resources. This is apparent if we compare progress made between 2011 and 2013, and between 2013 and 2015 when Deloitte became involved. Deloitte had the capacity available to be able complete the detailed review of a significant number of complaints and project required, and the independence and reputation to progress the project in a potentially difficult political environment. Thomson Bethune, as a medium-sized local firm, does not have same resources available to it.</p>	<p>The appointment of Thomson Bethune</p> <p>While it was sensible to bring in external support at an early stage of the programme, a tender exercise to identify a provider with the capacity and experience to deliver the full programme efficiently would have been beneficial once the extent of work required became clear in 2011.</p>
2.4	<p>In many cases, challenges to bills came from surveyors who represented a large number of owners affected by Property Conservation. The Council responded in these cases to the surveyor, not the owner. We are unable to</p>	<p>Role of third parties acting on behalf of owners</p> <p>Surveyors and lawyers acting on behalf of groups of owners played a significant</p>

	confirm that the Council's full responses reached owners.	<p>role in the Property Conservation Closure Project in generating and sustaining action by owners, and in their communications with the Council on behalf of owners.</p> <p>In future investigations and significant projects, third parties acting on behalf of owners and community activists should be considered as key stakeholders in the communications strategy and project plans.</p>
2.5	<p>Members of both the Finance & Resources Committee and the Governance, Risk & Best Value Committee ('GRBV') acknowledged some difficulties in the relationship between the two committees. The Finance & Resources Committee set policy on Property Conservation closure and resolution, and the GRBV responsible for scrutiny.</p> <p>However, members of both Committees noted that there was a disconnect in the feedback loop back to Finance & Resources: it was not clear what powers the GRBV had to make recommendations or act on that scrutiny. Members of the Finance & Resources Committee also observed that members of GRBV did not always seem to be aware of the decisions made by Finance & Resources Committee or reports that committee had received. We note that much reporting to the Finance & Resources Committee on Property Conservation was by 'B' agenda: some members of the GRBV may not have had sight of those reports.</p>	<p>Governance & oversight</p> <p>Clarify role of Governance, Risk & Best Value in scrutinising investigations and significant projects led by other Council committees including flow of information to GRBV, and extent of its powers in decision-making.</p>
3) The Council's handling of and response to complaints from owners		
3.1	<p>Deloitte's contract was extended in 2014 to encompass project management of all work streams and the development of the new Edinburgh Shared Repairs Service. This was a direct result of the Director of Corporate Governance's review of the Property Conservation Closure Project: he identified that there was little communication between the teams working on the closure, significant pressure on resources, and that progress was slow.</p>	<p>Flexibility of approach</p> <p>The Property Conservation Closure Project benefited critical review of project progress and a willingness to act on its results and seek external support. This meant that greater progress could be made on the Property Conservation Closure Project in 2014 and 2015.</p>

3.2	<p>In investigating owners' complaints, the Resolution Team identified issues (such as a significant sum billed for 'day works') which were later written off by Deloitte. As with the Thomson Bethune review of unbilled work, where issues were identified the Resolution Panel put bills 'on hold' and returned the matter to the Resolution Team for investigation.</p> <p>In 2013, delegated authority was granted to the Director of Services for Communities to write-off or settle amounts relating to disputed Property Conservation Projects up to the value of £3,000.²⁷ Before that date, officers had no authority to settle with owners where they identified problems with the project and/or errors in the bill. This contributed to the accumulation of 278 'complex cases' handed to MMS in 2013. The legal and professional fees incurred in settling these cases added considerably to the amounts written off, and may have been avoided if officers had been given delegated authority to decide on the appropriate treatment early on.</p>	<p>Authority to resolve owners' complaints A clear delegation of authority gives officers the ability to resolve complex complaints efficiently and at a lower cost to the Council.</p>
3.3	<p>We reviewed three cases where complaints had been considered by the Resolution Panel. In two cases, the Resolution Panel recommended that the Resolution Team write to owners to apologize or respond to their complaints. Owners never received those letters. In the third case, a response was sent to the owner, but two years after the original complaint was received.</p>	<p>Tracking decisions of the Resolution Panel The decisions of project boards should be tracked to ensure that timely action is taken.</p>
3.4	<p>It was clear that many owners found the FoI process difficult to navigate and frustrating. It is designed to enable access to information, but owners appeared to see it as an entry to the Council and would use FoI requests to ask questions about their bills and operational questions relating to their project: it became a conduit for complaints in many cases. These often could not be answered fully in</p>	<p>Customer Services In future investigations or significant projects where there is likely to be a high level of public engagement, project teams may wish to consider setting up a single point of contact to help the public navigate the Council and find the information or answers they need.</p>

²⁷ Item B1.1: Property Conservation Resolution of Outstanding Financial Issues, Finance & Resources Committee, 31 October 2013

	<p>the context of an Fol.</p> <p>This appeared to be alleviated to some extent when Project Momentum was introduced. A multi-disciplinary Customer Services team was established to deal with customer enquiries, Fol requests and complaints. There was evidence of increased collaboration and consultation between the teams from 2014 onwards.</p>	<p>We would also recommend defining a communications strategy to help respond to enquiries from members of the public efficiently and clearly.</p>
3.5	<p>It may be that owners and the Council would have been able to reach a mutually acceptable settlement sooner if communication had been supported by someone familiar with the Council and trusted by both sides. Individual elected members did support owners and were able to facilitate meetings between the Council and owners, but their involvement was necessarily ad hoc.</p>	<p>Owners' advocate</p> <p>In future investigations or significant projects where there is likely to be a high level of both controversy and public engagement, project teams may wish to consider appointing an independent person to act as an 'owners' advocate' and support them in their dealings with the Council.</p>
3.6	<p>A number of those we interviewed told us that they had never received an apology from the Council for the well-documented failings of the former Property Conservation service.</p>	<p>Apology</p> <p>A general apology to owners affected by the failings of the former Property Conservation service should be considered.</p>
<p>4) The management of the debt collection process and its adherence to the Council debt collection policy</p>		
4.1	<p>There has been debate over the concept of 'equal shares' as applied to legacy statutory repairs. Under the 1991 Confirmation Act the cost of work is split equally between the 'units' (usually flats) affected. Legacy statutory repairs, including those billed through Project Joule, were billed on that basis. Where deductions were identified on projects which had been billed previously during Project Momentum, credit notes and refunds were offered to all owners.</p> <p>However, there are occasions when a settlement has been reached with some owners affected by a single statutory notice but not others. In other cases, for example when one owner cannot be traced or is in insolvency proceedings, the debt recovery process has been exhausted and a decision is taken to write off the amount due from that owner. In both scenarios, owners in a single</p>	<p>Equal shares</p> <p>Officers have implemented the Council's Corporate Debt Policy to maximise recovery as they are duty bound to do. Any decision to deviate from policy for contentious matters such as legacy statutory repairs must be a political decision taken by elected members. It cannot be made by officers.</p>

	<p>building may pay several different amounts for the same repairs.</p> <p>This treatment aligns with the principles of the Corporate Debt Policy, which is within the control of elected members.</p>	
4.2	<p>At the end of January 2017, there was still £4.5 million of outstanding debt. This included Project Joule, Project Momentum and legacy suspended debt. Of these, 42 cases totalling £0.7 million were recorded on the Morton Fraser status report as being 'on hold' or 'sisted for investigation'.</p>	<p>'On hold' debt</p> <p>We suggest that a review of cases which are currently on hold should be carried out to determine whether a legal or technical review is required, and whether further action can and should be taken to recover the debt.</p>
4.3	<p>This has been an emotive and drawn-out saga for many owners who wish to pay for repairs at a 'fair' rate but disagree with the Council on the calculations and facts of their bill. In such cases, commercial arbitration may have enabled a settlement to be reached more quickly and at a lower cost to the Council.</p>	<p>Arbitration</p> <p>In a proportion of cases both the Council and owners may have benefited from the option of commercial arbitration, with costs shared between the Council and owners.</p> <p>This is not a recommendation to reopen Property Conservation cases which have already been closed or are in legal proceedings, but commercial arbitration should be considered as an option in future disputes.</p>

Appendix 2 – Terms of Reference

To: Andrew Kerr – Chief Executive

From: Magnus Aitken - Chief Internal Auditor

Date: 2 February 2017

Cc: Hugh Dunn – Acting Executive Director of Resources
Peter Watton – Head of Corporate Property & Facilities Management
Andrew Field – Head of Edinburgh Shared Repairs
Nick Smith – Head of Legal, Risk & Compliance

Background

The legacy statutory repairs resolution projects are now close to completion. At its meeting on 22 December 2016, the Governance, Risk and Best Value Committee requested that Internal Audit conduct a project closure review to establish whether there are any lessons to be learned from the Council's handling of the Property Conservation service closure.

Scope

The scope will be to review the closure of the former Property Conservation service and the Council's response to complaints about legacy statutory repairs, and identify lessons to be learned for the future.

This includes, and is limited to, a review of:

- The completion of 'active sites' and the cessation of activities by the Property Conservation service, subsequent to the decision to close the service;
- The process of determining the recoverability of the un-billed WIP at cessation and its subsequent billing – Project Joule;
- The Council's handling of and response to complaints from owners – the Resolution Team / Panel and their subsequent replacement by Project Momentum ; and
- The management of the debt collection process and its adherence to the Council debt collection policy.

For each stage we will consider:

- Governance and decision-making arrangements;
- Application and adequacy of Council procedures and policies; and
- The level of the Council's engagement with and communication to owners.

Limitations of Scope

The scope of our review is outlined above. This review will not include investigations into or assessments of the validity of decisions made in individual cases.

As part of this process, we may seek to contact individuals who are not Council employees. These individuals may exercise their right not to enter into communication with us.

This review will not involve the review of individuals email accounts, nor will it involve any physical searches for documentation.

The scope also excludes consideration of the new Shared Repairs Service. This was the subject of a 'Review Recommend' completed by Internal Audit in January 2016. The new service will be revisited by Internal Audit in 2017/18.

Approach

Our audit approach is as follows:

- Obtain an understanding of the Property Conservation service closure and resolution projects through discussions with key personnel;
- Review available project and case documentation; and
- Consider the appropriateness of the approaches adopted during the Property Conservation service closure and resolution processes; and
- Consider whether there are any lessons to be learned for the future.

The City of Edinburgh Council

Internal Audit

Edinburgh Shared Repairs Service
Final Report
June 2017

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This internal audit review is conducted for the City of Edinburgh Council under the auspices of the 2017/18 internal audit plan approved by the Governance, Risk and Best Value Committee in March 2017. The review is designed to help the City of Edinburgh Council assess and refine its internal control environment. It is not designed or intended to be suitable for any other purpose and should not be relied upon for any other purpose. The City of Edinburgh Council accepts no responsibility for any such reliance and disclaims all liability in relation thereto.

The internal audit work and reporting has been performed in line with the requirements of the Public Sector Internal Audit Standards (PSIAS) and as a result is not designed or intended to comply with any other auditing standards.

Although there is a number of specific recommendations included in this report to strengthen internal control, it is management's responsibility to design, implement and maintain an effective control framework, and for the prevention and detection of irregularities and fraud. This is an essential part of the efficient management of the City of Edinburgh Council. Communication of the issues and weaknesses arising from this audit does not absolve management of this responsibility. High and Critical risk findings will be raised with senior management and elected members as appropriate.

Executive summary

Total number of findings

Critical	0
High	0
Medium	0
Low	2
Advisory	1
Total	3

Summary of findings

Edinburgh Shared Repairs Service has launched as a full service in April 2017, with a pilot service running since September 2015. We reviewed the 3 projects which have been delivered under the new Enforcement procedures to date, and 1 project which was a legacy project from the former Property Conservation service and delivered under the new procedures in its later stages.

From the review the following areas of good practice were identified:

- Robust governance arrangements and quality controls have been implemented to encourage risk-aware decision making and project management.
- The service demonstrated agility in adapting processes to fit needs of individual cases without undermining agreed policies and procedures.
- By nurturing a work culture with open communication, the service learns, shares, and continuously improves its processes.
- There was evidence of consistent, responsive, and detailed communication with customers.

The following areas for improvement were identified:

- Surveyors recruited to deliver the Edinburgh Shared Repairs Service are not used to their full capacity because the number of projects on site is fewer than forecast in the business plan.
- Improvements to the records management system would improve accessibility of project documentation and reduce duplication of work.
- The pre-survey letter to owners could be revised to explain that liability will not be assessed until the survey is complete.

Our detailed findings and recommendations are laid out within Section 2: *Detailed findings*.

1. Background

Background

A significant proportion of buildings in Edinburgh are under shared ownership. Owners of flats or commercial premises in the building are jointly responsible for the upkeep of communal areas and the fabric of the building. Owners have historically had difficulty co-ordinating repairs to these buildings.

In 2013, the Edinburgh Shared Repairs Service (“ESRS”) was formed to issue Emergency Statutory Notices. It enforces emergency repairs on shared ownership properties in situations where public health and safety is compromised. Its responsibility was extended in September 2015 when a pilot service was launched, with the authority to enforce non-emergency but essential repairs to buildings under shared ownership.

Essential Repairs are repairs required within a building that do not pose an immediate threat to the health and safety of members of the public (or owners themselves) but if repairs are not undertaken soon, then it’s likely the fabric of the building will degrade further causing a potential threat at a later date.

ESRS intervene and enforce works when Owners contact them because they cannot agree to facilitate the works themselves and all options have been exhausted. A series of checks are carried out by the service before the service will consider becoming involved. The Council also might refuse to undertake Essential Repairs where there is not enough evidence provided by the owners of arranging repairs themselves or where there is a reputational or financial risk to the Council. The Council takes on the risk of paying for the repairs, and the possibility of being unable to recover sums owed from Owners. If required, the Council’s standard debt recovery processes are undertaken to recover sums owed after the works have been completed and billed. To date, 4 Essential Repairs have been enforced under the new structure and 22 Essential Repairs have been undertaken by Owners through the Intervention process.

The three stages of ESRS are:

Customer contact

This is the initial discussion phase to determine whether there is an essential repair and whether owners have made attempts to procure the works privately before contacting ESRS.

Intervention

This is the second phase which commences once owners have made an effort to procure the works without assistance from ESRS. ESRS intervenes and assists the owners by:

- providing further guidance and support on how to procure works privately;
- writing to owners outlining the benefits of private procurement vs. Council enforcement; and
- appointing a case officer to attend meetings and proactively engage with owners.

Enforcement

After all attempts to procure works privately have been exhausted, ESRS may decide to issue and enforce a Statutory Notice. Each case is presented to a panel where a decision is made to move forward with enforcing the works or to notify the owners that the Council will not take their case forward and it is the responsibility of the owners to undertake the repairs necessary. ESRS will engage a contractor to perform the work and become the contract administrator. ESRS will then recharge all costs, including an administration fee, to the owners.

Statutory notices are registered to the property on the Property Enquiry Certificate system. Any outstanding debt is therefore attached to the property and settled on sale of the property. This mitigates

the risk of non-recovery of debt.

Scope

This review focuses on the Enforcement stage, considering the following areas:

- Decision to begin Enforcement
- Contracting
- Monitoring
- Completion
- Communication with owners
- Billing
- Internal assurance

For the full terms of reference see Appendix 2.

Limitations of Scope

Edinburgh Shared Repairs Service has launched as a full service in April 2017, with a pilot service running since September 2015. The portfolio of projects which have reached Enforcement is limited, so there are elements of the Enforcement process which have not yet been put into practice. As such, we have reviewed the control design but cannot assess the operating effectiveness of the following areas:

Monitoring of contractors

The contract framework began on 3 April 2017, so no projects have been initiated or delivered using framework suppliers. The KPIs which will be used to monitor contractor performance have been developed, but are not yet in use as no contracts are live.


During the pilot, contractors were appointed on a project-by-project basis.

Defects and snagging

Two projects have now been billed to owners, but are still in the defects period. The final retention is still held by ESRS for these projects. We have not assessed controls around the release of the retention payment.

2. Detailed findings

1. Resources are not utilised to capacity

Findings	
<p>The total number of cases proceeding to the Enforcement stage has been lower than forecast in the original business case for the Service.</p> <p>This is a positive development for the service and its reputation, and indicates that governance arrangements and the Customer Contact and Intervention stages are working. However, it does mean that qualified and experienced professionals recruited for the new service may be under utilised.</p>	
Business Implication	Finding Rating
<ul style="list-style-type: none"> Risk of loss of qualified and experienced employees; An inefficient use of Council resources. 	

Action plans	
Recommendation	Responsible Officer
<p>ESRS should work with the wider Service to:</p> <ul style="list-style-type: none"> Forecast the future service demand; Review the Service's Business Case; Assess whether other services require support from Building Surveyors; and Assess whether staffing can be managed across ESRS and Corporate Property rather than solely within Enforcement. 	<p>ESRS Manager</p>
Agreed Management Action	Estimated Implementation Date
<p>The recommendation is accepted. The Business Plan is under regular review to determine appropriate levels of resource.</p> <p>The service manager is currently assessing the effects of the reduced workload on the staff structure and costs of running the service.</p> <p>Recruitment of technical staff has been suspended in the meantime.</p>	<p>July 2017</p>

2. Document management is inefficient

Findings

The Service aspires to become a paperless office with a single, trusted repository for all documentation relating to a case or property. Idox DMS will be introduced as an Enterprise Content Management system which will also enable the Service to share content with external stakeholders and allow remote working through mobile devices.

However, the implementation of Idox DMS has been delayed and there is no 'go live' date for the new system. This is connected to wider delays in the ICT Transformation project, and is outwith the control of the Service. In the meantime, project documentation is held on the shared drive and in paper files. We found this affects the Service in two ways:

Availability of documentation

Two documents requested during the audit could not be found. The documents were of minor relevance to the audit, but this indicates that current records management arrangements do not allow project documentation to be retained and retrieved reliably and efficiently.

Duplication of records

The Gateway and Compliance Checklist is used to record review and authorisation at key stages of a project. It is currently maintained as both a digital Word file and as a physical paper document. The Word document is not secure, so paper documents are held to record authorisation and provide an audit trail. It is not clear whether Idox DMS will enable the Service to record project sign-offs electronically.

Business Implication

- Risk that project documentation is inaccurate where duplicate records are held.
- Risk that core project documentation cannot be retrieved.

Finding Rating

Low

Action plans

Recommendation

- 1) Develop records management procedures with a clear file structure and naming conventions.
- 2) Assess whether Idox DMS will allow authorisation to be recorded electronically.
- 3) As an interim measure, assess whether a digital signature on a PDF would provide an adequate record of authorisation at key stages of a project.

Responsible Officer

ESRS Manager

Agreed Management Action

ESRS has a Records Manager from Information Governance working on historical paper files and part of this project is to implement a new electronic records management system. This project is underway and due to be complete by December 2017.

Due to the ERP project with CGI being delayed ESRS has had

Estimated Implementation Date

February 2018

authorisation to implement a DMS system linked to the system already in use, Uniform. This will be implemented by early 2018.	
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3. Unclear communication of liability to owners

Findings

Before serving a statutory notice, ESRS identify the correct number of properties (liability) and the correct owners (ownership) so far as is reasonably practicable. Assessment of liability is based on a physical building survey carried out before the notice is served.

However, letters to owners before the building survey do not fully explain this process and inform them that the owner's share of repairs and the estimated cost have not yet been assessed. An owner's liability may be affected by further defects identified during the survey (if the defects are found to affect fewer properties than originally thought, for example) or the size of their property. For example, pre-survey letters for one project were sent to 12 owners but it was found during the survey that only 6 owners were liable for the repairs.

Business Implication

- Reputational risk where there is a perceived lack of transparency over costs and shares.
- Risk of not recovering sums owed for surveys or repairs undertaken.

Finding Rating

Advisory

Action plans

Recommendation

The Service should consider including a disclaimer in the pre-survey letter to owners to explain that indicative costs and liability will only be assessed after the survey.

Responsible Officer

ESRS Manager

Agreed Management Action

The recommendation is accepted and has been implemented.

Estimated Implementation Date

June 2017

Appendix 1 - Basis of our classifications

Finding rating	Assessment rationale
Critical	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Critical impact on operational performance; or • Critical monetary or financial statement impact; or • Critical breach in laws and regulations that could result in material fines or consequences; or • Critical impact on the reputation or brand of the organisation which could threaten its future viability.
High	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Significant impact on operational performance; or • Significant monetary or financial statement impact; or • Significant breach in laws and regulations resulting in significant fines and consequences; or • Significant impact on the reputation or brand of the organisation.
Medium	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Moderate impact on operational performance; or • Moderate monetary or financial statement impact; or • Moderate breach in laws and regulations resulting in fines and consequences; or • Moderate impact on the reputation or brand of the organisation.
Low	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Minor impact on the organisation's operational performance ; or • Minor monetary or financial statement impact; or • Minor breach in laws and regulations with limited consequences; or • Minor impact on the reputation of the organisation.
Advisory	<p>A finding that does not have a risk impact but has been raised to highlight areas of inefficiencies or good practice.</p>

Appendix 2 – Terms of Reference

Resources

Terms of Reference – Edinburgh Shared Repairs Service

To: Hugh Dunn

From: Gemma Dalton
Principal Audit Manager

Date: 10 May 2017

Cc: Jackie Timmons; Andrew Field; Peter Watton

This review is being undertaken as part of the 2017/18 internal audit plan approved by the Governance, Risk and Best Value Committee in March 2017.

Background

The new Edinburgh Shared Repairs Service (ESRS) launched as a pilot service in September 2015, with a full launch in April 2017. The remit of the new service, as approved by the full Council in February 2015, includes the enforcement of non-emergency repairs to buildings under shared ownership. Enforcement is the final stage of an ESRS project and the last resort: owners are first encouraged to facilitate repairs themselves.

The three stages of ESRS are:

Customer contact

This is the initial discussion phase to determine whether there is an essential repair and whether owners have made attempts to procure the works privately before contacting ESRS.

Intervention

This is the second phase which commences once owners have made an effort to procure the works without assistance from ESRS. ESRS intervenes and assists the owners by:

- providing further guidance and support on how to procure works privately;
- writing to owners outlining the benefits of private procurement vs. Council enforcement; and
- appointing a case officer to attend meetings and proactively engage with owners.

Enforcement

After all attempts to procure works privately have been exhausted, ESRS may decide to issue and enforce a Statutory Notice. ESRS will engage a contractor to perform the work and become the contract administrator. ESRS will then recharge all costs, including an administration fee, to the owners.

This audit review will focus on the Enforcement stage. 'Lessons learnt' from the collapse of the former Property Conservation service and the risk assessment completed for the new service both identified the nature of the construction industry as a key inherent risk. In the Enforcement stage, the new service will necessarily be reliant on construction firms and tradesmen to carry out repairs.

A desktop review of the proposed contract management arrangements was completed by Internal Audit in January 2016 early on in the pilot. 53 projects have now reached intervention, with 4 of those projects proceeding as Enforcement projects with ESRS acting as contract administrator.

Scope

The scope of this review will be to assess the design and operating effectiveness of the Council's proposed controls relating to Enforcement project management and management information in the Edinburgh Shared Repairs Service.

The sub-processes and related control objectives included in the review are:

Sub-process	Control Objectives
Decision to begin Enforcement	<ul style="list-style-type: none"> • Owners are given sufficient opportunity and guidance to take works on privately without Council enforcement.
Contracting	<ul style="list-style-type: none"> • Contractors are appointed following a competitive tender process in accordance with corporate procurement policy and EU law. • The scope of work and cost are agreed with the contractor before work begins. • The scope of work and cost are authorised in line with corporate policy before work begins. • No work is completed out of scope of the statutory notices. • Variations to contracted work are authorised in line with corporate policy.
Monitoring	<ul style="list-style-type: none"> • Performance measures agreed with each contractor allow Edinburgh Shared Repairs Service to assess quality, price and delivery. • Performance information is meaningful and accurate. • Performance information is monitored throughout the project. • Appropriate action is taken where contractors do not meet agreed service standards.
Completion	<ul style="list-style-type: none"> • The Service confirms acceptance of the work at key stages of the project following a physical inspection. • Timely action is taken to resolve disputes with contractors. • Payments to contractors are made only for work completed fully and to a satisfactory standard. • Responsibility for repairing defects post-completion is agreed with contractors.
Communication with owners	<ul style="list-style-type: none"> • Owners are informed of the estimated cost, scope and timing of works before work begins. • Owners receive prompt and full responses to questions and complaints. • Owners are informed of contract variations (including delays). • Approval is obtained from all owners for non-essential variations to scope. • Defects and snagging identified by owners after project completion are remedied.
Billing	<ul style="list-style-type: none"> • Owners are billed accurately and promptly for work completed. • Owners are only billed for work completed within a Statutory Notice or for which written approval has been obtained.
Internal assurance	<ul style="list-style-type: none"> • Information provided to the Senior Management Team is accurate and timely and enables them to monitor service delivery effectively.

Limitations of Scope

The scope of our review is outlined above. Testing will be undertaken on a sample basis for the period 31 March 2016 to 30 April 2017.

This review will not consider the Emergency Shared Repairs Service which was subject to a full controls-based audit in January 2015, with a follow up report considered by the Governance, Risk and Best Value committee in November 2016.

Approach

Our audit approach is as follows:

- Obtain an understanding of contract management through discussions with key personnel, review of systems documentation and walkthrough tests;
- Identify the key risks around contract management;
- Evaluate the design of the controls in place to address the key risks; and
- Test the operating effectiveness of the key controls.

Internal Audit Team

Name	Role	Contact Details
Lesley Newdall	Chief Internal Auditor	0131 429 3216
Gemma Dalton	Principal Audit Manager	0131 469 3077
Meike Beenken	Internal Auditor	0131 260 4104

Key Contacts

Name	Title	Role	Contact Details
Hugh Dunn	Acting Executive Director – Resources	Review Sponsor	0131 469 3150
Peter Watton	Head of Corporate Property	Head of Service	0131 529 5962
Andrew Field	Edinburgh Shared Repairs Service Senior Manager	Key Contact	0131 529 6778
Jackie Timmons	Edinburgh Shared Repairs Service Manager	Departmental Contact	0131 529 6778

Timetable

Fieldwork Start	15 May 2017
Fieldwork Completed	2 June 2017
Draft report to Auditee	16 June 2017
Response from Auditee	30 June 2017
Final Report to Auditee	7 July 2017

Follow Up Process

Where reportable audit findings are identified, the extent to which each recommendation has been implemented will be reviewed in accordance with estimated implementation dates outlined in the final report.

Evidence should be prepared and submitted to Audit in support of action taken to implement recommendations.

Actions remain outstanding until suitable evidence is provided to close them down.

Monitoring of outstanding management actions is undertaken via monthly updates to the Director and his Senior Executive Officer. The Senior Executive Officer liaises with service areas to ensure that updates and appropriate evidence are provided when required.

Details of outstanding actions are reported to the Governance, Risk & Best Value (GRBV) Committee on a quarterly basis.

Appendix 1: Information Request

It would be helpful to have the following available prior to our audit or at the latest our first day of field work:

- Latest enforcement process map
- Latest performance dashboards
- List of projects which are in the enforcement process

This list is not intended to be exhaustive; we may require additional information during the audit which we will bring to your attention at the earliest opportunity.

Governance, Risk and Best Value Committee

10.00am, Tuesday, 1 August 2017

Corporate Leadership Team Risk Update

Item number	7.5
Report number	
Executive/routine	
Wards	

Executive summary

The Council's risk management framework ensures that risks to the Council are reviewed and updated regularly through quarterly Risk Committees at Directorate and Corporate Leadership Team (CLT) level.

The information in this report reflects the Council's top risks and the key controls in place to mitigate them as at 8 June 2017. 'Capital asset management', 'ICT transformation and change programme', 'business continuity', 'budget management' and 'cyber security and data privacy' are currently the Council's top risks.

Actions have been developed to reduce the level of risk. These risks and controls have been discussed and challenged by the CLT and are presented to the GRBV Committee for information and review.

Links

[Coalition Pledges](#)

[Council Priorities](#)

[Single Outcome Agreement](#)

Corporate Leadership Team Risk Update

1. Recommendations

- 1.1 To note the information provided.
- 1.2 To invite appropriate officers to discuss key risks and mitigations as required.

2. Background

- 2.1 The Governance, Risk and Best Value (GRBV) Committee is responsible for monitoring the effectiveness of the Council's risk management arrangements.
- 2.2 The Council has an Enterprise Risk Management Policy and Risk Management Procedure in place which describe why, when and how risk management should take place. These documents are reviewed and updated annually.
- 2.3 The purpose of this report is to provide a quarterly update to GRBV Committee on the key risks facing the Council and the work being undertaken to reduce the level of risk within the Council.
- 2.4 The CLT Risk Update was last presented to GRBV Committee on 9 March 2017.

3. Main report

- 3.1 During the last quarter risks have been reviewed at Risk Management Groups, Senior Management Teams and Risk Committees within each Directorate. The top risks have been escalated to the CLT Risk Committee for challenge and discussion in accordance with the Council's risk management framework.
- 3.2 The information in this report reflects the Council's top risks and the key controls in place to mitigate them as at 8 June 2017. Appendices 1 and 2 reflect the current top risks to the Council and the key controls in place to reduce the level of risk.
- 3.3 'Capital asset management', 'ICT transformation and change programme', 'business continuity', 'budget management' and 'cyber security and data privacy' are currently the Council's top risks as scored using the current methodology on an inherent basis. This represents no change from the previous quarter.
- 3.4 Future CLT Risk Updates will present risks on a current basis which will factor in the likely timeframe to an event occurring, the effectiveness of controls in place and the level of control over which the Council may have over that event, and will present a more realistic view of the risk. Using this methodology it is likely

that 'business continuity' would be the top risk, and this is reflected in the residual risk scoring shown in the appendices.

- 3.5 Since the last risk update several high-profile events have occurred which have been considered in a risk management context. These events include the Grenfell Tower fire, ransomware attacks, terrorist attacks in London and Manchester and the raising (and subsequent reduction) of the threat level from international terrorism to Critical. After review these events have not altered the scoring of the relevant risks (part of the 'capital asset management' and 'business continuity' risks).
- 3.6 The Council is a Category 1 Responder as defined in the Civil Contingencies Act 2004, which brings legal duties to assess, plan and advise in relation to emergencies. The Council has an Emergency Plan and a Business Continuity Plan in place and ready for use in the event of a major incident occurring. These documents and the responsibility for associated arrangements are owned by the Resilience Team which sits within Strategy and Insight. The Resilience Team regularly liaise with multi-agency partners including Police Scotland and the Scottish Government. For security reasons the plans and information about our possible responses are not made public.
- 3.7 The new Chief Risk Officer, Duncan Harwood, started on 27 February 2017 replacing a secondee from PwC thereby achieving savings for the Council. The Corporate Risk Team is now wholly in-house and currently comprises 2.75 FTE.
- 3.8 The Council won the Resilience Award at the national 2017 Alarm Risk Awards in Manchester, recognising the coordinated and collaborative actions of several departments in response to the collapsed school wall at Oxfangs Primary School and subsequent school closures in April 2016.
- 3.9 Improvements to the risk management framework, based upon good practice in the public and private sector, will be introduced from July 2017. These are designed to refine and enhance several areas of the risk management framework and will be documented in the next update of the Policy and Procedure documents.

4. Measures of success

- 4.1 Effective risk management aims to ensure that key risks to the Council are identified, managed and communicated appropriately and that suitable controls are put in place to mitigate risks to acceptable levels.

5. Financial impact

- 5.1 There is no direct financial impact arising from this report.
- 5.2 Control measures to mitigate risk may have an associated cost which is to be funded from existing budgets in the first instance.

6. Risk, policy, compliance and governance impact

- 6.1 Effective risk management aims to improve performance against objectives by contributing to more efficient use of resources, reduction in management time spent dealing with sudden shock events, and more focus internally on doing the right things properly.
- 6.2 By its very nature risk management cannot guarantee to protect against every possible negative consequence. Even with a perfectly-functioning risk management framework in place events considered extremely unlikely may still occur resulting in significant negative consequences.

7. Equalities impact

- 7.1 There are no direct impacts upon equalities arising from this report.

8. Sustainability impact

- 8.1 There are no direct impacts upon sustainability arising from this report.

9. Consultation and engagement

- 9.1 As part of the Council's risk management framework the information in Appendices 1 and 2 has been discussed and challenged by the CLT.

10. Background reading/external references

- 10.1 [Corporate Leadership Team Risk Update: report to GRBV 9 March 2017](#)

Stephen S. Moir

Executive Director of Resources

Contact: Duncan Harwood, Chief Risk Officer

E-mail: duncan.harwood@edinburgh.gov.uk Tel: 0131 469 3193

Links

Coalition pledges

Council outcomes

**Single Outcome
Agreement**

Appendices

Appendix 1 - Top Inherent Risks as at 8 June 2017

Appendix 2 - Top Inherent Risks with Mitigating Actions

Appendix 3 - Risk Scoring

Appendix 1 Top Inherent Risks as at 8 June 2017

1. Capital asset management

With reduced resources and a heightened need for structural inspection and maintenance the current asset management plan may be insufficient to cover the immediate need for capital improvements (eg improvement of highways, post PPP1 structural reviews and other capital infrastructure) which could result in continued underinvestment and assets that are not fit for purpose or meet health and safety consequences now and in the future.

2. ICT transformation and change program

Key deliverables, benefits & timescales for achieving IT transformation may not be achieved in line with business expectations, requirements & contractual agreements. This will result in adverse impacts on service delivery and the Council's ability to operate, its finances or its reputation.

3. Business continuity

A sudden high impact event causes buildings, people, systems to be non-operational for an unacceptable period of time.

4. Increased service with less resource

Funding reductions, legislative changes and increased demographic pressure, the requirements of the Local Development Plan and the anticipated need for further cost efficiencies will create an unexpected material pressure on our infrastructure, capital and revenue funding, the execution of our strategy and business plan with associated adverse reputational impact.

5. Budget management

Material overspends on service budgets may impact upon the funding of other services

6. Cyber security and data privacy

A significant cyber breach occurs resulting in sizeable loss of data integrity, confidentiality or availability with adverse reputational impact.

7. Customer expectations

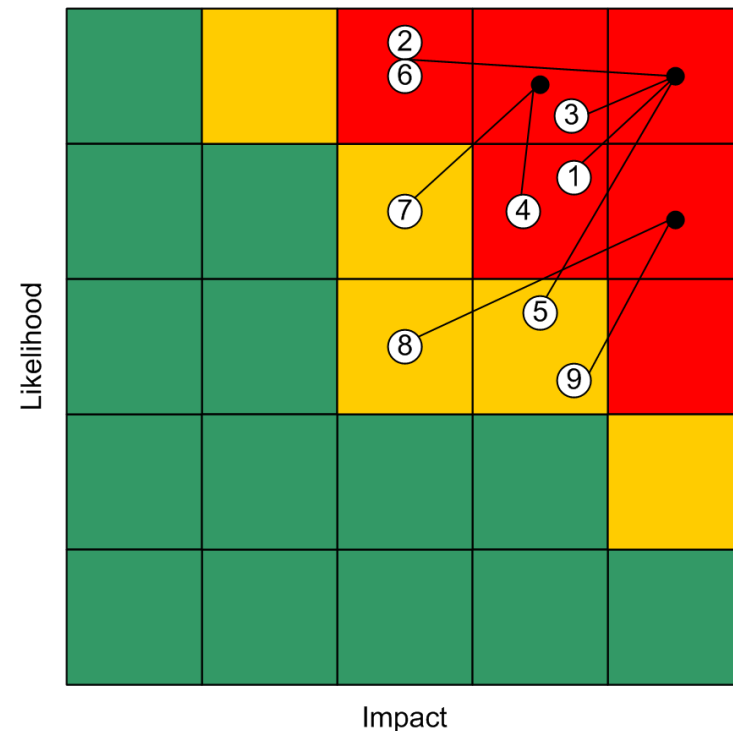
Customer dissatisfaction around delivery of customer facing services (eg waste, roads, delayed discharge) may lead to increased complaints with consequential increased financial strain and reputational damage.

8. Health and Social Care

Through either lack of CEC resource and/or provider capacity, the Council may be unable to secure appropriate contracts with its providers or deliver appropriate services as directed by the IJB. As a result we may be unable to deliver our own commitments and to delivery of the H&SC partnership's strategic plan.

9. Health and Safety

Non-compliance with Council Health and Safety policies and procedures and legal and regulatory requirements could lead to avoidable employee or 3rd party injury or ill health and/or regulatory fines and liability claims, and associated reputational damage.



Inherent risk ●

Residual risk ①

Appendix 2 Top Inherent Risks with Mitigating Actions

	Risk description	I	L	Current key mitigating controls	I	L	Further actions
1	<p>Capital asset management</p> <p>With reduced resources and a heightened need for structural inspection and maintenance the current asset management plan may be insufficient to cover the immediate need for capital improvements (eg improvement of highways, post PPP1 structural reviews and other capital infrastructure) which could result in continued underinvestment and assets that are not fit for purpose or meet health and safety consequences now and in the future.</p>	5	5	<ul style="list-style-type: none"> Property Management (IPFM) report to CLT Condition surveys performed routinely Property Rationalisation work-stream Asset registers in place with prioritised budget spend on those deemed of greatest risk to public safety. General Inspections carried out annually as part of asset management programme 	4	4	<ul style="list-style-type: none"> Ensure asset management strategy clear, prioritised, affordable and deliverable Ascertain extent of any gaps in recording and inspection of fixed assets Produce North Bridge Improvement Plan Procurement underway for contract to inspect all boundary walls. Complete by December 2018.
2	<p>ICT transformation and change program</p> <p>Key deliverables, benefits & timescales for achieving IT transformation may not be achieved in line with business expectations, requirements & contractual agreements. This will result in adverse impacts on service delivery and the Council's ability to operate, its finances or its reputation.</p>	5	5	<ul style="list-style-type: none"> Improved project governance, risk and compliance arrangements between CGI and CEC Plans for the key projects in terms of scoping and resources 	3	5	<ul style="list-style-type: none"> Robust plans with clear outcomes
3	<p>Business continuity</p> <p>A sudden high impact event causes buildings, people, systems to be non-operational for an unacceptable period.</p>	5	5	<ul style="list-style-type: none"> Formal Business Continuity Plan in place ICT Disaster Recovery (DR) arrangements BCP and ITDR stress tested annually 	4	5	<ul style="list-style-type: none"> Rolling programme of DR tests on a per application basis Audit actions being closed out
4	<p>Increased service with less resource</p> <p>Funding reductions, legislative changes and increased demographic pressure, the requirements of the Local Development Plan and the anticipated need for further cost efficiencies will create an unexpected material pressure on our infrastructure, capital and revenue funding, the execution of our strategy and business plan with associated adverse reputational impact.</p>	4	5	<ul style="list-style-type: none"> Provision for demographics built into long term financial plans Assumptions reviewed regularly and reported to F&R with mitigating actions Regular review of funding gap with Members Core Group Service Areas update assumptions half yearly 	4	4	<ul style="list-style-type: none"> As Transformation Programme rolls out this will include attention to service delivery priorities

5	Budget management Material overspends on service budgets may impact upon the funding of other services	5	5	<ul style="list-style-type: none"> • Monthly budget monitoring includes KPIs reported regularly • Quarterly reporting to Members Core Group • Regular reporting by Directors of budget pressures • Savings and implementation plans monitored 	4	3	
6	Cyber security and data privacy A significant cyber breach may occur resulting in sizeable loss of data integrity, confidentiality or availability with adverse reputational impact.	5	5	<ul style="list-style-type: none"> • Refreshed Information security policy introduced • Laptop and media encryption • Service automation controls in place • New IT Security managed Service procured with requirements to adopt CESG (Communications Electronics Security Group – now part of the National Cyber Security Centre) and ISO (international standards) best practice approaches and improve the security defences, monitoring and awareness of the security threat landscape. • Leavers process includes removal of access to IT applications 	3	5	<ul style="list-style-type: none"> • Assess impact of delays in delivery of IT systems • ISMS (Information Security Management System) • Monthly MI demonstrating any threats
7	Customer expectations Customer dissatisfaction around delivery of customer facing services (eg waste, roads, delayed discharge) may lead to increased complaints with consequential increased financial strain and reputational damage.	4	5	<ul style="list-style-type: none"> • Waste improvement plan • New Roads Manager now in place • Roads Service Improvement Plan in place 	3	4	
8	Health and Social Care Through either lack of CEC resource and/or provider capacity, the Council may be unable to secure appropriate contracts with its providers or deliver appropriate services as directed by the IJB. As a result we may be unable to deliver our own commitments, for example, to enable efficient discharge from hospital and consequently risk not fulfilling our duty of care to customers and to delivery of the H&SC partnership's strategic plan Separate H&SCP risk register to be incorporated where appropriate in next risk review cycle	5	4	<ul style="list-style-type: none"> • New structure for procurement designed to ensure appropriate skills • Access to external experts for capacity and capability and knowledge sharing • Partnership working with Service Areas and IJB (IJB Procurement Board) • Contract register includes end of contract action plans • Exceptional items escalated to CLT quarterly • The Chief Officer is a member of CEC CLT 	3	3	<ul style="list-style-type: none"> • Consider co-production with voluntary sector • MI reporting to include RAG status on progression of contracts and exceptions • Comprehensive lessons learned review underway to inform enhanced provider failure protocol and contract management
9	Health and Safety Non-compliance with Council Health and Safety policies and procedures and legal and regulatory requirements could lead to avoidable employee or 3rd party injury or ill health and/or regulatory fines and liability claims, and associated reputational damage.	5	4	<ul style="list-style-type: none"> • Progress on Corporate H&S Strategic Plan is reported annually to CLT and Finance and Resources Committee • H&S performance measured and reported to CLT Risk Committee quarterly • Oversight of assurance programme to CLT Risk Committee quarterly • H&S risks and issues are reported to CLT each week. H&S is a standing agenda item • Corporate H&S Training prog available across all levels 	4	3	

Appendix 3 Risk Scoring

Likelihood	1 – Rare	2 – Unlikely	3 – Possible	4 – Likely	5 – Almost Certain
Probability	0-15%	16-35%	36-60%	61-80%	81-100%
Chance of Occurrence	Hard to imagine, only in exceptional circumstances	Not expected to occur, unlikely to happen	May happen, reasonable chance of occurring	More likely to occur than not	Hard to imagine not happening
Timeframe	Greater than 10 years	Between 5-10 years	Likely between 3-5 years	Likely between 1-3 years	Likely within 1 year

Impact	1 – Negligible	2 – Minor	3 – Moderate	4 – Major	5 - Catastrophic
Effect on outcomes	Minimal effect	Minor short term effect	Part failure to achieve outcomes	Significant failure to achieve obligations	Unable to fulfil obligations
Financial effect	Corporate: up to £250k Services: up to £100k	Corporate: £250k - £750k Services: £100k - £300k	Corporate: £750k - £5m Services: £300k - £1m	Corporate: £5m - £20m Services: £1m - £5m	Corporate: £20m + Services: £5m +
Reputational damage	None	Minor	Moderate loss of confidence and embarrassment	Major loss of confidence and adverse publicity	Severe loss of confidence and public outcry

Likelihood	5 Almost Certain	Low	Medium	High	High	High
	4 Likely	Low	Low	Medium	High	High
	3 Possible	Low	Low	Medium	Medium	High
	2 Unlikely	Low	Low	Low	Low	Medium
	1 Rare	Low	Low	Low	Low	Low
		1 Negligible	2 Minor	3 Moderate	4 Major	5 Catastrophic
		Impact				

Governance, Risk and Best Value Committee

10.00am, Tuesday, 1 August 2017

Employee Engagement Update 2017

Item number	7.6
Report number	
Executive/routine	
Wards	

Executive Summary

Our approach to employee engagement is being developed to provide all colleagues with an opportunity to build the kind of relationship with the organisation that results in a happy, motivated and highly productive workforce. The guiding principles are centred around a clear line of sight between individual contribution and organisational vision; empowerment and encouragement; involvement and participation in the development of services and living and breathing our values.

Employee engagement is at the heart of our employee journey and will form part of our employee value proposition. This is embedded in our People Strategy helping us to attract, retain and motivate a high performing workforce.

Links

Coalition Pledges
Council Priorities
Single Outcome Agreement

Employee Engagement update 2017

1. Recommendations

- 1.1 The Governance, Risk and Best Value Committee is asked to:
 - 1.1.1 note the changes and progress made since the start of the year; and
 - 1.1.2 note and agree the approach to be taken for the employee survey which will be conducted in 2017.

2. Background

- 2.1 The Governance, Risk and Best Value committee approved the 'Pride in our People and key engagement activity update 2016/17 on 2 February 2017 and requested a further update on our approach to employee engagement.

3. Main report

- 3.1 In addition to the engagement programme outlined in the previous report, we will now be looking to develop a council wide Colleague Opinion Survey. This will provide us with a benchmark and help inform future activity.
- 3.2 The last Employee Survey took place in April 2014 receiving a 39% response (7,336 employees). This is just above the average for local authority employee surveys. This is our most robust measure of engagement, satisfaction and attitudes to work with action focused results at the Council and service level.
- 3.3 The survey targets all employees through online, paper based, postal surveys and facilitated sessions. We are looking at methods of increasing the return rate, e.g. building in time to complete with on-site presence actively encouraging completion to ensure colleagues voice informs areas of improvement.
- 3.4 The planned timeline for the survey is summer/autumn 2017 as the current transformation ends and a date will be agreed once the last reviews have concluded.
- 3.5 In addition to the survey we are exploring digital channels of communication and interactive applications which will allow for far greater 'in the moment' feedback, communication, updates and access to key information. This will help to address a large population of employees who have no access to our current systems, primarily front line staff who provide the best of our services.

- 3.6 The council wide survey will allow for a baseline and a benchmark, whilst the digital solution will then allow for continuous ongoing engagement and pulse checks.
- 3.7 In terms of continuing to develop a climate of engagement, the key initiatives in our People Strategy are aligned to support this (see Appendix 1 for detail).
- 3.8 Job Satisfaction
 - 3.8.1 We are re-engineering our recruitment approach with a focus on attracting a workforce aligned to our values and getting the right people in the right place at the right time; and
 - 3.8.2 We are developing our leadership population to engage with their teams, encouraging autonomy and empowerment, focused around Future, Engage, Deliver and which encourages involvement in how the services are developed and delivered.
- 3.9 Coaching Culture
 - 3.9.1 Our new approach to performance management is simpler, values based and more focused on continuous and regular conversations between colleagues. Goals will be clearly aligned to key service delivery objectives, which will be measured to ensure there is a link between individual contribution and organisational performance;
 - 3.9.2 Conversation spotlight training has now rolled out for CLT, WLT and we are half way through senior managers with a focus on coaching conversations; and
 - 3.9.3 We have a small bank of accredited coaches who are also supporting colleagues across the organisation at all levels from executive development to preparing for a new role.
- 3.10 Positive Work Environment
 - 3.10.1 We currently provide flexible work arrangements through a variety of policies and practices. This leads to greater work life balance and should be centred around trust, whilst taking account of service delivery against agreed goals. Line managers should regularly review flexible working arrangements to ensure service delivery is achieved;
 - 3.10.2 An equality and diversity portfolio is underway across Scottish Councils, led by the Head of Human Resources for City of Edinburgh Council. This is looking to actively encourage even greater diversity and inclusion; and
 - 3.10.3 Reward and recognition will be reviewed in 2017 in consultation with Trade Unions and colleagues across the organisation with a focus on recognition and rewarding the culture we are aspiring to.
- 3.11 Grow and Develop
 - 3.11.1 Whilst most learning happens on the job, we recognise some individuals desire to grow beyond their role. Job enrichment, project opportunities,

shadowing, mentoring and action teams are just some initiatives to provide opportunities for employees to make the greatest use of their talents over and above the job.

3.11.2 Our current leadership development programme is being developed in consultation with colleagues across the organisation to get the right blend of learning activity to address current development needs; and

3.11.3 Whilst formal development continues to meet the fundamental needs of services, we also provide self-directed learning opportunities and actively encourage informal learning, e.g. continuous professional development qualifications through our Further and Higher Education Scheme.

3.12 Trust in Leadership

3.12.1 Directors and senior management continue to set out visions for the services. This has been supported by the Future-Engage-Deliver leadership workshops rolled out in 2016/17. Leadership at all levels are actively encouraging open and transparent communications and conversations, which all colleagues have a responsibility to participate in.

3.13 Creating a climate of engagement relies on active involvement and participation by all colleagues. The initiatives outlined in this report are designed to increase engagement resulting in higher performance.

4. Measures of success

4.1 The success of each activity will be measured through:

- Feedback at specific events; and
- Employee engagement surveys and focus groups.

5. Financial impact

5.1 There are no immediate financial implications arising from this report. Once a survey and digital channels have been sourced our procurement process will be followed.

6. Risk, policy, compliance and governance impact

6.1 There are no risk, policy compliance and governance implications arising from this report.

7. Equalities impact

7.1 There are no significant equalities implications arising from this report.

8. Sustainability impact

8.1 There are no adverse environmental impacts arising from this report.

9. Consultation and engagement

9.1 A range of consultation approaches and mechanisms are being used throughout the development of our employee engagement activity.

10. Background reading/external references

- 10.1 [Pride in our People and key engagement activity update 2016/17](#) – report to Governance, Risk and Best Value Committee, 2 February 2017
- 10.2 [Council People Strategy and People Plan 2017-2020](#) – report to Finance and Resources Committee, 23 February 2017

Stephen S. Moir

Executive Director of Resources

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11. Links

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Appendix 1 – Employee Engagement update 2017

Appendix One – Employee Engagement update 2017

Below provides detail on some of the key initiatives underway to support our employee engagement agenda:

Coaching Culture, Positive Work Environment & Trust in Leadership Job Satisfaction

Embedding our new performance management framework: -

- Targeted focus on ensuring all employees have a year-end review for last years' performance – 96% completion compared with 58% completion last year.
- 100% of the Wider Leadership Team (WLT) engaged with development sessions ('Future, Engage, Deliver' and 'Conversation Spotlight') and additionally they meet on a monthly basis on a range of relevant matters; members of WLT have also formed cross functional action sets who are engaged in solution based activities e.g. managing attendance; all members of WLT are also part of a learning sets which focuses on individual and collective development.
- 75 two day sessions rolled out so far to our senior leadership population to support the roll out and embedding of our new performance framework.
- 600 Senior Service Leaders have taken part in development sessions so far
- 22 colleague 'bite size' sessions have taken place with over 800 participants attending so far.
- Over 1,500 employees have accessed our 'How to' guide.
- All line managers are now engaged with their looking forward annual conversation – setting their performance objectives and personal development priorities for 2017/18.
- We are now engaging staff with the evaluation of our framework – to date we have had engagement with 70 staff from across our organisation.

Ongoing employee engagement:

- 'Talk with Andrew' sessions continue with two events held this year and one planned in September. Sessions are held at a variety of locations across the city and on average 80 to 90 colleagues attend.
- Full Andrew Kerr visibility plan designed, activity includes:
 - o lunches every two months with 20 colleagues from across the council. First one will take place in August;
 - o Townhall meeting in Waverley Court every six months and will also start in August;
 - o New weekly blog was launched on 7 July which has received 2,246 views; and
 - o Ward visits from September and will include visits to libraries, Health Centres, recycling and waste centres and locality offices.
- Paul Lawrence has held three face to face sessions with Place colleagues in - East neighbourhood, City Art Centre and Murrayburn. Two face to face sessions with Culture colleagues and will be carrying out more sessions later in the year
- Trade Union Engagement – continue partnership at work, Employee Relations Engagement meetings, Joint Consultative Group, Joint Consultative Committee,

and Departmental Joint Consultative Committee to ensure collective views, discussions and consultation continues.

- Exploring digital channels to inform and engage front line colleagues.
- Four Place colleague communications and engagement working group meetings have been held. Looking at communications within the Place Directorate. An action plan was developed and owned by the group. Smaller teams are to be set up for colleagues in Place Development, Place Management and Culture.
- Alistair Gaw attended the first Communities and Families communications and engagement working group in January. The working group will continue and take place every month. Alistair will also visit a school cluster every Friday starting in August.
- Workshop was held with service leads from Health and Social Care and Communities and Families colleagues, which focused on culture, behaviours and colleague engagement.
- A series of focus groups took place with colleagues from across the council to understand experiences of change and lessons learnt.
- An all employee survey is planned for Autumn this year.

Grow and Develop

- Currently procuring four-year framework agreement for learning and development provision across our organisation and with our partners (Mid Lothian, East Lothian, West Lothian, Fife, Scottish Borders and Scottish Parliament).
- We are currently reviewing our leadership development training and will be launching a new approach later this year which is aligned to our organisational needs and culture.
- We are undertaking 'training needs analysis' to understand and determine learning and development priorities and to better understand the impact and evaluation of what we deliver.

Governance Risk and Best Value Committee

10.00 am, Tuesday, 1 August 2017

Monitoring Officer Investigation

Item number 7.7

Report number

Executive/routine

Wards

Executive Summary

The Council's Monitoring Officer submitted a report to Council on 29 June 2017 in relation to:

- the Council's management of certain outdoor advertising projects;
 - (i) the Council's handling of an individual's complaints and requests for information in relation to such projects; and
 - (ii) the findings of a report by the Scottish Public Services Ombudsman (SPSO) into these matters.

The report outlined new arrangements which have been put in place to prevent a recurrence of the issues identified. Council remitted the report to the Governance, Risk and Best Value Committee to consider whether the new arrangements proposed were sufficiently robust to mitigate against future risks.

Links

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Monitoring Officer

1. Recommendations

- 1.1 It is recommended that Committee notes the robust measures which have been put in place to prevent a recurrence of the issues identified in the Monitoring Officer report.

2. Background

- 2.1 As reported to Council, the SPSO made several recommendations in its report in relation to this matter, namely for the Council to:
 - 2.1.1 Carry out full review of the complaints handling in the case to establish the lessons to be learnt for handling future complex complaints;
 - 2.1.2 Provide evidence that all the officers involved in responding to this complaint have undergone complaints handling training;
 - 2.1.3 Conduct a full review of the management of all the various advertising projects from their inception as proposed in 2012 and provide the findings to the Ombudsman;
 - 2.1.4 Provide evidence of the actions taken to improve internal communication in view of the acknowledged failings in this case; and
 - 2.1.5 Apologies to the complainant for the failures identified.

3. Main report

- 3.1 The Monitoring Officer report submitted to Council advised how the Council had complied with these recommendations.
- 3.2 In relation to lessons learned in relation to complaints handling and internal communication (see 2.1.1 and 2.1.4 above), a new strategic complaints function is being set up as part of the Information Governance Unit (IGU). Under the new framework, the IGU will provide a single point of reference for advice on the complaints process and will assist service areas in co-ordinating and escalating complex complaints.
- 3.3 In terms of senior responsibility for complaints handling, if responsiveness issues arise in the future in relation to treatment of a complex complaint, the IGU will

escalate the matter to the relevant Director or the Council's Corporate Leadership Team. The appropriate Head of Service will then be directly tasked with dealing with the matter.

- 3.4 In relation to reviewing the management of all the various advertising projects within the scope of the SPSO's report, direct responsibility for the projects now belongs to the Cultural Services team within the Place Directorate. The team is responsible for ensuring robust contract management and clear channels of communication. Procurement and Legal colleagues are currently working with the team to finalise the procurement process for the new project to put in place appropriate contractual arrangements.

4. Measures of success

- 4.1 The actions taken by the Council after a thorough investigation demonstrates that it has taken steps to prevent a recurrence.

5. Financial impact

- 5.1 No direct impact.

6. Risk, policy, compliance and governance impact

- 6.1 There is a risk that by not following the appropriate legislative and policy requirements, the Council is open to unnecessary external scrutiny and potentially legal action.

7. Equalities impact

- 7.1 No direct impact.

8. Sustainability impact

- 8.1 No direct impact.

9. Consultation and engagement

- 9.1 None.

10. Background reading/external references

10.1 The SPSO report can be found using the following link:

https://www.spsso.org.uk/sites/spsso/files/investigation_reports/2017.03.22%20201508737%20201508738%20201508193%20201508082%20The%20City%20of%20Edinburgh%20Council.pdf

Nick Smith

Monitoring Officer

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Appendix 1 – Monitoring Officer Investigation report

Appendix 2 – SPSO report

10.00am, Thursday, 29 June 2017

Monitoring Officer Investigation

Item number
Report number
Executive/routine
Wards

Executive summary

This report sets out the findings of an investigation carried out on behalf of the Monitoring Officer in relation to:

- (i) the Council's management of certain outdoor advertising projects;
- (ii) the Council's handling of an individual's complaints and requests for information in relation to such projects; and
- (iii) the findings of a report by the Scottish Public Services Ombudsman (the "SPSO") into these matters.

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Monitoring Officer Investigation

1. Recommendations

- 1.1 To note that the Council's Monitoring Officer is required, under s.5 of the Local Government and Housing Act 1989, to report to Council if he considers that in the course of the discharge of the Council's functions any proposal, decision or omission has resulted in maladministration. In this context, maladministration means unreasonableness in the delivery of Council services, or failure to apply the law or rules properly;
- 1.2 To note that a report by the Scottish Public Services Ombudsman ("SPSO") into the Council's management of certain outdoor advertising contracts and related complaints resulted in a finding of maladministration;
- 1.3 To note the outcome of investigation reports into the matter undertaken by Brodies LLP ("Brodies") on behalf of the Monitoring Officer (the "Reports");
- 1.4 To note that the Chief Executive has sent a written apology to the complainant on behalf of the Council in relation to this matter; and
- 1.5 To note that the Council has complied with all recommendations of the SPSO's report and has taken further action to prevent recurrence of the issues identified.

2. Background

- 2.1 In 2003, advertising drums were installed in the Grassmarket area as part of a trial project instructed through Economic Development, with temporary advertising consent granted for a year. The purpose of the drums was to provide an allocated space for events flyers, thereby reducing illegal fly-posting. The management and removal of illegal fly-posting was an ongoing problem for the Council at the time, taking up significant resource. The trial was managed by City Centre Posters Ltd ("CCP") and was not competitively procured. Over the next 12 years, the Council permitted CCP to operate further drums around the city.
- 2.2 In November 2014, a complaint was made by a member of the public ("Mr C") that there had not been a proper procurement process for CCP's use of the drums and that they did not have proper consent.

- 2.3 In October 2015, the Council informed CCP that, following review, the drums were to be removed. The Council's contract with CCP will terminate on 30 September 2017. The intervening period allowed for a reasonable notice period to be given to CCP in accordance with the current contractual arrangements and to allow consultation with the cultural sector around the commencement of the new contract (i.e. after the Summer festivals).
- 2.4 Mr C submitted a large volume of detailed information requests and complex complaints to the Council, which often spanned several service areas.
- 2.5 Ultimately, Mr C's complaints were referred to the SPSO. Overall, the SPSO was highly critical of the Council's handling of the outdoor advertising projects and Mr C's complaints in relation thereto.
- 2.6 Given the long history and complexity of the matter, Brodies were appointed to undertake a thorough and independent review of what had gone wrong and what improvements could be made to minimise the risk of recurrence.

3. Main report

- 3.1 Brodies were appointed to investigate and report on the Council's management of the advertising drums and on its handling of Mr C's questions and complaints. Brodies provided two reports dealing with each element. I summarise each of the reports below:

Outdoor Advertising Contracts Review

- 3.2 Brodies were satisfied that there was a reasonable rationale for initially introducing advertising drums into the city centre due to significant problems with flyposting. It was costing the Council around £300,000 annually to clean up affected areas.
- 3.3 However, Brodies found that there were very limited records of decision-making in relation to the project. The Council's record-keeping and overall monitoring of project performance was inadequate. In the absence of monitoring arrangements, the project could not be properly assessed in terms of providing value for money.
- 3.4 The Council accepts that there was no proper procurement process originally carried out in relation to the advertising drums. The arrangements with CCP were described as an informal management agreement. The contract should have been formalised and tendered to ensure best value. Brodies highlighted a lack of evidence of Council officers paying regard to the principle of best value in the early stages of decision-making and in the ongoing decisions to maintain the arrangements with CCP.

- 3.5 Brodies found that there was no effective oversight of the drums project from 2004 to 2014. Overall, there was also a lack of clarity in relation to who had overall responsibility for outdoor advertising drums. There was an overlap between the role of the Neighbourhood Office and other teams, such as Planning, Economic Development and Culture and Sport. Latterly, the confusion was exacerbated by the major service and structural reorganisation that was taking place within the Council. Officers in the Information Governance Unit (“IGU”) state that they advised the Acting Director of Services for Communities in June 2015, that the issue of contract management for advertising drums should be thoroughly investigated. This does not appear to have happened.
- 3.6 The lack of clarity over responsibility for the various contracts was compounded by poor lines of communication between the different Council service areas and teams involved in advertising projects.
- 3.7 In terms of mitigating factors, Brodies recognised that a significant barrier to addressing the management of advertising contracts was a lack of resources within the Council and competing pressures on officers’ time. A substantial amount of resources had to be directed towards dealing with Mr C’s lengthy and numerous complaints and requests. However, overall Brodies did not excuse the inaction on this basis – over the long history of the matter there was sufficient time and scope to resolve the relevant issues.

Maladministration

- 3.8 The SPSO concluded that the failure to procure the advertising drums contract, compounded by its repeated expansion, amounted to maladministration.
- 3.9 The definition of maladministration is wide and can include incorrect action or failure to take action in addition to failure to follow procedure or the law.
- 3.10 Whilst recognising the resourcing pressures on the Council, Brodies agreed with the SPSO that the Council’s management of the advertising contracts amounted to maladministration.

Improvement actions

- 3.11 Overall responsibility for the project now belongs to the Cultural Services team within the Place Directorate. The team is responsible for ensuring robust contract management and clear channels of communication. Procurement and Legal colleagues are currently working with the team to finalise the procurement process for the new project to put in place appropriate contractual arrangements.

Complaints Handling Review

- 3.12 Brodies identified that officers involved in the matter had not been consistently trained on complaints handling. There was varied experience of using the Council's Complaints Procedure and some officers were not clear when they had last had training.
- 3.13 Had all officers been fully trained on complaints handling, a more appropriate and effective strategy could have been employed to deal with Mr C's complaints and information requests. The main element of his complaint (that the arrangement had not been openly procured) may have been more properly categorised as the basis of a legal challenge against the Council. In terms of lengthy, repeated communications from Mr C, it may have also been appropriate to consider invoking the Council's Managing Customer Contact Policy. However, Brodies noted that seeking to treat communications under this policy would have had to have been considered in the light of whether the fundamental issues of Mr C's complaints were being addressed.
- 3.14 Brodies saw no evidence of Council officers intentionally withholding information from Mr C or not taking his complaints seriously enough. Council officer workloads and priorities, lack of clarity on both sides as to timescales for responses, and the complexity and volume of Mr C's complaints appear to all have played a part in delayed response times.
- 3.15 In terms of information handling, there were also various issues with the accuracy of information being provided within the Council. Not all FOI requests are routed through the FOI team. Some are dealt with directly by service areas which, in this instance, led to contradictory responses being issued (Mr C had addressed very similar complaints to different teams within the Council). Officers in the Procurement team also rely heavily on information from service areas to answer questions from disappointed or potential bidders. Procurement officers do not necessarily have the technical knowledge to realise when poor or incorrect information is being provided by a service area and nor should they be expected to do so. However, this again led to inaccurate information being issued to Mr C.
- 3.16 There was no collective awareness of Mr C's varied complaints, with different service areas not being aware of the bigger picture surrounding Mr C until matters had escalated.

Maladministration

- 3.17 The SPSO concluded that the Council did not respond accurately to Mr C's questions and complaints and provided a series of inaccurate and confusing responses over a period of time. The SPSO considered that the delays and

inaccuracies in the Council's response were sufficient to constitute maladministration.

- 3.18 Brodies concluded that, on balance, the circumstances did appear to have met the threshold for maladministration. They considered that there was clear evidence of inadequate internal communication leading to delays in investigation and action and inaccurate and contradictory information being issued to Mr C. The Council also demonstrably neglected to follow or properly apply its own Complaints Procedure on a number of occasions.

Improvement Actions

- 3.19 All officers involved in dealing with Mr C's complaints have undertaken complaints handling training.
- 3.20 Since the Council's Transformation programme in 2016, a new strategic complaints function is proposed to be set up as part of the IGU. This development responds to the need for a more coherent and streamlined approach to the management of complaints throughout the Council, including significantly enhanced support, oversight and management of complex complaints. A review of the complaints management procedure is currently underway and there have been several workshops and a Council-wide consultation to identify issues, challenges and potential opportunities. The findings are currently being collated into a report for the Council's Corporate Leadership Team and will include a series of recommendations, including the development of a more robust complaints framework and overarching policy that clearly defines staff roles and responsibilities and the escalation process.
- 3.21 Under the new framework, the IGU will provide a single point of reference for advice on the complaints process and will assist service areas in co-ordinating and escalating complex complaints.
- 3.22 In terms of senior responsibility, if responsiveness issues arise in the future in relation to treatment of a complex complaint, the IGU will escalate the matter to the relevant Director or the Council's Corporate Leadership Team. The appropriate Head of Service will be tasked with dealing with the matter.

4. Measures of success

- 4.1 The actions taken by the Council after a thorough investigation by an independent law firm demonstrates that it has taken this matter seriously and has taken steps to prevent a reoccurrence.

5. Financial impact

- 5.1 No direct impact.

6. Risk, policy, compliance and governance impact

- 6.1 There is a risk that by not following the appropriate legislative and policy requirements, the Council is open to unnecessary external scrutiny and potentially legal action.

7. Equalities impact

- 7.1 No direct impact.

8. Sustainability impact

- 8.1 No direct impact.

9. Consultation and engagement

- 9.1 None.

10. Background reading/external references

- 10.1 The SPSO report can be found using the following link:
<https://www.spsso.org.uk/investigation-reports/2017/march/city-edinburgh-council>

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Appendix

The Scottish Public Services Ombudsman Act 2002

Investigation Report

UNDER SECTION 15(1)(a)

SPSO

4 Melville Street
Edinburgh
EH3 7NS

Tel **0800 377 7330**

SPSO Information **www.spsso.org.uk**

SPSO Complaints Standards **www.valuingcomplaints.org.uk**

Case ref: 201508737, 201508738, 201508193 and 201508082, The City of Edinburgh Council

Sector: Local Government

Subject: Economic Development / Complaints handling

Summary

Mr C complained about the City of Edinburgh Council (the council's) handling of a series of complaints about their management of projects to control small poster advertising within the city. Mr C also complained about the tendering process for an advertising contract.

Mr C said multi-sided drums for sticking posters to had been put in place as a trial project in 2003. Although the project had meant to be reviewed after a year, this had not happened. Over the following twelve years, more drums had been added throughout the city. Mr C had complained the project was not properly managed and that the council had no control over it. He said the council had taken an unreasonable length of time to respond to his complaint and had provided an inaccurate response.

Mr C said the council had not responded at all to his complaint about tendering for advertising contracts. He considered this unreasonable given the length of time the council had taken.

Mr C said he had complained about a specific site where advertising was being placed without the appropriate permission being given by the council. When permission was requested, it was denied, but the council failed to take enforcement action.

Mr C also complained the council had provided inaccurate responses to his complaints. He said he had proved this using information he had obtained from the council.

Mr C said none of his complaints had been handled reasonably by the council. He also suggested the council's responses had been inaccurate and confusing.

The council accepted they had taken too long to respond to Mr C's complaints and that in one case, they had not responded at all. They said they had

received a significant amount of correspondence from Mr C about the same issues. The council did not accept their complaint responses were inaccurate, confusing or misleading.

We found the council's handling of Mr C's complaints was unreasonable and failed to follow their own complaints procedure. The council had not responded at all to one of Mr C's complaints. Although the council had accepted there were delays in responding, we did not find evidence they recognised the length of these delays, and they had not provided an explanation for the failure to respond at all to one of Mr C's complaints.

We found the council's response to Mr C's complaint about advertising drums was inaccurate and that they had failed to keep appropriate records about the project. The council were unable to provide evidence of any project management or assessment and it was unclear how the project could have been assessed for success or failure. Although the council's internal correspondence accepted Mr C's complaint had identified areas of risk to the council they did not indicate to Mr C whether his complaints had been upheld.

We found the council had generally failed to handle Mr C's complaints reasonably. He had been able to demonstrate that their responses were inaccurate with information he had obtained from them following their responses to his complaints. We found the council had failed to follow their complaints handling procedures when dealing with any of his complaints and that staff appeared unaware of their responsibilities in this regard.

We found there were significant concerns about the failure to keep proper records about the advertising projects and the continual postponement by the council of a full assessment of them. This was despite repeated statements by the council to Mr C that the projects had been reviewed.

Redress and recommendations

The Ombudsman recommends that the Council:	<i>Completion date</i>
(i) provide a full response to Mr C's complaint 201508737 addressing each of the points raised by him;	8 May 2017
(ii) carry out a full review of the complaints handling in these cases to establish the lessons to be learnt for	18 May 2017

- handling future complex complaints;
- (iii) provide evidence that all the officers involved in responding to these complaints have undergone complaints handling training; 8 May 2017
 - (iv) conduct a full review of their management of all the various advertising projects from their inception as proposed in 2012 and provide their findings to the Ombudsman; 18 May 2017
 - (v) provide evidence of the actions taken to improve internal communication in view of the acknowledged failings in this case; and 18 May 2017
 - (vi) apologise to Mr C for the failings identified in this report. 8 May 2017

Who we are

The Scottish Public Services Ombudsman (SPSO) investigates complaints about organisations providing public services in Scotland. We are the final stage for handling complaints about the National Health Service, councils, housing associations, prisons, the Scottish Government and its agencies and departments, the Scottish Parliamentary Corporate Body, water and sewerage providers, colleges and universities and most Scottish public authorities. We normally consider complaints only after they have been through the complaints procedure of the organisation concerned. Our service is independent, impartial and free. We aim not only to provide justice for the individual, but also to share the learning from our work in order to improve the delivery of public services in Scotland.

The role of the SPSO is set out in the Scottish Public Services Ombudsman Act 2002, and this report is published in terms of section 15(1) of the Act. The Act says that, generally, reports of investigations should not name or identify individuals, so in the report the complainant is referred to as Mr C. The terms used to describe other people in the report are explained as they arise and in Annex 1.

Introduction

1. Mr C complained about the City of Edinburgh Council (the Council)'s handling of a series of related complaints he made about the Council's management of advertising projects within the city. These projects related to a temporary advertising arrangements for the Edinburgh Festival, the Edinburgh Festival Fringe and the Authorised Advertising Project (AAP), which covered management and control of street advertising within the city, intended to reduce flyposting.

2. The type of advertising covered by the projects is described as 'small format' advertising. In this context, it refers to the Council using an external organisation to manage flyposting and illegal advertising on specific sites. The external organisation provides opportunities for legitimate advertising to be placed, whilst monitoring and removing any illegal advertising within a specified radius of the site. This is achieved through the provision of controlled hoardings designed and installed by the external organisation, intended to improve the visual appearance of the area. In this instance, this included the installation of free standing multi-sided advertising drums. The external organisation retained the revenues generated from selling the advertising space. The Council did not receive any direct financial benefit, although it no longer incurred the costs of removing illegal posters and maintaining the sites.

3. One of Mr C's complaints regarded the tendering process for the Edinburgh Festival Fringe advertising contract. The tendering process allowed for interest to be registered by companies considering participating in the tender. It was also possible, once interest had been registered, to pose questions to the Council about the tendering process and the contract. The Council would respond to these questions, providing further detail to interested parties to allow them to improve the quality of their submission.

4. Although the cases are set out separately and were dealt with separately by the Council, the subject matter and complaints are closely related. For this reason, I consider it appropriate to issue a joint report for all four complaints to highlight concerning issues apparent across all the cases.

201508082

5. Mr C complained about advertising drums (the drums), which were freestanding installations placed on the street to allow small format posters to be attached. They could also be used to carry information about the city,

including maps as required by the Council. Mr C said a small number of drums had originally been introduced in 2003 in one location on a trial basis. Mr C complained that the trial had never been subject to review and the drums had simply been left in place. Over the following twelve year period, additional drums had been added throughout the city. Mr C said the project had not been properly managed and the Council had no control over it. The Council had failed to respond reasonably to Mr C's complaint. In particular, Mr C said there had been unreasonable delays and that the final response he had received had been inaccurate. Mr C said that the Council had been unable to explain how they had managed the project, why it had developed the way it had, or provide accurate information about it.

201508737

6. This complaint concerns the tendering process for advertising contracts related to the Edinburgh Festival Fringe. Mr C complained to the Council on 11 April 2014 that the processes followed were not appropriate or transparent. Mr C complained to my office that the Council had failed to respond to his complaint and that a series of questions he had put to the Council about the tendering process remained unanswered. Mr C considered this to be unreasonable, given the length of time the Council had taken to investigate his complaint.

201508193

7. Mr C complained about to the Council about a site on X Street, which was being used for small format advertising. Mr C said that the site was owned by the Council; the Council logo was displayed on site and support was provided for the site by Council officers. The site did not have planning consent for advertising and when this was applied for, consent was refused. Mr C said that, despite this refusal, inadequate enforcement action had been taken by the Council. Mr C said the Council had failed to handle his complaint about this reasonably. He said the Council had taken too long to provide a response; had failed to communicate with him during the complaint investigation; and their decision was not supported by the evidence.

201508738

8. This complaint was made following receipt of Council responses to a number of Freedom of Information (FOI) requests by Mr C. Mr C said these responses showed that the Council had provided inaccurate information about his complaint. Mr C believed that the Council had not handled his complaint

reasonably and they had failed to address the issues he had raised on the basis of the new information he had received.

9. The complaints from Mr C which I have investigated for 201508082 are that:

- (a) the Council did not handle Mr C's complaint reasonably (*upheld*); and
- (b) the Council's responses to Mr C's complaints were unreasonable on the basis that the complaint responses contained information which was confusing, contradictory, misleading and untrue. Additionally the decision not to uphold these complaints was not reasonably supported by the evidence (*upheld*).

10. The complaint from Mr C which I have investigated are for 201508737 is that:

- (c) the Council did not handle Mr C's complaint of 11 April 2014 (Council ref 730592) reasonably (*upheld*).

11. The complaints from Mr C which I have investigated for 201508193 are that:

- (d) the Council did not handle Mr C's complaint reasonably (*upheld*); and
- (e) the Council's responses to Mr C's complaints were unreasonable on the basis that the complaint responses contained information which was confusing, contradictory, misleading and untrue. Additionally the decision not to uphold these complaints was not reasonably supported by the evidence (*upheld*).

12. The complaints which I have investigated for 201508738 are that:

- (f) the Council did not handle Mr C's complaint reasonably (*upheld*); and
- (g) the Council's responses to Mr C's complaints were unreasonable on the basis that the complaint responses contained information which was confusing, contradictory, misleading and untrue. Additionally the decision not to uphold these complaints was not reasonably supported by the evidence (*upheld*).

Investigation

13. In order to investigate Mr C's complaint, my complaints reviewer considered all the documentation submitted by Mr C and the Council. In this case, we have decided to issue a public report on Mr C's complaint due to significant failings on the part of the Council.

14. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

(a) The Council did not handle Mr C's complaint reasonably; and (b) The Council's responses to Mr C's complaints were unreasonable on the basis that the complaint responses contained information which was confusing, contradictory, misleading and untrue. Additionally the decision not to uphold these complaints was not reasonably supported by the evidence

15. This complaint relates to the presence of the drums throughout the city. I note that Mr C had correspondence with various Council officers prior to making his formal complaint. I summarise this first, since it provides a useful context to the complaint process.

16. In June 2014 Mr C asked about the management of advertising contracts and advertising throughout the city. He was directed to Local Planning and Delivery. Mr C was told that advertising on bus shelters and Council owned land and buildings was subject to contract and that this contract came to an end in August 2014.

17. Mr C also asked about the way the drums placed at various locations throughout the city were managed. The Council told him that the drums were controlled through the streetscape delivery groups. These groups were chaired by senior planning and transport officers from the Council. The existence of the groups did not, however, remove the requirement for advertising consent for the drums, as set out under The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, and participation in them did not guarantee consent would be granted.

18. In response to further questions from Mr C, the Council said the drums were introduced 'a few years ago' as part of a contract to control flyposting during the Edinburgh Festival and Edinburgh Festival Fringe. Some drums had been retained year round by Essential Edinburgh for their use. Ensuring that they had the appropriate planning consent was the responsibility of the Planning and Building Services departments.

19. On 25 September 2014, Mr C was informed that the drums would transfer to the Council's new advertising partner as part of the new Advertising and

Street Furniture contract. Advertising consent would be required and commercial advertising would be introduced to the sites. The remainder of the AAP would be reviewed to bring it under the new contract.

20. Mr C asked further questions on 2 October 2014 and was told he would receive a response the following week. On 22 October 2014, Mr C sent a more detailed email, expressing concern over the time the investigation was taking. He did not receive a response.

21. Mr C complained to the Council on 12 November 2014. He said advertising drums were positioned throughout the city, on Council property, and that a sole operator had been allowed to generate significant revenue, without competition, or any financial benefit to the Council. Mr C said the Council had not followed the correct procedures when allowing their land to be used for commercial purposes, which had resulted in a monopoly to be obtained without any tendering process being followed.

22. Mr C added the drums did not have the correct planning consents for operation and were in use all year round. Two drums had originally been installed as part of a trial scheme in 2003, with limited permission to operate and more drums had been introduced for the period covered by the Edinburgh Festival Fringe and the Edinburgh Festival. Mr C noted that the number of drums in operation had increased and they were now located in a number of positions not approved by the original trial scheme.

23. Mr C complained that no tendering process had been undertaken by the Council and no planning applications had been made for advertising consent, other than the original time limited permission. He said that, although the Council had told him the drums original contract had been awarded for the duration of the Edinburgh Festival and Edinburgh Festival Fringe, no indication had been given of when the drums might be subject to the correct processes, or removed. Mr C also noted that the drums were, in fact, in use all year round for commercial purposes. Mr C considered it unfair that other advertising companies, like his, were being denied access to this opportunity. Mr C also suggested that the Council was failing in its duties to obtain best value for money from the commercial opportunity available.

24. Mr C said some of the drums appeared to have been introduced despite opposition from the local community. Drums had been introduced in Area A of

the city, even though local stakeholders appeared to object to them. Mr C suggested that the Council had not followed any formal process when introducing these drums, nor was it able to evidence the rationale for their introduction or any form of review of their positioning.

25. Mr C chased this complaint on 8 December 2014. Internal correspondence shows his email was forwarded to the Council officer dealing with his complaint. Mr C chased it again on 14 January 2015 and again the record shows the email was forwarded to the Council officer dealing with the complaint. The Council were also sent a reminder by my office of the need to respond to Mr C's complaint. The Council gave an undertaking via my office that Mr C would receive a response to his complaint by 13 February 2015.

26. On 13 February 2015, the Council officer dealing with his complaint made contact with various Council departments, requesting information on the planning consents for the drums, as well as information on the history of their installation and any plans for enforcement. I note that this was the day the Council had promised a response would be provided to Mr C. The investigation established that the Planning department was not aware of the issues around the advertising drums. Although there was a contract in place for large format advertising, this did not apply to the drums. They said that if a specific enforcement enquiry was raised about a drum, then the planning enforcement team would look into it. Where a drum was placed on Council property, then the Roads Department should look into it.

27. It was subsequently confirmed internally that the drums did not have advertising or planning consent. A small number (three) were installed in Area C in 2003 as part of a trial project. They had been granted a temporary consent for one year but this had never been reassessed or renewed and the drums had never been removed.

28. Subsequently advertising drums on Y Street and Z Street were installed at the Council's request during the tram works, providing local information and maps for public use. No formal consent was sought, on the basis that they would be temporary and in place for the duration of the tram works only. The Planning department had subsequently agreed to additional drums being brought on site in other locations for temporary use as advertising during the period of the Edinburgh Festival and Edinburgh Festival Fringe, but not for long-term general advertising. The Planning department said it was not clear who

managed the project, but it appeared to be the Area B neighbourhood office, with the drums remaining under control of their commercial owners.

29. A further internal response said the Council did not have any information on the revenue being generated by the drums for their owners. The Council did own the land on which the drums were located. The drums were being used all year round to promote art and cultural events. This response said it was unaware of any intention to use the drums for a temporary period only. The drums were introduced as part of the Edinburgh Festival and Edinburgh Festival Fringe arrangements and were currently used out with that period for a similar purpose, promoting artistic and cultural events.

30. There were no restrictions on the number of drums to be used. The drums were to be included within the partnership arrangements which had been concluded with another company as part of the outdoor advertising contract tendered for by the Council in April 2014.

31. On 26 March 2015, my office contacted the Council directly to enquire why Mr C's complaint had not been responded to. The Council provided their final response on 2 April 2015.

The Council's formal response of 2 April 2015

32. The Council confirmed that they owned the land on which the drums were situated and that the drums remained the property of their commercial owner. The Council said they did not accept there had ever been a sole partner in relation to advertising in the city and that Mr C's company had been involved in part of the advertising trial in early 2010. He had, however, indicated that he was not prepared to work on projects with another company which was involved and had withdrawn. The contracts for poster sites during the summer of 2014 had subsequently been awarded to a different company, as had the contract for large format advertising and street furniture. The Council said this proved they had a number of partner organisations.

33. The Council confirmed that some drums were introduced in 2003 as part of a one year trial. Temporary consent had been granted for this purpose, however, the drums had then continued to be used in this trial context. Other drums within Area B were later installed as part of the tram works. This was to allow maps and public information to be prominently displayed. These were placed on Y Street and Z Street. This was co-ordinated by Economic

Development and Planning and Building Standards. Planning and Building Standards had subsequently agreed to other drums in other locations being used as part of Edinburgh Festival and Edinburgh Festival Fringe advertising and throughout the year to promote art and cultural events.

34. The Council said Mr C had been part of a pilot scheme for advertising in the city but they said there had been 'a degree of fluidity in this regard'. It was also accepted that better communication between Council departments would have reduced confusion and made the Council's position clearer.

35. The Council listed the contract holders for 2014 for both the summer Edinburgh Festival and large format advertising. Both contracts included scope to extend them and the large scale format contract could be expanded to include the advertising drums if needed. The Council said that the findings of the investigation would be forwarded to Planning and Building Services, in order that appropriate action could be taken including, if appropriate, enforcement action.

36. On 9 April 2015, an internal email was sent by the investigating officer to the various Council departments involved. It noted that issues remained around the advertising drums, as Mr C had identified areas of risk. The concern was expressed that the advertising drums would continue to take up significant amount of Council resources unless the issues were addressed.

37. The email set out various possible courses of action: consent might be obtained for the drums; or they might be removed; as well as consideration being needed on the appropriate procurement method for managing them.

38. The Council informed the sole operator who owned the drums on 15 October 2015 that the outcome of their review of the advertising drums was that they had to be removed. The Council said they appreciated the background to the drums being placed on the public highway under the AAP, but they could no longer see the benefit to the Council and the drums needed to be taken away by 12 November 2015.

39. On 21 October 2015 the Council circulated a briefing note to elected members. The briefing note said that the decision had been made to withdraw the drums from the public highway. The drums provided no financial benefit to the Council and no immediate benefit to businesses or local residents. The

Council said they had received 120 FOI requests in relation to the drums. Their removal would allow the Council to explore other advertising opportunities in a fair accessible and transparent way, rather than the informal 'singular' arrangement which was in place. Notice of removal appeared to have prompted the drums' owners to request their advertising clients to lobby officers and elected members to allow the drums to remain under their current terms.

40. The briefing note stated that the drums had been introduced in 2009 as part of the AAP, which had been a community safety initiative to tackle an increase in fly posting in Area B. There were currently 18 drums located in Area A and Area B which had commercial advertising on them promoting arts and commercial events.

41. The sole operator was emailed by the Council on 3 November 2015. This email stated that the drums had been under review for some time. The timetable for removal was negotiable, due to the Christmas calendar, but the decision to remove them was final. The Council noted that any future advertising provision would have to be equitably tendered. Should this be the outcome chosen, then it would be taken forward through the Council procurement process.

Mr C's complaint about the Council to SPSO

42. Mr C highlighted the length of time taken by the Council to respond to his complaint. It took four months for the Council to make contact, with the complaint lodged on 12 November 2014 and the Council's first contact being made on 26 March 2015. Mr C added that, following the intervention of my office, the Council had promised a response by 13 February 2015. Mr C said he felt that the Council's justification that Mr C had made multiple complaints was misleading since these were all about separate issues.

43. Mr C said it was unreasonable of the Council not to have upheld any of his complaints. Mr C said he felt the Council had accepted that he had not received an appropriate level of service, that the advertising drums required the 'appropriate' action to be taken about them and that the project required review. Mr C said that, despite this, the Council did not appear to have taken any action over the advertising drums and he believed more drums had in fact been introduced in the intervening period. Nor did Mr C believe that any tender or procurement had taken place.

44. Mr C said none of the advertising drums had the necessary consents in place. The Council did not appear to have received any financial benefit from the drums, despite their positioning on Council property, and Mr C believed the owner of the drums was generating revenue from them. Additionally, the Council had failed to provide any evidence of a review being carried out of the drums.

45. Mr C said that his FOI requests had shown the Council's statement that they had more than one partner in the AAP was inaccurate and misleading. Mr C said that, following the FOI request, the Council had stated that only one company was involved in the year round AAP.

46. Mr C also disputed that he had withdrawn willingly from the AAP and declined further involvement. Mr C said he had withdrawn due to concerns over the way the project was being run. He said he had always retained an interest, particularly in the advertising drum aspect of the project, and had attempted to pursue this subsequently with the Council. Mr C said since the introduction of the first set of advertising drums in 2003, there had never been an opportunity for him or any other interested party to tender for the advertising drum opportunity.

47. Mr C said he was able to demonstrate that Council officers from Area B Neighbourhood team had repeatedly ignored his questions about the drums and the possibility of future involvement. He provided emails in which he repeatedly asked the Council how his organisation might become involved in this commercial opportunity.

48. Mr C gave a specific example of inaccurate information from the Council. He cited an email sent on 28 May 2014, in which the Council stated that the owners of the drums were working in partnership with Essential Edinburgh and the Area C Business Improvement District. Mr C said that the Council had stated that the drums in various locations were 'introduced by Essential Edinburgh'. Mr C said this was clearly untrue and Essential Edinburgh had only a very limited role in the introduction of the drums.

49. Mr C provided an email from Essential Edinburgh, which denied any involvement beyond some discussion on the placing of the drums and that they had no involvement in the management of the drums, nor any contractual

relationship with the owner. Mr C added that the same email from the Council said the drums had all necessary consents, but this was also untrue.

50. Mr C noted that the Council's complaint response referred to the need to review the AAP, particularly with reference to the advertising drums. He said this ignored the fact that he had been repeatedly told that the advertising drums were being subjected to a review. Mr C provided email correspondence from 2012 and 2014, all of which said an internal review of the advertising drums was underway. This was supported by the Council's responses to several FOI requests, all of which referred to a review of the advertising projects. The most recent review was meant to have commenced in April 2015, with an envisaged conclusion in September 2015. Mr C pointed out the Council had not produced any evidence of a review having been carried out, despite repeated references to it.

51. Mr C said the Council insisted he direct his questions to Council officers, who had already failed to respond. Mr C felt this was unreasonable, since this approach had, to date, been ineffective.

52. Mr C noted the Council had stated who the contract for poster sites during the Edinburgh Festival and Edinburgh Festival Fringe had been awarded to. He said, however, that the advertising drums had been removed from the contract after the tender opportunity was published. His complaint about this issue had never been responded to but he suggested that it was, therefore, irrelevant who the contract for poster sites had been awarded to, as this did not include the drums. Mr C believed the Council was including irrelevant information in its complaint response in order to obfuscate the issues he was raising.

53. Mr C said the Council decision to include information about the award of the large format advertising contract was also irrelevant as this contract had nothing to do with the drums. He noted an FOI response from the Council confirmed large format poster advertising had never fallen under the remit of the Services for Communities department, unlike the small scale advertising projects.

54. Mr C noted the Council was now proposing that the drums would transfer to their new advertising partners. It was suggested by the Council that advertising consent would now be sought, since this would introduce commercial advertising to the sites for the first time. Mr C felt this response was

misleading; the drums had always been intended to carry commercial advertising and, in any case, the drums did not transfer to the new advertising partner as they did not form part of the advertising contract.

55. Mr C said the Council had denied holding any information on revenue generated by the advertising drums. Mr C did not believe this was accurate as he had established, through an appeal to the Scottish Information Commissioner (SIC), that the Council did hold information regarding the Council's own expenditure on the drums. The response he had received confirmed that the Council had spent over £90,000 purchasing advertising space from the drum owners.

56. Mr C said the Council did not appear to know when the first drums were installed. Mr C emphasised that the Council held no information on the effect of the drums on either fly-posting or graffiti, nor had they any information on the savings made for the Council through the introductions of the drums. Mr C noted that these were the primary reasons given to him to justify introducing and then expanding the advertising drum project.

57. Mr C believed that the Council's explanation of the drums' introduction and expansion was contradictory. He said the Council accepted the drums had no formal consents, but had not explained adequately how a temporary project had been expanded into a permanent fixture lasting at least eleven years. Mr C suggested the Council was allowing commercial utilisation of their assets (the land the drums were placed on) without any due process being followed.

58. Mr C alleged the Council had not been able to provide Mr C with the correct number of drums in place in the city despite repeated requests. Mr C said the first attempt by the Council on 8 April 2015 had been almost fifty percent below the actual number of drums in situ. Mr C had asked for a review of this response and was told the Council did not hold any more information. Mr C said the SIC had then elicited from the Council confirmation that they did hold more information on this subject. Even then, the Council had not provided a comprehensive list of all the advertising drums in the city, something which was confirmed by further FOI requests.

59. Mr C added that this lack of control was further emphasised by the Council's lack of awareness of the addition or removal of advertising drums. He noted that the Council had initially stated that a drum in Area D was removed to

avoid conflict with temporary drums being used as part of the Edinburgh Festival Fringe in summer 2014. The Council later said the drums had been removed as part of the city's Christmas celebrations.

60. Mr C highlighted the introduction of three drums into Area A. He noted that the local community had not been consulted and stakeholders had indicated at the South Central Neighbourhood Partnership meeting that they did not consider the drums appropriate.

61. Mr C said the Council had confirmed to him that these drums had been introduced 'informally' by the Local Environment Manager. The Council had no records of the process by which the installation of the drums was arranged; nor were there any records of the agreement between the Council and the drum owners. The Council accepted that keeping a record might have been prudent, but stated they were satisfied there were no legal risks to the Council.

62. Mr C added the Council again justified the installation of the drums in Area A on the grounds that they measurably reduced graffiti and flyposting. He noted that, as previously, the Council then said they had no records on the performance of the drums in reducing these.

63. Mr C also noted that drums had appeared in other locations, with similar objections being raised by residents. In some cases the Council had indicated that a drum could be removed. In others they had referred to the drums as 'established', even though they later confirmed the project had only ever been run on a trial basis.

64. The Council had informed Mr C that the drums remained the property of the owner, but had been procured by the Area B Neighbourhood Partnership. The Council had also said, however, in response to an FOI request, that no procurement process had been carried out for the advertising drums. Mr C said that again, the Council's responses appeared to be contradictory.

65. Mr C said the Council had first suggested in 2012 that the reason for the lack of information was due to the trial nature of the project. Mr C said that little, if anything, had changed in the intervening period. Mr C added that the Council accepted their communication internally had been poor but had not upheld his complaint.

66. Mr C said the Council should acknowledge the administrative failings in their handling of the complaint. They should also acknowledge these to him and be required to address every example of inaccurate, untrue or confusing information that Mr C had identified in his complaints. Mr C said the Council should review the handling of the complaint and their inability to provide accurate information about the advertising project. Mr C asked for an apology from the Council and an acknowledgement that the failure to handle his complaint properly had caused him to expend a significant amount of time and effort to ensure it was addressed properly.

The Council's response to SPSO

67. The Council maintained that they had handled Mr C's complaint reasonably. They said they had taken time to consider Mr C's complaints and their response letter of 2 April 2015 explained this. The Council said Mr C's complaints were detailed, repeated issues raised in previous complaints and were all extremely lengthy.

68. The Council were asked to respond to the ruling on one of Mr C's FOI requests, which appeared to indicate that the Council did hold information on revenue generated by the advertising drums. The Council had previously stated that they did not hold any such information.

69. The Council said they regretted that the response provided to Mr C did not accurately reflect the information held by the Council. The Council said they accepted that there had been a number of issues identified during the investigations conducted by the office of the SIC which reflected poor records management by the Council and information had been identified on appeal which should have been provided to Mr C at an earlier stage.

70. The Council said they had apologised for these failings and addressed the issues with the service area concerned. They said that the service area managing the project were unaware that another Council department was purchasing advertising space from the company who owned the drums. Consequently the Council had failed to provide information relating to the expenditure on the drums by the Council themselves.

71. The Council said they were satisfied that, following an audit in December 2015, they were aware of all the advertising drums located in the city.

72. The introduction of advertising drums into Area A in 2014 had been taken by an individual Council officer. The arrangements were made entirely over the telephone and no paper or digital records were kept. The decision was based on an increase in fly posting and graffiti in the area and the drums were installed to address these issues. There was no formal arrangement between the parties, however, there was an undertaking by the drum owners to undertake minor graffiti removal and cleansing within a fifty meter radius of the drums. The Council said this arrangement had no cost implication for them.

73. The Council have subsequently confirmed that removal of all the drums across the city was delayed following a meeting on 20 November 2015 with various stakeholders. This had agreed that the removal of the drums would be delayed until there were further discussions involving all users, to allow the arts and cultural sector to promote their winter performances in Edinburgh. No evidence was provided of a final decision.

74. The Council said that the arts and cultural sector was of central importance to the city and its economy and that the removal of the drums would significantly affect this. A plan was under development to remove the drums and ensure a similar service was in place. The Council were working to develop the essential procurement process and associated planning requirements. The Council would seek to ensure the process was completed by the end of March 2017.

(a) Decision

75. Mr C submitted his complaint on 12 November 2014. The Council did not begin their investigation until 13 February 2015, the date which they had informed both Mr C and my office was the deadline for its response. The Council has stated that the delay was due to the volume of correspondence generated by Mr C around his various complaints and the number of FOI requests he was making.

76. Given the available evidence, I do not consider the Council's explanation to be reasonable. There is no evidence that Mr C's case was being actively considered, nor have the Council explained why Mr C was not communicated with, despite evidence that Mr C's requests for updates were passed to the investigating officer. Additionally, the Council provided a misleading impression of the progress of their investigation, by not commencing their investigation until

after the deadline for responding to Mr C had passed, and after they had informed both Mr C and this office that the investigation was in progress.

77. I am particularly concerned that the Council, despite significant delays, were unable to provide an accurate response to Mr C. Mr C's involvement of the SIC resulted in the production of information relevant to his case, which the Council's internal investigation had been unable to identify. I am critical of the Council for this failure, as the reason given for delaying the response to Mr C was to ensure that it was accurate and the need to ensure all responses were consistent with the information being provided in response to Mr C's FOI requests.

78. I uphold this complaint. In view of the related nature of Mr C's complaints, I have made a general comment and recommendations at the end of this report.

(b) Decision

79. Mr C said the Council's response to his complaint was confusing and contradictory. He provided a detailed list of objections, supported by a series of FOI requests and other information. There is a concerning lack of clarity, both in the Council's original responses to Mr C, their responses to his FOI requests and their responses to this office on the introduction and management of the advertising drums.

80. What is clear is that a trial of advertising drums began around 2003 and that, in various forms, this continued without any formal decision on its success or failure. During that period, advertising drums were added in various other locations throughout the city, as part of other advertising projects, and these drums were all supplied by the same owner. The Council have acknowledged that there are no records of the performance of the drums in reducing graffiti or flyposting.

81. It is also accepted by the Council that their departments did not communicate effectively with one another and that the advertising project to use the drums to reduce flyposting and graffiti and reduce costs to the Council would require review. Although the failure to communicate and the lack of assessment or review was acknowledged in 2012 after Mr C's involvement, there is no evidence that the Council carried out any review of the project until 2015. I am critical of this failure, not least because the Council stated on more

than one occasion to Mr C that a review was underway. In the absence of any evidence of such a review, these remarks have to be seen as misleading.

82. The Council's response to Mr C does not indicate whether or not his complaints were upheld. Whilst they acknowledge failings on the part of the Council, these are minimised. The Council response says that other service areas will be provided with a copy of their correspondence, however, there is no evidence of a comprehensive review of the entirety of the advertising drum project. I accept that the Council had already corresponded with Mr C on this matter, however, at no time did they inform him that they would limit the scope of their investigation into his complaint and he could reasonably have had the expectation that the Council would, therefore, take into account the full scope of the project.

83. Mr C has been able to demonstrate through his FOI requests that the Council did not provide accurate responses to all of the issues that he raised. From the information supplied, I have seen no evidence that information was deliberately withheld by the Council. Rather, this appears to reflect the confused nature of the project and the lack of oversight within the Council. Again, although the Council have stated that these issues have been addressed by the relevant service areas, there is no indication of what action the Council have taken to ensure that the same issues do not arise in future.

84. Overall, I do not consider the Council's response to Mr C's complaint to be of a reasonable standard. Whilst accepting the complex nature of the complaint, the Council have not provided a response which accurately reflects the information they held. Additionally, they have not explained the contradictory statements made to Mr C throughout his correspondence with them about the advertising drums trial project and the Council's management of it. I note, for example, that the Council state that it is a requirement of the drums introduction that their owner clears graffiti and flyposting from the surrounding area. It is unclear how this would have been enforceable in the absence of any records of the arrangement between the drums owner and the Council.

85. Additionally, there is clear confusion within the Council over the date the project started, with Mr C being provided with a variety of dates depending on which department he contacted. He was told the drums were the responsibility of an arm's length agency, which that agency denied. He was also given

conflicting responses on whether the drums came under the Council's Advertising contract tendered in 2014. The final position would appear to be that the drums did not come under the contract tendered in 2014, given the Council's subsequent correspondence with the drum owners, but the Council appears to have been entirely unclear how this project was operated and managed.

86. The Council accept in internal correspondence that Mr C's complaint has identified issues which pose a risk to the Council, although the risks are not set out in any detail. This internal response also indicates that consideration should be given to tendering. This approach was first considered by the Council at the Flyposting Working Group, which met on 26 October 2004. It was noted then that information should be sought on companies providing similar services to the advertising drums to allow the Council to tender the trial if they wished to proceed. It is clear from the evidence that, despite it being considered necessary to tender this contract in 2004, it has never been properly tendered by the Council, despite being repeatedly expanded. I consider that this constitutes maladministration.

87. Additionally, the Council have been unable to respond accurately to Mr C's questions and complaints. The available evidence shows a series of inaccurate and confusing responses. It is a significant concern that Mr C has been able to demonstrate this through FOI requests, although these have required the SIC's intervention. I consider the delays and inaccuracies in the Council's response to be sufficient to constitute maladministration.

88. In the circumstances, I consider that the Council's investigation of the complaint was inadequate and their findings do not accurately reflect the information held by the departments involved. The Council have not provided evidence that a comprehensive review has or will be undertaken, to avoid a repeat of the confusion and maladministration which has taken place.

89. I uphold this complaint. In view of the related nature of the complaints, I have made general recommendations at the end of this report.

(c) The Council did not handle Mr C's complaint of 11 April 2014 (Council ref 730592) reasonably

Background

90. On 11 April 2014, Mr C lodged a complaint with the Council. Mr C said he was unhappy with the way the Edinburgh Festival Fringe advertising contract was handled. The tender was intended to allow the Council to appoint a single contractor to manage the advertising for the performances taking place in the Edinburgh Festival Fringe. He said the tender was not transparent and contained obvious anomalies. The tendering process had failed to address these through the question and answer (Q&A) process that formed part of it. As a result it did not offer potential tenderers a genuine opportunity to evaluate and submit tenders, as critical commercial information could not be obtained from the Council.

91. The Council responded on 23 April 2014. They said they would address any issues raised appropriately. They asked for specific details of Mr C's concerns, as well as details of the information he felt had not been provided as part of the tender process.

92. The Council said that a high level review of the procurement process had been undertaken and that the Council were satisfied that the process was fair, open and transparent. The Council also said that the contract was advertised on Public Contracts Scotland, as a non-EU tender, with the documents available to all parties.

93. Mr C responded on 25 April 2014 expressing concern over the Council's review and asking for details of what the review had involved. Mr C also asked if the contract had been awarded, noting that this would affect the amount of time that Mr C would be prepared to spend on the issue. Mr C also asked what would happen if he demonstrated that the process had not been open and fair.

94. The Council attempted to speak to Mr C by telephone about his complaint, however Mr C declined, indicating he wished the matter to be dealt with in writing.

95. On 12 May 2014 Mr C emailed the Council asking if they had any answers to his complaint. Mr C noted they had been keen to discuss the case and Mr C felt some progress must have been made in the meantime. The Council responded on 14 May 2014, explaining that they had thought it would have

been helpful to discuss the complaint since Mr C had not identified specific issues of concern about the tendering process.

96. The Council responded saying their high-level review had looked at whether the processes followed were in line with the EU Regulations, Scottish Government guidance and Council Standing Orders. The Council were satisfied the staff involved had the appropriate expertise but, should Mr C have specific concerns about the team involved, he was invited to set them out. The Council said the contract had been awarded on 1 May 2014.

97. Mr C responded with further questions, asking which department in the Council was responsible for the tender. Mr C also asked whether he should have been notified about the awarding of the contract, given that he was registered as an interested party. Mr C asked if the Council's tender processes had been found inadequate previously and, if so, what the Council's response had been.

98. Mr C chased for a response on 23 May 2014, before receiving answers on 30 May 2014. Mr C was told that the responsible department was Services for Communities and that notification of contract award was not provided to suppliers who had only provided a 'note of interest'. The Council said that should a supplier be concerned that a tender was not fair, open or transparent, or that they had suffered loss, then the individual's recourse was to the courts, which could result in the contract being set aside, or payment of damages, or both. The Council said they had never been successfully challenged over a breach of the procurement process.

99. Following a further exchange of emails, Mr C was informed on 25 June 2014 that the matter was considered closed. The Council said they had asked Mr C to provide more specific information and believed they had responded to all the questions Mr C had posed so far.

100. On 26 June, Mr C wrote again to the Council indicating that he disagreed with their position. Mr C said the response times from the Council had been protracted and he felt he had only obtained responses by chasing the matter himself. Mr C did not, therefore, accept the matter was closed and asked for the matter to be dealt with by a more senior officer, which would allow for Mr C to deal with specific anomalies in the tendering process.

101. On 22 August 2014, Mr C contacted the Council asking why communication had ceased. The Council responded on 24 August 2014, stating that his correspondence was now being dealt with by Legal Services.

102. On 28 August 2014 Mr C responded in detail to the Council, noting that he had not been informed of the change in who was dealing with his complaint. Mr C expressed surprise that Legal Services were now dealing with the complaint.

103. Mr C said he could clearly demonstrate why the contract tender process was not transparent. Mr C said this was shown by the Q&A section of the tender, which was visible to the public. Mr C said the answers provided by the Council were at times contradictory and confusing and that, at other times, key questions had been ignored and discarded.

104. Mr C said the list of sites to be used by the successful tender was not clear and it was particularly unclear if all the sites were on Council assets. Mr C added that the tender documents repeatedly stated that all sites to be used would be on Council assets, although Mr C knew this not to be the case. Mr C had submitted a question to try and clarify this but it had been discarded by the Council as 'not relevant'.

105. Mr C said he knew that the list of available sites also contained at least one site which had been refused advertising consent and which the Council were meant to be taking enforcement action over. Mr C noted that his question trying to clarify this issue had been discarded as 'not relevant'. Mr C said he found this disturbing, since it prevented potential tenderers from gaining an accurate picture of the contract.

106. Mr C noted that the Council's response to question 37 in the tendering Q&A stated:

'The Contract is for the use of Council assets, if the successful applicant or any other individual wishes to approach the owner of a private asset then they can pursue this but will require Council's approval for the type of advertising placed on these sites.'

107. Mr C said he was unsure if this meant that the Council required all sites under the contract to be Council assets, however, he said his attempts to clarify this had been ignored.

108. Mr C also noted the advertising drums referred to in the contract were the subject of some questions. They were included in the list, but operated out with the Edinburgh Festival and Edinburgh Festival Fringe period as well as during it. Mr C said the Council made a series of contradictory statements about them in the Q&A.

109. The Council had said in response to the further submission from Mr C that no assets remained in use outwith the period covered by the Edinburgh Festival and Edinburgh Festival Fringe. Their answer to question 1 of the Q&A, however, stated that the advertising drums did not form part of the contract, as they were used throughout the year by local arts organisations. Mr C said that repeatedly (and confusingly) there were sites on the list which were part of the contract but also part of other initiatives, in use all year round and managed by a previously selected contractor.

110. Mr C said the tender Q&A never resolved this apparent problem. If the drums were not included that meant the contract did not provide exclusivity of advertising, which affected the contract's value. Mr C said a series of questions trying to establish whether the drums' owners would be using them during the Edinburgh Festival and Edinburgh Festival Fringe; whether the year round access for local arts groups would be maintained; and the current arrangements for access / pricing, were all either deemed not relevant, or referred to another service area.

111. Mr C noted he had been attempting to contact both the Services for Communities and Legal Services departments for some time in an effort to establish how the advertising drum scheme worked, but had been unsuccessful in obtaining a clear answer.

112. Mr C was responded to by Legal Services on 4 September 2014. They confirmed his complaint would be investigated and provided the email they had sent to his company (albeit to a different email address), informing him they were taking over the investigation. A read receipt had been generated on 7 July 2014 and the Council said they considered it was clear Mr C had been aware his complaint had been passed to Legal Services. The Council said that, as Mr C had now provided specific queries, they would be able to respond to the issues he had raised.

113. On 23 October 2014 Mr C chased the Council for a response. Mr C noted that seven weeks had passed since his last correspondence and two months since he had detailed his complaint extensively.

114. On 12 November 2014, Mr C asked for a formal complaint to be lodged about the handling of his complaint. Mr C followed this up on 8 December 2014, asking why he had not received any response to this complaint.

115. On 6 January 2015, Mr C was emailed by the Commercial and Procurement Services Directorate. They said they were sorry if Mr C felt the tender process lacked transparency. They identified the lack of clarity over the locations available for advertising as Mr C's primary concern. They said the Council took its obligations in terms of transparency and fairness in the tender process very seriously but, as the contract was in place for 2014, they suggested Mr C assist the Council in improving their tender documents for 2015.

116. Mr C replied to this on 12 January 2015. Mr C noted it was ten months since the initial complaint was lodged. Mr C said he had provided a detailed list of concerns but not a single one had been responded to. Mr C said the issue was no longer just about how he 'felt' or future tender processes.

117. Mr C said the Council had not addressed the failure to respond to key questions about the tender process. Mr C said that, although he had been directed to Services for Communities, they had been unable to provide the required information prior to the tender deadline, resulting in his complaint. Mr C said he had not been provided with a satisfactory explanation for the initial inclusion of the advertising drums in the list of sites for advertising, despite the Council stating they were not part of the contract. The drums then appeared to have been removed from the 2014 contract without explanation or notice.

118. Mr C set out again his questions about the advertising drums and a site on X Street, which was included as a location for advertising, despite having been refused the appropriate advertising consent. There was also a question over the competition from the advertising drums which would be in place over the same period, if they were not included in the contract. Mr C also questioned why sites were retrospectively removed from the contract without any notice. Mr C asked for a formal explanation of why the site list was inaccurate and what

account had been taken of the difficulty this caused in evaluating the contract properly.

119. Mr C noted the last correspondence from the Council had been on 4 September 2014, before receiving the Council's email on 6 January 2015, some four months later. Mr C asked why there had been so many serious delays and for confirmation of where he was in the complaints process. The Council responded on 12 January 2015. They said the Client Department had been asked to respond within a week with answers to Mr C's outstanding questions.

120. On 3 February 2015 Mr C contacted the Council asking why a further three weeks had elapsed without a response from the Council. Mr C added his last questions about why it had taken so long to provide a response also remained unanswered.

121. Mr C contacted the Council again on 20 February 2015, re-sending the previous email and asking why he had been ignored for a further five weeks. The Council responded that day, denying Mr C was being ignored. They said his complaint was complex and that they were aware Mr C was corresponding with a number of Council departments. They were, therefore, trying to avoid duplication of responses. Mr C replied the same day, noting he had been promised a response within a week on 12 January 2015. Mr C said there was a pattern of broken promises and failures to respond, unless prompted by him. Mr C said he was asking for the third time for answers to his questions about the reasons for the delay in responding to the complaint.

122. On 11 March 2015, Mr C wrote to the Council again, asking for an update on his complaint. Mr C pointed out he had now waited eleven months from the original complaint for a response. Mr C regarded this as unacceptable and asked again for an answer to his questions about the cause of the delay and the Council's approach to it. The Council replied on 11 March 2015, stating they were aware Mr C was corresponding with a number of departments and that Mr C would receive a single response.

123. On 13 March 2015, Mr C asked for confirmation of where he was in the complaints process. Mr C acknowledged he was communicating with other Council departments, but he regarded these as stand-alone complaints and Mr C was concerned a single unified response would not provide sufficient

detail to address the complaints he had raised. Mr C wrote further on 18 March 2015, setting out in bullet points the issues the Council had failed to address satisfactorily. Mr C noted he had not agreed or discussed any extensions to the Council's twenty day time limit for a response.

124. At this point, Mr C was in correspondence with my office. My office wrote to Mr C on 26 March 2015, explaining that there was now a revised date for response from the Council of 3 April 2015.

125. Mr C contacted my office again on 3 April 2015. Mr C said he had received a response from the Council, but it dealt only with two of his complaints references (798393 and 798395). Mr C said it had not dealt with 730592, which remained outstanding. This was despite it being repeatedly highlighted to the Council that this complaint had not been responded to and their promise that this would be covered in their most recent response.

126. On 17 April 2015, Mr C contacted the Council again, stating he had not received a response.

The Council's response to SPSO

127. The Council said they had received Mr C's initial complaint on 11 April 2014. A response had been provided on 14 May 2014, which appeared to be the stage one response on behalf of the service complained about.

128. The Council said it was unfortunate that this was issued more than five working days after receipt of the complaint. They acknowledged the response did not properly advise Mr C that if he remained unhappy he could progress matters to stage two of the Council's complaints procedure. The Council said they had addressed this issue with the service area and the necessity of using the correct complaint response templates had been stressed.

129. The Council said there was no record of any stage two response having been issued to the complainant. The Council said there had been an on-going correspondence with Mr C, including a number of additional queries and new questions being raised. The Council said they accepted this did not excuse the failure to provide a stage two response.

130. The Council said Mr C's dissatisfaction with stage one should have generated a written acknowledgement within three working days. The Council

also accepted there was a general pattern of delay in responding to his correspondence. They said there was scope within the Council complaint process for extensions to be agreed in cases where the complexity or detail required made it impossible to provide a response within the normal twenty working day period. The Council acknowledged that there was, however, no evidence that the Council had attempted to agree any extensions with Mr C, or that Council managers had authorised the delays in providing a response.

131. The Council said they clearly expressed their regret for these unreasonable failures, although they noted they occurred during a period of significant volumes of correspondence from Mr C.

132. The Council said that, although a stage two response had not been issued, they believed the substantive issues in Mr C's complaint had been considered. If Mr C considered that a tender process had not been fair, open, or transparent or where Mr C considered he had suffered a loss through a breach of duty under the Public Contracts (Scotland) Regulations 2012, Mr C could bring proceedings in the Sheriff Court or the Court of Session.

(c) Decision

133. Mr C's original complaint was submitted on 11 April 2014. This was responded to, although outside the five working days allocated for front line resolution. The Council's response was, however, reasonable, since he had not at that stage provided detailed grounds of complaint. Whilst I note Mr C preferred to establish correspondence first, before proceeding with the detailed complaint, this meant the first response from the Council responded to the questions posed to them. Subsequently, Mr C provided detailed concerns on 28 August 2014.

134. Although it was not unreasonable of the Council to inform Mr C that they required more details from him, I note there is no evidence on the file supplied by the Council of the 'high level review' the Council said they carried out in April 2014.

135. From 28 August 2014 onwards, the Council had been provided with a clear and detailed account of Mr C's concerns. There is no contact with Mr C by the Council requiring clarification or expansion on his concerns. It was, therefore, reasonable for Mr C to assume the Council was progressing the

complaint. No evidence has, however, been provided to show an investigation took place.

136. The Council have accepted that there were failings throughout the handling of Mr C's complaint. They have suggested that, regardless of these, Mr C's substantive issues were addressed. I do not agree with this assessment. Mr C asked legitimate questions about the accuracy of the information provided as part of the tender process. It is not unreasonable to expect the Council to be able to provide a response to these, given that they accepted a formal complaint from Mr C and continued to correspond with him about them.

137. Overall I am highly critical of the Council's failure to provide a substantive response, despite protracted delays to allow the investigation to take place and repeated reminders from the Mr C. The Council have not provided an explanation for this failure, although they have acknowledged it represents an unacceptable standard of service.

138. Instead, in an email to Mr C on 6 January 2015, the Council suggested they would be willing to discuss future tendering arrangements with Mr C, in order to improve the transparency of future processes. Whilst not addressing the specific points Mr C raised, this suggestion implies the tendering process could have been improved.

139. I uphold this complaint. Due to the combined nature of the report, I will address wider complaints handling issues at the end of the report. In respect of this complaint, however, I make one specific recommendation.

(c) Recommendation

140. I recommend that the Council:

Completion date

- (i) provide a full response to Mr C's complaint, addressing each of the points raised by him.

8 May 2017

(d) The Council did not handle Mr C's complaint reasonably; and (e) The Council's responses to Mr C's complaints were unreasonable on the basis that the complaint responses contained information which was confusing, contradictory, misleading and untrue. Additionally the decision not to uphold these complaints was not reasonably supported by the evidence

141. Mr C's complaint related to a site for small format posters on X Street. The site consisted of advertising space for posters along a series of wooden hoardings, along the boundary of the site with pavement. He said this site had never had advertising consent and when this had been retrospectively applied for, it had been refused. It had, however, been allowed to continue operating. Mr C first raised this issue through his solicitors in 2014. The Council did respond to that complaint; however, in order to provide context to the subsequent correspondence, in which both parties refer to that complaint, I have included a summary of it here.

27 June 2014 letter from Mr C's solicitors to the Council

142. Mr C's solicitors wrote to the Council. They referred to correspondence earlier that year with the Council. They said that a former Council officer with responsibility for small format advertising was now employed by the company which was the Council's sole partner for the provision of small format advertising.

143. Mr C's solicitors said the Council had failed to act impartially in respect of the site at X Street. They said that, through the actions of the former employee, the Council had effectively acted to protect the business interest of Mr C's competitor. The Council had failed to provide Mr C with necessary information and had ignored questions and requests for information.

144. Mr C's solicitors also said that the Council had allowed the site at X Street to operate illegally. This was despite the Council's planning report of handling (12/04236/ADV) recommending that an application for advertising consent be refused.

25 September 2014 Council response to Mr C's solicitors

145. The Council said that it accepted advertising consent had been refused for the site at X Street. It was also accepted that the Council's approach to this site fell short of expectations; however, the Council's planning enforcement team was now dealing with the issue. They said there was no evidence of dishonesty on the part of Council employees in this regard.

146. The Council said this matter had been the subject of a number of complaints from Mr C. They had conducted several reviews and now considered the matter closed.

147. Mr C complained to the Council on 12 November 2014 saying that a poster site had been allowed to operate on Council land for a number of years, despite advertising consent being refused by the Council. The site not only lacked the appropriate consent, but also carried Council and Police Scotland logos, giving the impression it was officially sanctioned, even though the Council knew the site had not received planning permission.

148. Mr C said Council officers with responsibility for the advertising schemes running in Edinburgh had supported a retrospective application for consent, even after planning officers had recommended it for refusal. This was in keeping with the support given to the site by Council officers when the site had been set up without the appropriate planning consents.

149. Mr C said this was an example of the way a sole operator had been allowed to control the small format street poster schemes in Edinburgh and that, although he had attempted to engage with the Council, it had been very difficult to get reliable information from them, or timeous responses. Mr C said there appeared to be a total disconnect between the various Council departments involved. Additionally, Mr C said that Council staff involved seemed to be unaware of the correct processes to follow, or of the Council's requirements in terms of access to information and transparency.

150. Mr C chased his complaint on 8 December 2014 without response and, on 5 January 2014, he called my office. The Council were reminded of the need to reply to Mr C on 14 January 2015 but although he received an automated acknowledgement, Mr C did not receive any further communication from the Council directly. On 5 February Mr C again contacted the Council and following further contact from my office they said he would receive a response by 13 February 2015.

151. The evidence provided by the Council shows their complaint investigation began on 13 February 2015. There is no evidence of any investigation of the issues raised by Mr C prior to this.

152. On 23 February 2015 Mr C again contacted my office, as he was concerned by the lack of response from the Council.

153. On 26 March 2015 the Council were again contacted by my office, after Mr C continued to complain about the Council's lack of response. The Council apologised for this and said that Mr C's correspondence with a number of Council officers overlapped and he had submitted 16 Freedom of Information requests since 10 March 2015. The Council apologised for not informing Mr C that his response had been delayed by the need to provide a co-ordinated and accurate response.

154. The Council's final response was provided on 2 April 2015. The Council provided Mr C with a further update on 9 April 2015 in relation to the site at X Street, stating that the site had been cleared and no further advertising was taking place.

The Council's response of 2 April 2015

155. The Council said they believed Mr C's complaint was almost identical to the issues raised by his solicitors in June 2014, to which the Council had responded in September 2014. The Council noted that the previous letter of complaint had mentioned both the report of handling relating to advertising consent and the actions of a specific Council officer with relation to posters being allowed on the site, even though advertising consent had been refused.

156. The Council said they had addressed these issues. They accepted that they had failed to take the appropriate enforcement action when advertising consent was refused but this was now in progress. The Council said they accepted that 'the approach regarding this site fell short of expectations' but they did not accept any Council officer had acted dishonestly.

157. The Council confirmed they were the owners of the site at X Street at the time the advertising was installed and when the retrospective application for advertising consent was made. The Council said the officer responsible for the retrospective application was not aware of the Council's ownership of the site and this had not come to light until the Planning Enforcement Team had investigated further. The Council said that communication between directorates could have been better.

158. The Council said that they did not hold any information about the level of advertising revenue that the site had generated. The Council disputed that the site should be categorised as one where 'illegal flyposting' had occurred, noting that it was possible to seek and obtain retrospective permission for a site like this one. The Council said they had already responded to the issue of consent on the site in September 2014. The Council accepted that the application was received in November 2012 and determination refusing the application was made in August 2013; however, this was not communicated to the Planning Enforcement Team until June 2014. The Council said this was due to an administrative error.

159. During the enforcement investigation it became apparent that the Council owned the site. The Council, as planning authority, could not serve enforcement notices on itself. The matter would instead be resolved through discussion with the department responsible for managing the land. The Council confirmed that meetings had recently been held with the relevant department and that the site would still be subject to action by the enforcement team.

160. The Council acknowledged that the site received support from Council officers prior to the retrospective application being lodged. They said the site was part of a trial project, in which Mr C's company had participated. The Council had been reviewing sites like this to see how the advertising project worked in practice.

161. The report of handling had been produced by officers from Planning and Building Services; they had not been approached by officers from any other department until after the retrospective application had been lodged. The Council said they accepted that communication could have been better in this area.

162. The Council acknowledged there had been support from other departments for the site. They said, in particular, Economic Development and Estates had provided support for the site.

163. The Council also accepted that both Police and Council logos were displayed on the site. They said the Police had been involved in initiatives to combat fly posting, but they could not comment on the use of their logo. The use of the Council logo was now under consideration.

164. The Council said in response to Mr C's accusation of a 'total disconnect' across the Council that a number of departments had been involved in the advertising project. This included the Area B Neighbourhood Team, Economic Development, Planning and Building Services and Estates. There were also a number of employees and consultants who were no longer with the Council.

165. The Council said this was acknowledged in their letter to Mr C. They accepted that these were circumstances which potentially gave rise to failure to communicate, or to miscommunicate, internally.

166. The Council did not accept their approach to flyposting had failed. The Council also did not accept that there was evidence of corruption or any other form of misconduct among any of their staff.

Mr C's response

167. Mr C said he believed the Council had repeatedly failed to follow the correct procedures in handling his complaint. He said that a sole operator had been allowed to use a site illegally for three years, benefiting from the advertising revenue that the site generated. Mr C said that the Council officers responsible for the AAP could be seen showing support for the site in the planning file notes, well after its introduction and in response to the findings of the Planning determination, which refused retrospective consent.

168. Mr C said he felt this was concerning, noting that the same sole operator had been in control of all the small format poster advertising in Edinburgh for over four years.

169. Mr C complained it had taken over four months to receive a response to his complaint. He highlighted that he had been obliged to repeatedly pursue the Council and noted that, although a promise was made to provide a response by 13 February 2015 following the intervention of my office, the Council failed to meet this deadline without explanation. The Council did not in fact contact him until 26 March 2015, which Mr C said was the first point they had contacted him directly since his original complaint in April 2014. Mr C did not consider the Council's explanation that the delay was due to the volume of correspondence he had produced reasonable.

170. Mr C said that his complaint did not appear to be upheld and said he considered the Council's complaint response to contain inaccurate, confusing,

untrue and misleading statements. Mr C said the site at X Street was ultimately subject to planning enforcement and removal, on the grounds that he had previously brought to the Council's attention. Mr C emphasised the site had never had advertising consent and he considered its operation illegal.

171. Mr C also noted the Council had accepted there were failings in many key areas, both in the introduction and support of the advertising on the site and their dealings with him. Mr C also highlighted that he had been informed over a number of years, starting in August 2012, that the AAP and associated advertising projects were under review by the Council. The Economic Development Department had stated the project review would be completed by October 2014. Contradicting this was the Council's response to FOI requests, where they stated the review 'commenced in April 2015 has no set timeframe, but it is envisaged it will be concluded by September 2015'. Mr C added the Council had been unable to provide evidence of any previous reviews, despite repeatedly stating they were being carried out over a four year period.

172. Mr C pointed out that the Council had stated officers were unaware the site was owned by the Council. In response to his FOI request, however, the Council had said authorisation to use the site was given following discussions between officers from the Services for Communities and Planning departments. The Council had also confirmed that all proposals for advertising sites were discussed prior to installation when located on Council assets.

173. Mr C said the Council had confirmed the site was installed in 2010. He questioned why, if the site was approved following discussions between several departments, including the Planning Department, the ownership of it did not become apparent until an enforcement investigation began.

174. Mr C said if the Council's position was correct, then it raised questions about the management of the AAP project. In particular, given the number of departments involved, including Estates, he suggested it was not credible that no-one was aware of the ownership of the site.

175. Mr C said the Council's statement in their complaint response, that there had been no Planning and Building Services involvement until the retrospective application was lodged, was also inaccurate. Mr C pointed out that FOI requests showed this specific site was discussed prior to installation, as

were all proposals for advertising sites. Mr C said the Council's statements were not reconcilable.

176. Mr C said the failure of the many departments involved in providing support for the site to recognise that it might not be suitable for a conservation area showed the disconnect between the various Council departments. Mr C said the Council's response often raised irrelevant points, or made general statements he considered obfuscatory. He noted that although he had made related complaints, the Council's response was similarly unsatisfactory and in one case, the Council had not actually responded at all. Additionally, Mr C said the Council was, by describing his complaint as 'generic', attempting to minimise its importance and ignoring the fact that it was about the specific problems at a specific location at X Street.

177. Mr C added the Council had admitted they had no way of measuring the success of the project, or the performance of the organisation they were working with. There did not appear to be any collected data, or any defined aims and objectives for the project.

178. Mr C did not accept the Council had adequately addressed his fears that corruption was partly or wholly responsible for the failings he had identified. Mr C said that revenue generating advertising opportunities should be consulted about, tendered properly and be restricted to sites with properly obtained advertising consent. Mr C said he did not believe the Council had explained why one organisation had been allowed to benefit for an extended period, to the exclusion of other interested parties.

179. Mr C said the Council had ignored information which had come to light since his solicitor had complained to them. He noted the Council seemed unclear on when the sole operator had first become involved with the Council, as they had been supplying advertising drums since 2003, well before the AAP apparently commenced in 2009. Mr C also noted that the Council had accepted in August 2012 that information had not been properly recorded and that his requests for information had not been adequately dealt with.

180. Mr C added the Council's statement that the site at X Street had been cleared at the time of their letter of 9 April 2015 was inaccurate. He provided photographic evidence that the site was still in use and had not been cleared. Mr C suggested this showed the Council had no control of the project.

181. Mr C asked for the Council to review the handling of his complaint and formally acknowledge their failings. He also asked for an acknowledgement of the inaccuracies in the complaint response sent on 2 April 2015 and for the Council to provide an explanation for this and accept that his complaint should have been upheld.

The Council's response to this office

182. The Council said that the site was not approved by Planning and Building Services and that advertising consent did not require submission of a landownership certificate. The application had stated the applicant had permission from the owner of the land to display advertisements. The Council said the planning officer would not have been aware the Council owned the site.

183. I note this response does not address the issue my complaints reviewer raised with the Council. The Council were asked how, if all advertising sites were authorised by Planning and Building Services staff prior to advertising installation and prior to the retrospective application, they could have been unaware of the site's existence. They were also asked why the fact it was apparently inappropriate for a conservation area had not been considered at this stage. The fact that the individual planning officer dealing with the retrospective application was unaware of the ownership of the site at the time was not disputed.

184. The Council said they did not dispute there was an unacceptable delay in instigating enforcement action. They attributed this to human error in failing to advise the Enforcement section of the need to take action. The Council said the Planning Service had since been reorganised and they did not believe this error would reoccur.

185. The Council said they could not explain the use of the Council lgo on the site. There were no records of any formal decision to allow its use, or of any action taken in this regard. The Council's view was that as the site had been cleared on 9 April 2015, this was no longer a consideration.

186. My complaints reviewer asked the Council to expand on the actions taken to resolve the communications difficulties experienced by Mr C. The Council said there was now a single point of contact for all temporary advertising queries in Area B. This would ensure all Council departments were aware of

who was responsible for coordinating responses and ensuring they complied with the appropriate processes and legislation.

187. The Planning and Building Services departments had been included in a structural review which had included all Council services. Their structure was now more closely aligned with the neighbourhood team structure under which community safety operated. Planning enforcement was handled by two separate teams, one covering the west and Area B and one covering the east. The Council said the new structure would enable more effective communication between various Council departments.

(d) Decision

188. The Council have accepted that their response to Mr C was delayed. The explanation provided for this was that Mr C's complaint was complex and submitted at a time when he had provided significant volumes of correspondence to the Council. In addition, he had made a large number of FOI requests and the Council required time to co-ordinate the responses and ensure their accuracy.

189. I note from the available evidence that, beyond an automated acknowledgement of his complaint, the Council did not respond to Mr C within the appropriate timescale set in their complaint procedure. Mr C complained on 12 November 2014, but did not receive any substantive correspondence from the Council until 26 March 2015. I am critical of the Council, as they promised to respond by 13 February 2015 following the intervention of my office but failed to do so. The available records show the Council did not in fact commence their investigation into the complaint until this date. The Council have not provided any further explanation for this, nor is it recorded on the complaint file how this delay was caused by Mr C's other correspondence with the Council.

190. I consider, therefore, that the Council's handling of this complaint was unreasonable. I will consider the substance of the Council's complaint response later in the report, but I am highly critical of the failure of the Council to comply with their complaints handling process. In particular, the failure to provide any meaningful contact at all for two months is unacceptable, particularly when the complainant's correspondence is recorded as being forwarded to the investigating officer and specifically requests an update.

191. I am concerned that the Council's response does not recognise the extent of these failings in complaints handling. The fact that the Council considered the complaint complex is not justification for a failure to communicate at all with Mr C for an extended period. Additionally, no explanation has been offered for the failure to commence the investigation until the deadline for response given to my office. Staff appear to have either been ignorant of, or have ignored, the Council's own complaints handling policy, without explanation.

192. I uphold this complaint.

(e) Decision

193. Mr C has provided a detailed rebuttal of the Council's initial complaint response. I am particularly concerned that Mr C has provided details from FOI requests which appear to contradict some of the information provided by the Council. As the need to respond to these requests and manage Mr C's correspondence with the Council was the primary reason given to justify exceeding the Council's timescales, I am critical of the failure by the Council to ensure that the information provided to Mr C was consistent with that released to him in response to his FOI requests.

194. The Council's complaint response does not make it clear whether Mr C's complaint was in fact upheld or not. It acknowledges a series of failings on the part of the Council and provides explanations for them. The Council have, however, provided only limited detail of the process changes they have made in order to resolve these issues.

195. In this case, the Council's position is in part that the issues around the use of the site are no longer a consideration, since it has been dismantled. It remains unclear, however, why the Council allowed this situation to develop. The Council's original response to Mr C of 2 April 2015 said there were no discussions with Planning and Building Services about the site prior to the retrospective application being lodged. The Council accepts that there could have been better communication between departments and that there was support for the site from other Council departments. The Council is clear, however, that the site was not known to Planning and Building Services and there was no way that Planning and Building Services would have known the Council owned the site.

196. I note, in the FOI responses given to Mr C, that the Council stated all proposals for advertising sites were discussed between the Council departments involved (including the Panning department) prior to installation when located on Council owned assets and that this particular site was installed and approved in 2010. The Council have not explained this contradiction with their original complaint response adequately.

197. Additionally the language used in the Council's response is opaque. The Council seem to accept there were communication difficulties between the teams involved with the AAP and other associated projects: 'I understand that these are circumstances that potentially give rise to a failure to communicate or miscommunication internally.' They do not, however, state this clearly or unambiguously. I am uncertain whether the Council have genuinely accepted there were internal communication issues, which resulted in the Council being in the awkward and administratively complex situation of having to address an enforcement issue against themselves.

198. I uphold this complaint. I do not make any specific recommendations in respect of this complaint, on the basis that action has now been taken by the Council in order to address the advertising site in question.

(f) The Council did not handle Mr C's complaint reasonably; and (g) The Council's responses to Mr C's complaints were unreasonable on the basis that the complaint responses contained information which was confusing, contradictory, misleading and untrue. Additionally the decision not to uphold these complaints was not reasonably supported by the evidence

199. Mr C complained to the Council on 13 August 2015. He said the Council were unable to provide information within a reasonable timescale to requests or to respond accurately to requests for information about the AAP, which he believed was in its sixth year, and the trial installation of the drums in various locations around the city, which was in its eleventh year.

200. Mr C said it appeared that the normal planning process had not been followed and that the Council had not followed the expected processes for commercial utilisation of their assets. Mr C referred to a number of FOI responses from the Council which he said supported his views. He also referred to FOI responses which he said showed the owner of the drums had been receiving significant revenue from the process, whilst the Council had not received anything.

201. Mr C added there appeared to be no way of measuring the success of the projects. The Council had had considerable difficulty in providing a list of all the sites utilised in the AAP and for the drums. Mr C said the drums in particular appeared to have benefited from a transition from a temporary installation of two drums for a year, into a year round permanent network of sites across the city.

202. Mr C complained that his attempts to communicate with Council officers had been frustrated by their inability to provide accurate or comprehensive responses. At times officers had simply stopped responding to him altogether, which had forced him to use FOI requests to obtain the necessary information.

203. Mr C said he believed his complaint demonstrated that the Council were not capable of acting in an appropriately open and fair manner and their response to his correspondence and complaints had lacked accuracy and transparency.

204. Mr C chased the complaint by email at the end of August, without a response from the Council, and contacted my office on 6 September 2015. On 9 September we informed Mr C that the Council had closed the complaint by mistake. The Council had confirmed it would be re-opened and that Mr C would be contacted.

205. Mr C contacted the Council on 10 September 2015 asking for confirmation the complaint was being dealt with and for a complaints reference number. The Council acknowledged his email that day but did not provide a complaints reference number. Mr C emailed back immediately requesting that the Council confirm they would deal with each of his complaints separately. Mr C re-sent this request on 18 September 2015 and 23 September 2015.

206. The Council did respond on 25 September apologising for the lack of contact, however, they did not provide a complaint reference number. Their response did not answer Mr C's question about whether the complaint would be dealt with separately. Mr C asked this question again by email on 1 October 2015 and was provided with a complaint reference number on 2 October 2015. On 9 October 2015 Mr C was contacted and subsequently promised a response by 22 October 2015.

207. The Council then emailed Mr C on 14 October 2015 saying due to the complexity of the complaint and the volume of his correspondence with other service areas, the time period would be extended and his complaint would be answered on 19 November 2015. Mr C was told the response would cover all outstanding requests for information.

208. Mr C received identical letters on 17 November 2015 and 8 December 2015. These stated that due to the 21 FOI requests he had made, the Council were extending the deadline for issuing their response to his complaint. The deadline was subsequently extended to 10 December 2015 and then to 31 December 2015. An almost identical letter was sent on 31 December 2015, however this provided an additional reason for the delay, stating the Council's response needed to be checked by their legal department prior to issue. The deadline for issuing the response was moved to 28 January 2016.

209. Mr C received the final response from the Council on 22 January 2016.

The Council's formal response

210. The Council's response apologised for the delay in responding but said a full investigation had been required, given the high volume of correspondence between Mr C and the Council. The Council also apologised that Mr C's original complaint was closed in error.

211. The Council said Mr C's complaint was one he had raised on numerous occasions previously. The Council's response of 2 April 2015 had dealt with the issue of the advertising drums in detail. Mr C had also been invited to meet with Council staff on 16 July 2015 but he had declined, stating he would not be available until September 2015 at the earliest. Mr C was then offered two dates in September but declined, on the basis that he required answers to his outstanding questions first.

212. The Council acknowledged Mr C's frustration that they were unable to supply him with the information he was seeking and that his requests had not been dealt with adequately. The Council said this was because the trial nature of the project asked about meant they did not have established protocols, performance measures, project organograms, or as robust a framework as they had hoped for.

213. The Council said there had been an on-going review of the advertising drums project which commenced in May 2015, involving officers from a variety of different service areas. This had concluded that the drums needed to be removed from the highway by 12 November 2015. This had, however, been delayed by contact from Councillors and various organisations from the arts and cultural sectors which used the drums. A meeting had been held on 20 November 2015 to discuss the drums in more detail. The Council said it was clear the arts and cultural sectors relied on the drums and they felt their removal would be particularly detrimental over the winter period.

214. The Council had advised the organisations that any such services had to be equitably tendered and they agreed to be involved in discussions with the Council moving forward. Any tender would be progressed jointly with the arts and cultural sector and would go forward through the Council's usual procurement processes. The Council said this would allow Mr C to get involved but would also allow the introduction of a more robust management framework.

215. The Council said they were sorry Mr C felt he had not had answers to the queries he had raised about the AAP and the advertising drums project. They said they appreciated the SIC had found against them over one FOI request. They said, however, all available information in that case had now been provided.

216. Mr C contacted the Council again on 25 January 2016. He asked for confirmation that the advertising drums had been removed and for information on how the Council's tender and procurement process would now progress.

217. The Council responded on 1 February 2016. They informed Mr C that the drums would not be removed until 31 March 2016. This was because it was the end of the financial year for the Council and the removal of the drums would then be subject to the progression of a procured contract. The Council confirmed the procurement process had started and was going out to tender before 31 March 2016. Mr C asked the Council when this decision had been taken and whether there might be further deferrals of the removal of the drums. Mr C said this would be unfair as the current situation continued to prevent any other interested party from becoming involved.

Issues raised by Mr C – complaints handling

218. Mr C was concerned by the length of time taken by the Council to respond to his complaint. He was particularly concerned by the decision to close his complaint immediately following receipt and the lack of response from the Council. Mr C said that it had required the intervention of this office, as with his other cases, to obtain a response.

219. Mr C noted that no aspect of his complaint appeared to have been upheld by the Council. He considered this unreasonable, as the Council had failed to respond within a reasonable timescale and had insisted on dealing with this complaint in conjunction with other complaints Mr C had made, despite his repeated requests that they not do this. Mr C felt it had been unreasonable for the Council to simply alter the deadline for issuing their final response four times, particularly as little explanation had been provided for these delays. Mr C also complained that issues raised with the Council during the complaints process, in response to the Council's invitation to contact them, had been ignored in the complaint response.

Issues raised by Mr C – failure to uphold

220. Mr C said the Council should have upheld his complaint on the grounds they had acknowledged that although they were operating both the Advertising Drum project and the AAP as trials, they acknowledged they did not have any method of measuring performance or outcomes. Mr C felt this was a clear admission of failings in the Council's project management.

221. Mr C disputed the Council's position that the complaint had been raised on 'numerous' occasions previously. He also disagreed with the Council's statement that the complaint had been dealt with. Mr C accepted there was some crossover between this complaint and others raised with the Council, but suggested this was because he was trying to demonstrate a pattern of failure on the part of the Council and the Council had failed to respond properly or fully to earlier complaints.

222. Mr C said that the Council had failed repeatedly to investigate his complaints properly. He did not consider it reasonable to refuse to respond in detail on the basis that previous investigations had been conducted which he had proved were inadequate.

223. Mr C also felt the Council's reference to an unwillingness to meet on his part was disingenuous. He noted he had agreed to meet in an email on 31 August 2015. He had, however, felt it was essential that the majority of issues he felt were outstanding were addressed prior to a meeting taking place, so that these could form the basis of any discussion. Mr C said this information had never been provided by the Council.

224. Mr C also disputed whether his FOI requests were a valid reason for the Council to delay responding. Mr C noted that he felt he had been obliged to make formal FOI requests because he could not rely on the information provided by the Council. Mr C said he had repeatedly been forced to go to the SIC either because the Council's responses were late, or because they had not provided complete information.

225. Mr C said the Council had told him on numerous occasions that requests from information from the appropriate Council directorate managing the project would be responded to. This had not happened and the Council had subsequently acknowledged that he had had difficulty obtaining the information he was seeking.

226. Mr C noted that a significant part of the complaint was the Council's inability to provide information about the advertising projects. The Council's response acknowledged they did not hold information about the assessment of the trial projects because this information had not been recorded. Mr C considered not upholding his complaint in these circumstances to be illogical.

227. Mr C pointed out the Council told him that their review of the advertising drum project commenced in May 2015. This had concluded that the drums would be removed by 12 November 2015. Mr C said his subsequent FOI requests showed the Council's review had begun in April 2015. The Council had said this was due to confusion between on-going operational issues and a formal review of the project. Mr C also said that although the Council had had the opportunity to acknowledge and apologise for their failings, they had provided a misleading and inaccurate response.

228. Mr C pointed out that contrary to the statements made by the Council, the advertising drums had yet to be removed.

229. Mr C highlighted the fact that the Council had chosen to say they had only been found to have supplied incomplete information on one occasion by the SIC. Mr C said this was untrue and the Council's responses had been found to be inadequate or inaccurate on several other occasions. Mr C provided details of these decisions. He said that one related to the provision of information about the advertising drum locations, another had related to the provision of information about revenue generated by the drums and the Council had failed to provide minutes of meetings relevant to the drums.

230. Mr C said that, overall, the AAP had progressed with a series of breaches of process and failures to record, assess or retain information by the Council. Mr C said the drums, for example, had never gone through a tender or procurement process. No consultation had ever taken place over their use, or placement, none had advertising consent, effectively breaching planning control. The Council could not show any advertising rates had ever been paid, nor had any form of rental been paid. No review information was available, even though the Council had told Mr C that the project had been subject to review on more than one occasion.

231. Mr C said he had, for example, asked the Council officer he had been told was responsible for the introduction of drums into the Area A, apparently against stakeholders' wishes. The officer had told him an investigation was underway into their introduction, but had then refused to answer questions about it. Mr C pointed out there were no available records to support the Council's explanation for the introduction of the advertising drums. Mr C added in response to an FOI request the Council had contradicted themselves, stating that no investigation was being undertaken and there had never been plans to carry one out.

The Council's response to my office

232. The Council said they acknowledged Mr C's complaint was incorrectly closed following receipt. They had addressed this with the service area. The need to follow the complaint procedure correctly had been emphasised.

233. The Council said it was unfortunate that Mr C's stage two complaint response was not issued until 22 January 2016. The Council said they acknowledged that delays had occurred in responding to this complaint and other correspondence from Mr C. The Council's complaints procedure did allow for extensions to the time allowed for issuing a response with the agreement of

the complainant. There was unfortunately no evidence of Council officers seeking to agree an extension with Mr C. The Council said the service clearly expressed regret for the delays which occurred in responding to Mr C but said although these failures were unacceptable, they were during a period of large amounts of correspondence from him.

234. The Council said they were sorry if Mr C had not found the information provided to him to be a clear and simple explanation. This had been the Council's aim and they denied their response was inaccurate or misleading.

235. The Council said that steps were now being taken to address Mr C's concerns about the trial advertising projects, particularly their operation and procurement. Three different strands had now evolved. There was the Festival Fringe Advertising Contract, which had gone out to tender in 2014, 2015 and 2016; the establishment of the Unight group of clubs, to ensure that city night clubs advertised legally on Council and privately owned assets; and the advertising drums, which had provided a valued opportunity for the local arts and cultural movement to promote their activities.

236. The Council said they acknowledged the concerns Mr C had regarding FOI requests and the information that the Council had released following them. The Council had been actively seeking to address these issues with the service areas concerned. They had also addressed all investigations by the SIC. They suggested that if Mr C had further concerns that they should be addressed to the SIC.

237. The Council said they monitored sites visually to assess the effectiveness of the projects as well as monitoring complaints about flyposting. There were weekly meetings about the Edinburgh Festival Fringe advertising contract and the procurement process had allowed a more robust management framework to be in place and monitored.

238. The Council said they had actively sought a meeting with Mr C, in order to resolve his complaints. They felt it was unfortunate that Mr C had not yet chosen to engage in this manner to resolve his outstanding concerns.

(f) Decision

239. The Council have accepted that they did not handle Mr C's complaint in line with their published procedures. Mr C's initial complaint was closed without

any response being issued. The Council have attributed this to an 'error' and state that it has been addressed with the service area. I note that the Council have submitted no evidence of the action they have taken.

240. Mr C's complaint was not handled in line with the Council's complaint handling procedure, once it was progressed into the complaints handling process. The Council have acknowledged their response was delayed. They have also acknowledged that whilst Mr C was informed of these delays, there was no attempt by officers to agree extensions with him, as required by the Council's complaints handling procedure.

241. Although the Council have acknowledged their failure to handle the complaint reasonably, elements of their response are concerning. Mr C had made a number of complaints to the Council, all about the same service area. It is surprising, therefore, that a complaint from him would have been closed without any investigation at all.

242. Additionally the Council officers involved in responding to Mr C's complaint had also been involved in the responses to Mr C's other complaints and correspondence. It is concerning that they appeared to continue to be unaware of, or unfamiliar with, the Council's complaints handling procedure, after the Council had stated that the delays in response to Mr C's previous complaints had been addressed with the service areas involved.

243. I consider the Council's handling of Mr C's complaint was unreasonable and I uphold this complaint. I have not made specific recommendations in this case, as the issues surrounding complaint handling are dealt with by a general recommendation at the end of this report.

(g) Decision

244. The Council believe they have responded appropriately to Mr C's complaint. They suggest that it repeats issues previously raised, which were dealt with in detail. The Council do not accept Mr C has demonstrated a pattern of repeated failures, although they have acknowledged there have been difficulties in providing Mr C with information he has requested.

245. The Council said that they were taking steps to address the issues Mr C was concerned about. They believed the project had reduced the amount of flyposting within the city and that positive developments had evolved out of it.

246. I do not find the Council's position reasonable. There is substantive evidence to support their assessment of the project. Mr C has been able to demonstrate the Council's responses to his complaints were inaccurate. Importantly the information he relied upon to do this was held by the Council at the time they were investigating his complaint. I uphold this complaint. As previously, I have made a general comment and recommendations on complaint handling at the end of the report.

Ombudsman's Comments

Delays in complaints handling

247. Overall, the handling of Mr C's complaints has been characterised by delays and failures to follow the Council's complaints procedure. The Council made no attempt to agree extensions to the response dates with Mr C, as their complaints handling procedure requires them to do, and failed to respond to requests for information from Mr C. I note that Mr C was also, at times, provided with inaccurate and misleading information about the progress of the Council's investigations into his complaint and that the Council did not commence some of their investigations until after the agreed deadline for responding had passed.

248. On more than one occasion Mr C's requests for updates were passed to the officer handling his investigation without response. I note that following his automatic acknowledgement, Mr C was not contacted by the officer investigating his case until he had repeatedly chased it.

249. In case 201508738, Mr C was informed that the deadlines set by the Council for providing a response were being changed. Again however, this was not done in a manner which complied with the Council's complaints handling procedure. This requires the Council to inform the complainant of the need to change the deadline and to attempt to obtain their agreement. This failure is amplified by the fact that the Council should have been aware of the difficulties they had encountered in handling Mr C's other complaints, particularly as they had already acknowledged these and taken action to address the previous delays he had experienced.

250. Taken in isolation, these failings in complaints handling would be unreasonable. Looking at Mr C's complaints as a group, the evidence suggests in this case there have been systemic failures in the Council's complaints

handling. Mr C's complaints have repeatedly encountered the same problems. Following the initial automated acknowledgement, there have been protracted delays in producing a final response and, in one case, a failure to produce a final response at all.

Complaints Handling responses

251. As set out, the Council's responses to Mr C do not make it clear whether his complaints were upheld or not. All the letters acknowledge difficulties or failings on the part of the Council without making the findings of the investigation explicit. I consider this unreasonable.

252. Additionally, Mr C has demonstrated through FOI requests that, in several cases, the Council failed to provide all the relevant information they held in relation to the matters he had complained about. I am particularly critical of this failing, since the Council justified the delays in responding to Mr C on the need to ensure he received a comprehensive and accurate answer. Although the Council have suggested that Mr C should take up concerns over their responses with the SIC, the ability to access and provide accurate and complete information is an essential part of complaints handling. I am concerned that the Council's response does not make clear what actions they are taking to address their failings in this area.

253. There is also concern over the management of the various advertising projects Mr C has complained about. The Council have referred to these projects as having been subject to review on several occasions since 2012. There is no evidence, however, that a comprehensive review has been carried out of the project. The evidence the Council have provided of their review has been extremely limited, consisting of some informal minutes and internal email exchanges.

254. The Council's submission on the future role of the drums is confusing. Some eleven years after they were introduced, and with the Council accepting a formal procurement process should take place, the drums will remain in situ until March 2017. I am critical that over such an extended period, during which the Council were receiving regular correspondence expressing concerns about the drums, no action was taken to ensure they had the required planning consents, nor was any work done on creating an appropriate procurement process for them. It is also concerning, given that the drums were installed on a

trial basis, that the Council did not seek engagement with stakeholders until after November 2015, when they had decided they should be removed.

255. Overall, I do not consider that the evidence supports the Council's position that these were trial projects. There is no evidence of the type of information gathering essential for assessing the success or failure of a trial. Nor is there evidence of engagement with service users and other stakeholders to ascertain their views on the various projects. The confusion around the removal of the drums would seem symptomatic of the dysfunctional project management to date, with the Council's position shifting from requiring the drums removal by November 2015; retaining them until the end of March 2016 to allow a procurement process to take place; to retaining them until March 2017 on the basis of economic importance.

256. It is clear from the varying responses Mr C has had from different Council departments that there is a lack of clarity internally over the various advertising projects. The Council have acknowledged that there are none of the usual project management records which would be expected. It would be appropriate for the Council to ensure that a full review is now carried out, identifying any failings on the part of the Council, as well as lessons to be learnt to improve future service delivery.

257. As I have upheld Mr C's complaints, and in view of this pattern of failure in complaints handling, I make the following recommendations.

Recommendations

258. I recommend that the Council

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|---|-------------|
| (i) carry out a full review of the complaints handling in these cases to establish the lessons to be learnt for handling future complex complaints; | 18 May 2017 |
| (ii) provide evidence that all the officers involved in responding to this complaint have undergone complaints handling training; | 8 May 2017 |
| (iii) conduct a full review of their management of all the various advertising projects from their inception as proposed in 2012 and provide their findings to the Ombudsman; and | 18 May 2017 |
| (iv) provide evidence of the actions taken to improve | 18 May 2017 |

internal communication in view of the acknowledged failings in this case.

General recommendation

259. I recommend that the Board:

Completion date

- (i) apologise to Mr C for the failures identified in this report.

8 May 2017

260. The Council have accepted the recommendations and will act on them accordingly. We will follow-up on these recommendations. The Council are asked to inform us of the steps that have been taken to implement these recommendations by the date specified. We will expect evidence (including supporting documentation) that appropriate action has been taken before we can confirm that the recommendations have been implemented.

Explanation of abbreviations used

Mr C	the complainant
the Council	City of Edinburgh Council
AAP	Authorised Advertising Project
X Street	a street in Edinburgh
FOI	Freedom of Information
Area A	an area of the city of Edinburgh
Area C	an area of the city of Edinburgh
Y Street	a street in Edinburgh
Z Street	a street in Edinburgh
Area B	an area of the city of Edinburgh
SIC	the Scottish Information Commissioner
Area D	an area of the city of Edinburgh

Glossary of terms

advertising drums	free standing multisided drums, providing space for advertising or information
Authorised Advertising Project	a project intended to manage and control street advertising within the city and reduce flyposting
fly posting	illegal placing of posters or similar advertising on buildings or street furniture
small format advertising	posters smaller than commercial billboard size, frequently used in illegal flyposting
streetscape delivery groups	groups chaired by senior council officers concerned with improving Edinburgh's streetscape