



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

**TUESDAY 26 SEPTEMBER 2017
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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Committee Members Present:

Councillor J Henderson (Convener)
Councillor F Dugdale
Councillor J Findlay
Councillor K Mackie
Councillor B Small

Council Officials Present:

Mr A McCrorie, Depute Chief Executive – Resources and People Services
Mrs M Patterson, Depute Chief Executive – Partnerships and Community Services
Mr D Small, Director of Health & Social Care Partnership
Mr R Montgomery, Head of Infrastructure
Mr D Proudfoot, Head of Development
Ms F Robertson, Head of Education
Mr B Davies, Group Service Manager – Planning & Performance
Mr P Vestri, Service Manager – Corporate Policy
Mr J Cunningham, Service Manager - Benefits
Mr B Moffat, Service Manager - Transport
Mr P Iannetta, Service Manager - Engineering Services & Building Standards
Ms S Fortune, Service Manager – Business Finance
Ms L Shaw, Corporate Finance Manager
Ms A Glancy, Principal Accountant (Financial)
Ms M Garden, Internal Audit Manager
Mr S Allan, Senior Auditor
Mr S Kennedy, Risk Officer
Ms J Mackay, Media Manager

Other Councillors Present:

Councillor J McMillan (Items 3 - 5)

Clerk:

Ms F Currie

Visitors Present:

Ms G Woolman, Audit Scotland
Ms E Scoburgh, Audit Scotland

Apologies:

None

Declarations of Interest:

None

1. MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING ON 20 JUNE 2017

The minutes of the Audit and Governance Committee meeting held on 20 June 2017 were approved as a true record.

2. ISA 260 COVERING LETTER (AUDIT SCOTLAND)

Audit Scotland submitted their ISA 260 letter to East Lothian Council which included their proposed unqualified auditor's report and a draft letter of representation under ISA 580.

Gillian Woolman, Assistant Director Audit Scotland, presented the documents to Members outlining the purpose and content and highlighting key issues. In response to a question from Councillor Small, she confirmed that the audit process for 2016/17 would be concluded with the signing of the report and annual accounts on 29 September 2017.

3. 2016/17 ANNUAL AUDIT REPORT TO MEMBERS OF EAST LoTHIAN COUNCIL

Ms Woolman also presented Audit Scotland's annual audit report to Members for 2016/17 confirming that they intended to issue an unqualified audit opinion. She summarised the key messages in each section of the report including the significant findings from the audit of the accounts and reviews of financial sustainability, governance and transparency and value for money.

Ms Woolman also drew Members' attention to the action plan which included the auditors' recommendations for improvement and the response from Council management.

In response to questions from Members, Ms Woolman provided further information on the significant findings of the audit, the evaluation of misstatements and the Council's management of risk.

Councillor Mackie referred to comments in Part 4 of the report regarding governance and transparency. She concurred with Audit Scotland's view that the effectiveness of scrutiny was diminished by one political party not appointing members to the Council's scrutiny committees. She said that, in her view, this constituted a dereliction of duty on the part of the SNP. Councillor Mackie also noted the comments in the report in relation to Trust Funds, observing that this was particularly relevant for Musselburgh ward councillors. She said she looked forward to hearing more of the Council's proposals for action in these two areas.

Councillor Dugdale thanked the auditors for their excellent report which she said had been produced against a background of reducing funding for Councils and increasing demand for services.

The Convener also thanked the auditors for their report and Ms Woolman for her very informative presentation.

Decision

The Committee agreed to note the contents of the ISA 260 letter and 2016/17 Annual Audit Report.

Sederunt: Councillor McMillan joined the meeting.

4. EAST LoTHIAN COUNCIL ANNUAL ACCOUNTS 2016/17

A report was submitted by the Depute Chief Executive (Resources and People Services) to provide the Committee with an update on the main changes arising during the audit of the draft financial statements 2016/17, and to ask the Committee to approve the accounts for 2016/17.

Sarah Fortune, Service Manager – Business Finance, presented the accounts highlighting the main changes made as a result of the audit. She reminded Members that the unaudited accounts had been considered at Council in June and she welcomed the confirmation from Audit Scotland that they would be issuing an unqualified audit opinion.

In response to a question from Councillor Small, Ms Woolman explained that during the coming year Audit Scotland would present their audit plan to the Committee and an interim management report which would include an update on progress with the action plan.

Councillor Findlay asked if next year it would be possible for Members to receive the accounts further in advance of the meeting. Ms Fortune explained the timetable for producing the accounts and the desire to provide Members with as much information as possible to allow them to perform their scrutiny role. She said she would be happy to work with Members going forward and suggested the possibility of additional briefings while the accounts were being prepared.

Ms Woolman added that it was at the point when the unaudited accounts were presented to Members in June that comments were most welcome, by September much of the work had been done. She suggested setting aside additional time around the June meeting next year.

Decision

The Committee agreed to:

- (i) Note the main changes arising during the course of the audit; and
- (ii) Approve the audited accounts for 2016/17.

5. CORPORATE RISK REGISTER

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

Scott Kennedy, Risk Officer, presented the report outlining the background to the register and the risk matrix which was used to evaluate individual risks. He advised that the current Corporate Risk Register contained 1 Very High Risk, 9 High Risks, 7 Medium Risks and 1 Low Risk. He also reminded Members that the register was a live document which was regularly reviewed and updated.

Responding to questions from Councillor Mackie on welfare reform, John Cunningham, Service Manager – Benefits, advised that changes to current Department of Work & Pensions (DWP) processes would be required to support the new legislation and that it remained to be seen whether the new powers would alleviate any of the risks associated with the roll out of Universal Credit.

Councillor Small queried the scoring of the likelihood of risk ELC CR2 as a 4 rather than a 5. Ms Fortune acknowledged that financial management was a high risk for the Council but added that arrangements were in place to mitigate this.

Councillor Small also asked about the potential financial impact of claims against the Council relating to historic childhood abuse. Ms Fortune said that there was no provision as any claims were being channelled through the national inquiry. However, it may be something to consider going forward.

Mr McCrorie advised that this had been added to the register as a result of national developments and he was currently aware of one potential claim. He added that if further claims developed the Council may need to consider making provision and the risk register would be updated accordingly.

In response to a question from Councillor Dugdale, Mr Kennedy explained that the register was presented to the Committee annually and was discussed quarterly at Council Management Team meetings. He suggested that quarterly updates could be provided to the Committee if Members would find this helpful.

The Convener asked why there was no specific risk relating to technology and whether this could be included in the Corporate Risk Register. Mr Kennedy replied that this issue was addressed where appropriate within individual Service Risk Registers. The Corporate Risk Register was an overarching document where risks were only included if they featured on 3 or more Service Risk Registers. However, he agreed to discuss the Convener's comments with the Corporate Risk Working Group.

Decision

The Committee agreed to note the contents of the Corporate Risk Register and that:

- The relevant risks have been identified and that the significance of each risk is appropriate to the current nature of the risk.
- The total profile of the Corporate risk can be borne by the Council at this time in relation to the Council's appetite for risk.
- Although the risks presented are those requiring close monitoring and scrutiny over the next year, many are in fact longer term risks for Corporate and are likely to be a feature of the risk register over a number of years.
- Note that the Council Management Team will review all risks in the Corporate Risk Register on a regular basis.

Sederunt: Councillor McMillan left the meeting.

6. EDUCATION RISK REGISTER

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

Mr Kennedy presented the report outlining the background to the register and the risk matrix which was used to evaluate individual risks. He advised that the current Education Risk Register contained 9 High Risks, 8 Medium Risks and 2 Low Risks. He also highlighted two changes to the document relating to risks ED1 and ED3 and reminded Members that, as per the Council's Risk Strategy, only the Very High and High Risks were being reported to the Committee.

Fiona Robertson, Head of Education, responded to questions from Councillor Small on the recruitment and retention of teaching staff and the additional responsibilities for head teachers. She outlined the current vacancies and the arrangements in place to increase recruitment of permanent staff. Referring to head teachers she acknowledged that the system as a whole was going through a significant period of change and that discussions were taking place to ensure that staff were ready to take on the additional demands.

The Convener queried the likelihood scoring for risk ED9 suggesting that it was significantly higher than 'possible'. Ms Robertson said that there were measures in place to mitigate this risk and Mr Kennedy explained that the score referred to the likelihood of the risk coming to fruition.

The Convener acknowledged this but still wished to challenge the scoring. She referred to feedback she had received from people in her ward and stated that, in her opinion, this risk may be being understated.

Mr McCrorie reiterated Mr Kennedy's point but agreed to take the Convener's comments into consideration when reviewing the register.

Councillor Mackie asked about the roll out of additional childcare hours and the involvement of partnership nurseries. Ms Robertson outlined the challenges involved and provided background on the contractual and financial implications for individual nurseries. She added that an implementation plan had been prepared and would be submitted to the Scottish Government in the coming days.

Councillor Findlay queried the provision for placing of vulnerable two year olds and whether this should be seen as a separate risk for the service. Ms Robertson advised that a dedicated staff member was working with families to match the needs of each child but that she did not see it as an additional risk.

Councillor Small commented on the importance of focussing on key areas such as education. He said it was valuable for the Committee to receive regular updates on the risks as there was so much change happening within the service.

The Convener echoed these remarks and added that the Committee needed to be satisfied that the risks had been appropriately assessed as this was such a significant area of expenditure for the Council.

Decision

The Committee agreed to note the contents of the Education Risk Register and that:

- The relevant risks have been identified and that the significance of each risk is appropriate to the current nature of the risk.
- The total profile of the Education risk can be borne by the Council at this time in relation to the Council's appetite for risk.
- Although the risks presented are those requiring close monitoring and scrutiny over the next year, many are in fact longer term risks for Education and are likely to be a feature of the risk register over a number of years.

7. INTERNAL AUDIT REPORT – HOUSING BENEFIT AND COUNCIL TAX REDUCTION

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of the recently issued audit report on Housing Benefit and Council Tax Reduction.

Mala Garden, Internal Audit Manager, presented the report. She outlined the report findings and referred Members to the recommendations contained in the Action Plan which had been agreed by Management.

Councillor Small queried why the entry in the section headed 'Resource Implications' within the report stated "none". He was surprised that there was no indication that there would be financial implications if procedures were not followed correctly.

Ms Garden explained that Internal Audit's role was to examine internal controls and to highlight the potential risks should these controls be lacking or working ineffectively. The full audit report made reference to the financial implications for the sample of cases reviewed and the subsidy work undertaken by Audit Scotland on housing benefit claims will quantify the financial implications.

Esther Scoburgh, Audit Scotland, advised that there was an audit underway of housing benefit claims in 2016/17 and if there were errors identified these would be rectified in 2017/18 and that is where the Committee would see the financial implications. She said that the findings of this audit would be reported along with the findings of the national audit which was also underway.

Mr Cunningham referred to the interim report by Audit Scotland and the impact that the roll out of Universal Credit had had on the administration work. He said that additional controls had been put in place and this was reflected in the Internal Audit report.

Mr McCrorie added that the purpose of the audit process was to review controls and if sample checking identified anything significant this would be referred to Management for immediate action.

Councillor Findlay asked if there were guidelines relating to audit sample sizes. Ms Garden replied that this was determined by the assessed risk and was agreed with the external auditors. Sample checking took place through all four quarters of the year.

Decision

The Committee agreed to note the contents of the Executive Summary and Action Plan.

8. INTERNAL AUDIT REPORT – GAS SERVICING AND MAINTENANCE

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of the recently issued audit report on Gas Servicing and Maintenance.

Stuart Allan, Senior Auditor, presented the report summarising the areas where controls had been met, those with scope for improvement and the recommendations contained in the Action Plan.

The Convener asked about the risk of properties not being serviced. Paul Iannetta, Service Manager – Engineering Services & Building Standards, confirmed that all properties that required it were being serviced. He added that the management team had agreed to take on board the recommendations and ensure that a full audit trail was in place.

Decision

The Committee agreed to note the contents of the Executive Summary and Action Plan.

9. INTERNAL AUDIT REPORT – NON-RESIDENTIAL CHARGING

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of the recently issued audit report on Non-Residential Charging.

Ms Garden presented the report summarising the areas where controls had been met, those with scope for improvement and the recommendations contained in the Action Plan.

Councillor Small asked whether there had been a significant loss of income to the Council. Ms Garden advised that this information was contained in the full internal audit report which had been circulated to Members.

Bryan Davies, Group Service Manager – Planning and Performance, responded to questions from Councillor Findlay and Councillor Dugdale. He stated that the delay in finalising the charges was down to the requirement to consult on the new policy and to provide clients with notice of the new Non-Residential charges. He also confirmed that discussions were underway with other service areas to resolve the issues surrounding the charging of community alarms for Council tenants.

Decision

The Committee agreed to note the contents of the Executive Summary and Action Plan.

10. INTERNAL AUDIT REPORT – TAXICARD SCHEME

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of the recently issued audit report on the Taxicard Scheme.

Mr Allan presented the report outlining the findings and recommendations contained in the Action Plan which had been accepted by Management.

The Convener noted that there were a large number of recommendations and that the audit had highlighted an area where procedures were not sufficiently robust. Ms Garden advised that the audit had been conducted at the request of the Service Manager.

Councillor Mackie welcomed the confirmation that a review of the Scheme would be undertaken by officers. Councillor Small asked if a further report would be presented to the Committee.

Monica Patterson, Depute Chief Executive, advised that Internal Audit would flag up any outstanding actions in their usual follow-up report and if any change to policy was required a report would be presented to Cabinet.

Decision

The Committee agreed to note the contents of the Executive Summary and Action Plan.

11. INTERNAL AUDIT FOLLOW-UP REPORTS

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of the recent follow-up work undertaken by Internal Audit.

Ms Garden presented the report outlining progress on recommendations made in previously issued audit reports regarding Freedom of Information, Section 75 Payments, Housing Voids and Home to School Transport. She advised that several recommendations relating to Housing Voids and Home to School Transport had yet to be implemented and further progress reports would be brought to the next Committee meeting.

Councillor Findlay asked if Members could receive details of the recommendations which had been implemented and those which remained outstanding.

Ms Garden said that spreadsheets were available and asked Members if they would prefer to have details of outstanding recommendations and revised completion dates as part of the report. The Members agreed that this would be helpful.

Decision

The Committee agreed to note the findings of Internal Audit's follow-up work on Freedom of Information, Section 75 Payments, Housing Voids and Home to School Transport.

12. STRATEGY FOR THE PREVENTION AND DETECTION OF FRAUD AND CORRUPTION

A report was submitted by the Depute Chief Executive (Resources & People Services) to inform the Committee of the updated Strategy for the Prevention and Detection of Fraud and Corruption.

Ms Garden presented the report. She advised Members of the Committee's role in the development of an anti-fraud culture within the Council to ensure that the risk of fraud and corruption was minimised. She explained that the Strategy for the Prevention and Detection of Fraud and Corruption formed part of the Council's counter fraud arrangements and that a review of the Strategy had recently taken place. She invited the Members to note the contents of the updated Strategy.

Councillor Small asked if there were particular areas of the Council that were more vulnerable than others and whether these would receive more attention from Internal Audit.

Ms Garden said that there were three key, high risk areas: contracts; assets disposal; and planning consents and licences but that any area which was involved in the procurement of goods or services was a high risk. She explained that Internal Audit built this into its audit plan and looked at the potential risks in different areas.

Mr McCrorie stated that the Strategy represented an overarching approach to risks and threats across the Council and underneath this were additional, more specific safeguards, for example, strict rules on procurement.

Decision

The Committee agreed to note the contents of the updated Strategy for the Prevention and Detection of Fraud and Corruption.

13. INTERNAL AUDIT PROGRESS REPORT 2017/18

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Committee of Internal Audit's progress against the annual audit plan for 2017/18.

Ms Garden presented the report which had been prepared to assist the Committee in their remit to evaluate Internal Audit's work and measure progress against the annual audit plan. She confirmed that the team were on target with their current audits.

Councillor Small observed that it was a large workload for a small team.

The Convener commented that the reports were a very valuable way of building Members' knowledge of different subject areas and that the Members who chose not to take up their places on the Committee were missing out on this valuable resource.

Decision

The Committee agreed to note the contents of the Internal Audit Progress Report 2017/18.

14. AUDIT & GOVERNANCE COMMITTEE ANNUAL WORK PLAN 2017/18

The Committee's Annual Work Plan 2017/18 was presented for noting.

Councillor Small asked whether the work plan could be adjusted in any way.

Paolo Vestri, Service Manager – Corporate Policy, explained that some of the reports were statutory requirements and the timing and content of others were dictated by internal policies, such as the Risk Registers and Internal Audit reports. However, it was possible to include additional reports as and when necessary.

The Convener requested that a report on the Musselburgh Joint Racing Committee (MJRC) be added to the November meeting agenda. She said that as the governance of the MJRC had been highlighted in the external auditors' report, it was important that the Audit and Governance Committee was seen to be keeping an overview of progress on this issue.

Decision

The Committee agreed to note the annual work plan for 2017/18.

Signed

Councillor Jane Henderson
Convener of the Audit and Governance Committee

REPORT TO: Audit and Governance Committee
MEETING DATE: 28 November 2017
BY: Chief Executive
SUBJECT: Council Resources Risk Register

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1 PURPOSE

- 1.1 To present to the Audit and Governance Committee the Council Resources Risk Register (Appendix 1) for discussion, comment and noting.
- 1.2 The Council Resources Risk Register has been developed in keeping with the Council's Risk Management Strategy and is a live document which is reviewed and refreshed on a regular basis, led by the Council Resources Local Risk Working Group (LRWG).

2 RECOMMENDATIONS

- 2.1 It is recommended that the Audit and Governance Committee notes the Council Resources Risk Register and in doing so, the Committee is asked to note that:
 - the relevant risks have been identified and that the significance of each risk is appropriate to the current nature of the risk.
 - the total profile of the Council Resources risk can be borne by the Council at this time in relation to the Council's appetite for risk.
 - although the risks presented are those requiring close monitoring and scrutiny over the next year, many are in fact longer term risks for Council Resources and are likely to be a feature of the risk register over a number of years.

3 BACKGROUND

- 3.1 The Risk Register has been compiled by the Council Resources LRWG. All risks have been evaluated using the standard (5x5) risk matrix which

involves multiplying the likelihood of occurrence of a risk (scored 1-5) by its potential impact (scored 1-5). This produces an evaluation of risk as either 'low (1-4)', 'medium' (5-9), 'high' (10-19) or 'very high' (20-25).

3.2 The Council's response in relation to adverse risk or its risk appetite is such that:

- Very High risk is unacceptable and measures should be taken to reduce, transfer or treat the risk to a more tolerable position;
- High risk may be tolerable providing the Council is assured that adequate and effective control measures are in place;
- Medium risk is tolerable with control measures that are cost effective;
- Low risk is broadly acceptable without any further action to prevent or mitigate risk.

3.3 The current Council Resources Risk Register includes 3 Very High risks, 7 High risks, 26 Medium risks and 12 Low Risks. As per the Council's Risk Strategy, only the Very High and High risks are being reported to the Committee.

3.4 A copy of the risk matrix used to calculate the level of risk is attached as Appendix 2 for information.

4 POLICY IMPLICATIONS

4.1 In noting this report the Council will be ensuring that risk management principles, as detailed in the Corporate Risk Management Strategy are embedded across the Council.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

6 RESOURCE IMPLICATIONS

6.1 Financial - It is the consideration of the Council Resources Local Risk Working Group that the recurring costs associated with the measures in place for each risk are proportionate to the level of risk. The financial requirements to support the Risk Register for the year ahead should be met within the proposed budget allocations. Any unplanned and unbudgeted costs that arise in relation to any of the corporate risks identified will be subject to review by the Corporate Management Team.

6.2 Personnel - There are no immediate implications.

6.3 Other - Effective implementation of this register will require the support and commitment of the Risk Owners identified within the register.

7 BACKGROUND PAPERS

7.1 Appendix 1 – Council Resources Risk Register

7.2 Appendix 2 – Risk Matrix

AUTHOR'S NAME	Scott Kennedy
DESIGNATION	Emergency Planning and Risk Officer
CONTACT INFO	skennedy@eastlothian.gov.uk 01620 827900
DATE	16 November 2017

Council Resources Risk Register

Date reviewed 09 November 2017

Risk ID	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Risk Owner	Timescale for Completion / Review Frequency	Single Outcome Agreement Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
CR 1	<p>Welfare Reform</p> <p>The rollout of Universal Credit, (UC) in East Lothian started in April 2015. Whilst initially involving only a small number of cases the subsequent rollout by JCP/DWP of the Universal Credit Full (Digital) Service in East Lothian on 23rd March 2016 has seen a significant number of households migrate from legacy benefits to UC.</p> <p>This phase is called "Natural Migration". It will be followed by a "Managed Migration" phase during which all remaining working age HB cases will migrate to UC Housing. In spite of a reducing HB caseload, there has been a significant increase in workload as a result.</p> <p>The main risks/issues associated with the UC rollout include:</p> <ul style="list-style-type: none"> A wider range of people in scope for claiming UC & higher volume of cases as a consequence Additional demand for (SWF) Crisis Grants. (Risk of overspend) % increase in current tenant rent arrears An increased risk of lowered take up of Council Tax Reduction and increased arrears Increased risk of DWP Admin Subsidy reduction Temporary Accommodation management charges not being covered by UC Housing Costs. Increased demand for Discretionary Housing Payments, (DHP) risk of funding gap. <p>A reduction in DWP (UC related) funding which has been supporting, the Welfare Development Officer and additional Benefit Officer posts along with Personal Budgeting Support and Digital Assistance for UC claimants could jeopardise these elements of service delivery.</p>	<p>The Council has established a Welfare Reform Task Group to plan for the changes to the welfare system.</p> <p>The Benefit Service is continuing to make full use of additional Discretionary Housing Payment, (DHP).</p> <p>Council has actively lobbied in various relevant arenas – UK and Scottish Governments both directly and via COSLA which has included the Council Leader writing to both the DWP Secretary of State and Scottish Government ministers highlighting the impacts of the UCFS rollout of EL residents and Council Services.</p> <p>The Benefit Service continues to liaise with the DWP Housing Delivery Performance Team</p> <p>The Benefit Service continues to monitor its SWF & DHP expenditure.</p> <p>Revenues & Benefits Services engage with colleagues in other LAs/RSLs, CoSLA and DWP UC/Job Centre Plus officers to ensure a managed transition to Universal Credit is achieved.</p> <p>Castle Rock HA providing personal budgeting support for East Lothian UC claimants.</p> <p>Additional resource facilitated the purchase of software deployed to assist the Rent Income team to help manage the impact of UC on rent collection.</p> <p>Promotion of ELC 'Right Benefit Campaign'.</p> <p>DWP funding has been utilised to appoint a Welfare Development Officer and an additional Benefit Officer to assist in responding to UC pressures. Both posts are temporary for 1 year.</p> <p>Council Officers continue to engage with Scottish Government, MSPs/Members of the Scottish Parliament's Social Security Committee in relation to development of devolved welfare administration.</p> <p>Additional £100k was allocated in the Administration budget 2017/18 to help mitigate the impact of UC on rent arrears.</p>	5	4	20	<p>Council services will continue to work with the UC Project Team and continue lobbying of UC.</p> <p>The Benefits Service and Homelessness Team have agreed a methodology to disburse additional Scottish Government funding provided for DHP mitigation of Temp' Accommodation management fees and for the prevention of homelessness.</p> <p>Council services will continue to take an active role in discussions with the Scottish Government in the development of the Scottish Social Security Agency.</p> <p>ELC Management & staff will continue to engage with other LAs, JCP/DWP, CoSLA and Scottish Government at a range of levels.</p>	4	4	16	<p>Depute Chief Executive – Resources and People Services</p> <p>Depute Chief Executive – Partnerships and Community Services</p> <p>Welfare Reform Task Group</p>	<p>Scottish Social Security Bill approval date May 2018.</p> <p>DHP & Homelessness Prevention budget review December 2017</p> <p>All other measures involve meetings over the next 9 months with Scottish Government and other groups as mentioned within the measures.</p>	9	<p>Risk refreshed by Service Managers – Benefits & Financial Assessments and Revenues & Welfare Support October 2017 with no change to assessment of current scores.</p> <p>Risk refreshed by Service Manager – Benefits, November 2016 with Current Risk Score increased from 16 to 20 due to the introduction of the Universal Credit "Full Service" since March 2016 with its inherent, underdeveloped processes etc. along with other reforms coming on line, (such as Benefit Cap etc.) all bringing a greater likelihood of detriment occurring, (should mitigating actions not be possible or fail to mitigate).</p> <p>Risk refreshed by Service Managers – Revenues & Benefits March 2016 with both current and planned scored increased to 16 due to current uncertainty.</p>

Risk ID	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Risk Owner	Timescale for Completion / Review Frequency	Single Outcome Agreement Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
CR 2	<p>Council IT systems are compromised by criminal 3rd party (e.g. hacker, terrorism) - causing the loss of a system, virus/Trojan/ransomware infection or loss/disclosure of data. This potentially could have a serious impact on one or more Council services.</p> <p>The Council's increased participation in shared services escalates this risk as the council's network boundaries are being opened up to enable data sharing with other agencies.</p>	<p>Systems are protected from the outside world by firewall.</p> <p>All external facing systems are vulnerability tested once a year and extra testing takes place on any change to form or function. Security logs are reviewed daily by IT staff. Comprehensive change control and IT security measures also in place to ensure confidentiality, integrity and availability of systems. All IT staff are trained in the change control procedure.</p> <p>Information security awareness training of employees provided council wide to ensure they are aware of risks.</p> <p>Take regular software and data backups to allow systems and data to be restored. Keep up to date with new and emerging threats.</p> <p>Ensure purchase of secure systems and maintain security through system life cycle. The Council complies with ISO27001 the International standard for Information Security (which sets out a risk based approach to ensure the confidentiality, integrity and availability of Council held information & information systems).</p> <p>Continual vulnerability testing.</p> <p>Continual review of security systems to ensure they are still capable of controlling new and emerging threats.</p> <p>Security systems are patched regularly every 2 months and reviewed to see if the hardware is fit for purpose.</p> <p>Receive and share information on cyber risk from UK Governments National Cyber Security Centre.</p> <p>The Council has carried out a programme of Information Security Awareness sessions within all schools.</p> <p>Procurement Initiation documents check whether IT issues have been considered by new procurements.</p> <p>All known proposals to share information are scrutinised by the IT Security Officer and Information Governance Compliance Officer.</p>				Acceptable use policy for all ELC employees is to be refreshed by March 2018 and all employees will be expected to re-sign.				Head of Council Resources Service Manager - IT	March 2018		<p>Risk reviewed and updated by IT management October 2017 with no change to score.</p> <p>Risk reviewed and updated by IT following delivery of training programme to staff, October 2016.</p> <p>Risk refreshed December 2015 with Current score increased from 15 to 20 and residual from 12 to 15 due to recent breach.</p> <p>Risk refreshed November 2014. Current Risk Score increased from 10 to 15 and Residual Risk score increased from 5 to 12 due to heightened risk.</p>

Risk ID	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Risk Owner	Timescale for Completion / Review Frequency	Single Outcome Agreement Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
CR 3	<p>Council IT systems are compromised by the actions of an internal employee - causing the loss of a system, virus/trojan/ransomware infection or loss/disclosure of data. This potentially would have a serious impact on the business of the Council.</p> <p>HMG and UK Governments National Cyber Security Centre class the risk of cyber-attack in the UK as severe and threat from internal has risen due to ransomware attack increase.</p>	<p>Internal IT Systems are protected by antivirus, group policy etc. Employees sign the Acceptable Usage Policy and are party to various HR policies and legislation such as the Data Protection Act and Computer misuse act. Information security awareness, HR and Data Protection training etc. is provided for employees.</p> <p>Continue to constantly improve security measures and keep up to date with new and emerging threats. Security logs are reviewed daily by IT staff. Comprehensive change control and IT security measures also in place to ensure confidentiality, integrity and availability of systems while all IT staff are trained in the change control procedure. Take regular software and data backups to allow systems and data to be restored. Keep up to date with new and emerging threats. Ensure we purchase secure systems and maintain security throughout the system life cycle. The Council complies with ISO27001 the International standard for Information Security (which sets out a risk based approach to ensure the confidentiality, integrity and availability of Council held information & information systems). Continual vulnerability testing. Continual review of security systems to ensure they are still capable of controlling new and emerging threats. Security systems are patched regularly every 3 months and reviewed to see if hardware fit for purpose. The Council has carried out a programme of Information Security Awareness sessions within all schools.</p>	5	4	20	<p>Acceptable use policy for all ELC employees is to be refreshed by March 2018 and all employees will be expected to re-sign.</p>	3	4	12	<p>Head of Council Resources</p> <p>Service Manager - IT</p>	March 2018	N/A	<p>Risk reviewed and updated by IT management October 2017 with no change to score.</p> <p>Risk reviewed and updated by IT management October 2016 and with Current Risk score raised from 16 to 20 and residual score from 9 to 12 due to increase in current attacks in the UK.</p> <p>Risk refreshed December 2015 with Current score increased from 12 to 16 due to recent breaches.</p> <p>Risk refreshed November 2014 and Residual Risk Score increased from 6 to 9.</p>
CR 4	<p>Complete loss of ELC's circuit to the Internet, resulting in no access to external systems, which include but not limited to Pecos, SEEMIS (schools management system) external email, home working access etc. This would have a serious impact on the business of the Council.</p>	<p>SLA's in place with supplier who has resilient backbone in place.</p>	3	5	15	<p>Introduce a second link to Internet from network outwith Haddington. Note: Funding bid not successful in 2016/17 or 17/18.</p>	1	5	5	<p>Head of Council Resources</p> <p>Service Manager - IT</p>	<p>A bid will be made as part of current budget considerations for 2018/19.</p>	N/A	<p>Risk reviewed and updated by IT, October 2017 with no change to scores.</p> <p>Risk reviewed and updated by IT, October 2016.</p>
CR 5	<p>Risk of losing PSN accreditation which gives us connection to systems such as Blue Badge, Registrars of Scotland, DWP, Police etc. which could be caused by failure to comply with PSN Code of Connection and would seriously impact upon the business of the Council.</p>	<p>Complying with mandatory controls set by HMG to ensure we are able to meet government PSN Code of Connection.</p>	3	5	15	<p>Constant monitoring of code of connection and how we align with it. Keeping security and other devices up to date - patching etc.</p> <p>Successful completion of key Transformation Program Projects.</p>	1	5	5	<p>Head of Council Resources</p> <p>Service Manager - IT</p>	<p>March 2018</p> <p>August 2018</p>	N/A	<p>Risk reviewed and updated by IT management, October 2017 with Likelihood raised in October 2017 from 2 to 3 (15) reflecting results of 2017/18 health check.</p> <p>Risk reviewed and updated by IT, October 2016.</p>

Risk ID	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Risk Owner	Timescale for Completion / Review Frequency	Single Outcome Agreement Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
CR 6	<p>Loss/Theft of IT Hardware covering mobile devices (laptops, mobile phones and blackberries), memory sticks, external drives etc.</p> <p>This risk creates potential compromise of our infrastructure, data loss and disclosure and is also a cost to ELC as mobile devices can be very expensive.</p>	<p>Mobile computing devices are encrypted which significantly reduces the risk of data stored on a stolen device being accessed.</p> <p>Mobile devices above a specified value are asset tagged and recorded on the IT asset database and allocated to a user.</p> <p>Responsibility for the safety of the device lies with the user/s.</p> <p>Business Units must keep a record of each mobile device they are allocated and ensure regularly that the device is still with the allocated user.</p> <p>If device cannot be found then this must be reported immediately to IT Service Desk so correct procedures for lost/stolen devices can take place.</p> <p>For shared/pool devices a responsible person in the business unit should be identified and should then ensure devices are signed out and back in when used. A count of devices must be taken regularly.</p>	4	3	12	<p>IT to communicate to all business units the need to maintain a record of each device, ensure each is with the allocated user, signed in and out if a shared device and regularly carry out a full check on all devices. This will be communicated via e-mail and ELNet initially and then repeated annually.</p> <p>Introduce Airwatch Mobile Device Management system to manage non Windows devices such as Tablets to enable them to be remotely wiped should they be reported as stolen</p>	2	3	9	<p>Head of Council Resources</p> <p>Service Manager - IT</p>	<p>March 2018</p> <p>March 2018</p>	<p>Risk reviewed and updated by IT, Management October 2017 with no change to scores.</p> <p>Risk reviewed and updated by IT, Management October 2016.</p> <p>New risk created by Team Leader – Infrastructure & Security November 2015.</p>	
CR 7	<p>Breach of Data Protection or other confidentiality requirements through the loss or wrongful transmission of information (including information stored electronically). This could occur through:</p> <ul style="list-style-type: none"> - private committee reports, minutes or constituent correspondence not being stored or disposed of appropriately; - loss of material during transit; - individuals not being aware of their responsibilities in respect of confidential material; - lack of appropriate facilities for storage or disposal of material; <p>Effects could include:</p> <ul style="list-style-type: none"> - breach of relevant laws; - breach of duty of care; - harm to individuals; - legal action and fines; - requirement to pay compensation; - adverse publicity; - damage to the Council's reputation. <p>The Council's increased participation in shared services poses a risk for information security/data protection, as the council's network boundaries are being opened up to enable data sharing with other agencies.</p> <p>Any breaches could result in loss of PSN connection or fines from the Information Commissioner.</p>	<p>Arrangements for secure filing and storage of confidential papers.</p> <p>Disposal of confidential waste separately from other papers.</p> <p>Internal mail and/or Council Contractor used to transport Private & Confidential materials.</p> <p>Council PCs and laptops do not accept unencrypted external storage devices.</p> <p>Committee documents dealing with sensitive personal information (e.g. criminal convictions) are now issued only in hard copy, not electronically.</p> <p>Checks on licensing sub-committee documents are made by a second clerk when relevant documents are uploaded.</p> <p>Data Protection Policy in place.</p> <p>Revenues Information Security Procedure in place.</p> <p>Continual reviewing of arrangements.</p> <p>Maintaining staff awareness through team meetings, briefing sessions and health checks.</p> <p>Online Data Protection Training rolled out to all employees and repeated every 2 years.</p> <p>All known proposals to share information are scrutinised by the IT Security Officer and Information Governance Compliance Officer.</p> <p>Procurement Initiation documents check whether IT issues have been considered by new procurements.</p> <p>The Council has carried out a full programme of Information Security Awareness sessions within all schools.</p>	3	4	12	<p>Acceptable use policy for all ELC employees is to be refreshed by March 2018 and all employees will be expected to re-sign.</p> <p>Monitoring of take up of compulsory Data Protection training with service managers being alerted to those members of staff who have not completed up to date training.</p>	3	3	9	<p>Service Manager - Licensing, Admin & Democratic Services</p> <p>All managers.</p>	<p>March 2018</p> <p>March 2018</p>	<p>Risk refreshed October 2017 by Service Manager with no change to assessment of score.</p> <p>Risk refreshed December 2015 with current score increased from 9 to 12 due to recent breach and involvement of Information Commissioner.</p>	

Risk ID	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Risk Owner	Timescale for Completion / Review Frequency	Single Outcome Agreement Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
		Signed consent forms must be received before responding to complaints made by third parties. Security measures in place on CRM restricting access to complaints information. Regular contact with FOI/Data Protection Compliance Officer.											
CR 8	Failure of client services to comply with our procurement processes through lack of knowledge/experience and/or also business failure of key suppliers leads to service failure, poor value for money, fraud, loss of reputation and/or legal action.	Corporate Procurement Strategy and Procedures in place but require refresh. Purchase Card Procedures Procurement Improvement Panel (PIP) in place. Regular reporting to PIP and CMT. Procurement Skills Training carried out. Controls in place over New Suppliers. Supplier Finder on Intranet. Close working with internal audit and departments (Audited regularly). CMT ensuring improved compliance with existing Procurement Procedures by championing them and taking action when breaches are found. Contracts Register is now available and shall be made accessible for all Services. This should allow more effective work planning. Additional staff have been recruited (2.5 FTE posts). This will assist towards providing a centralised procurement service although in terms of recommended staffing the minimum recommended amount of staff for the spend of the Council should be 10 FTE.	3	4	12	Updated Procurement Strategy is to be put forward to Procurement Improvement Panel on 1 st November and subsequently to Cabinet. Further work is required to ensure that more processes are in place and that those who are carrying out procurements without coming through the procurement team are identified. Utilising the Contracts Register together with monitoring processes adopted between finance and procurement team should allow clearer information coupled with a clear no purchase order no pay policy should reduce risks (the last matter may require new system investment but in the first instance training on current systems to adapt will be investigated). While Service Managers have accountability for budget allocation measures should be adopted to ensure that spend is in line with the original estimated spend (i.e. 10% increase as a limit). If this is to be approved authorisation from Service Manager (or Head of Service) together with either Service Manager for Legal & Procurement or Head of Council Resources to ensure there is a further check on the processes being properly followed, reliable pre tender data/estimates are obtained and that value for money is achieved. A review of standing orders relating to procurement may be necessary.	2	4	8	Service Manager – Legal & Procurement All ELC Service Managers	November 2017 October 2018 June 2018	N/A	Risk Refreshed October 2017 by Service Manager - Legal and Procurement with no change to score and new planned measure added.
CR 9	Committee meetings inquorate and cannot take place. Resulting in meetings being cancelled resulting in impact on Council reputation and failure to comply with statute. There is an increased likelihood of this scenario as the Council is operating with a minority administration and there has been a failure by the SNP group to nominate for some committees.	Employees carry out a double check on members' availability where necessary. Council approved an amendment to the Standing Orders for the quorum for Audit & Governance and Policy & Performance Review Committees to be amended, as a temporary measure, to state 'half + 1 of the places filled', rather than 'half + 1' to reduce the risk of meetings being inquorate and ensure the proper governance of the Council.	3	4	12	In response to the risk identified within the External Auditor's 2016/17 Audit Report, the Service Manager (LADS) has undertaken to review the current Scheme of Administration.	2	4	8	Service Manager Licensing, Administration & Democratic Services	February 2018		Risk Refreshed October 2017 by Service Manager - LADS with Current score increased from 8 to 12. Risk refreshed October 2016 with no change to scores.

Risk ID	Risk Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures (currently in place)	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures]			Risk Owner	Timescale for Completion / Review Frequency	Single Outcome Agreement Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
CR 10	Council wide Catastrophic failure of central IT systems (incl. Telephony) which could be caused by a fire/flood event, terrorist attack or a major virus. This would have a serious impact on the business of the Council. The Council's increased participation in shared services escalates this risk as the council's network boundaries are being opened up to enable data sharing with other agencies.	Disaster Recovery Plan in place for major systems. Business Continuity plan in place - backup site for systems identified and core system backup plan created. All known proposals to share information are scrutinised by the IT Security Officer and Information Governance Compliance Officer.	2	5	10	Continual development of IT disaster recovery plan based on lessons learned from regular testing of existing plan.	1	4	4	Head of Council Resources Service Manager - IT	March 2018	N/A	Risk reviewed and updated by IT, October 2017 with no change to scores. Risk reviewed and updated by IT, October 2016.
Original date produced (Version 1)		19th December 2011									Risk Score	Overall Rating	
File Name		CH&PM Risk Register									20-25	Very High	
Original Author(s)		Scott Kennedy, Risk Officer									10-19	High	
Current Revision Author(s)		Scott Kennedy, Risk Officer									5-9	Medium	
Version	Date	Author(s)	Notes on Revisions										
1	19/12/2011	S Kennedy	Original Version										
2	31/05/2012	S Kennedy	IT Risks updated by S Buczyn and Register revised following Senior Management Restructure										
3	19/11/2012	S Kennedy	Updated following update of Risk Strategy										
4	Jan-June 2013	S Kennedy	Updated following review of Legal Services Risks.										
5	Feb – May 2013	S Kennedy	H&S transferred to Policy & Partnerships, IT and HR risks updated and Welfare Reform risk added.										
6	June-July 2013	S Kennedy	Revenues & Benefits and Finance Risks updated.										
7	September 2013	S Kennedy	Slight alterations to risks by Head of Council Resources										
8	October 2013	S Kennedy	Welfare Reform Risk updated by Task Group and Internal Audit Risk updated (no changes to risk rating).										
9	December 2014/January 2015	S Kennedy	Legal and Procurement, Licensing, Administration & Democratic Services, I.T, HR/Payroll, Finance and Revenues & Benefits risks refreshed.										
10	February 2015	S Kennedy	Finance Risks reviewed and refreshed and Benefits risks further refreshed.										
11	December 2015	S Kennedy	Legal & Procurement, Revenues & Benefits, I.T. and HR & Payroll Risks refreshed.										
12	February 2016	S Kennedy	Finance Risks reviewed and refreshed.										
13	October 2016	S Kennedy	Revenues & Benefits, Legal & Procurement and I.T. Risks reviewed and refreshed										
14	December 2016	S Kennedy	Customer Feedback Team Risks moved from Communities & Partnerships Register										
15	September/October 2017	S Kennedy	Welfare Reform risk update from Corporate Risk Register and updates received from I.T., HR and Licensing, Admin & Democratic Services, Legal & Procurement, Revenue & Benefits										

East Lothian Council

Risk Matrix

Likelihood Description

Likelihood of Occurrence	Score	Description
Almost Certain	5	Will undoubtedly happen, possibly frequently >90% chance
Likely	4	Will probably happen, but not a persistent issue >70%
Possible	3	May happen occasionally 30-70%
Unlikely	2	Not expected to happen but is possible <30%
Remote	1	Very unlikely this will ever happen <10%

Impact Description

Impact of Occurrence	Score	Description							
		Impact on Service Objectives	Financial Impact	Impact on People	Impact on Time	Impact on Reputation	Impact on Property	Business Continuity	Legal
Catastrophic	5	Unable to function, inability to fulfill obligations.	Severe impacts on budgets (emergency Corporate measures to be taken to stabilise Council Finances)	Single or Multiple fatality within council control, fatal accident enquiry.	Serious - in excess of 2 years to recover pre-event position.	Highly damaging, severe loss of public confidence, Scottish Government or Audit Scotland involved.	Significant disruption to building, facilities or equipment (Loss of building, rebuilding required, temporary accommodation required).	Complete inability to provide service/system, prolonged downtime with no back-up in place.	Catastrophic legal, regulatory, or contractual breach likely to result in substantial fines or other sanctions.
Major	4	Significant impact on service provision.	Major impact on budgets (need for Corporate solution to be identified to resolve funding difficulty)	Number of extensive injuries (major permanent harm) to employees, service users or public.	Major - between 1 & 2 years to recover pre-event position.	Major adverse publicity (regional/national), major loss of confidence.	Major disruption to building, facilities or equipment (Significant part of building unusable for prolonged period of time, alternative accommodation required).	Significant impact on service provision or loss of service.	Legal, regulatory, or contractual breach, severe impact to Council.
Moderate	3	Service objectives partially achievable.	Significant impact on budgets (can be contained within overall directorate budget)	Serious injury requiring medical treatment to employee, service user or public (semi-permanent harm up to 1yr), council liable.	Considerable - between 6 months and 1 year to recover pre-event position.	Some adverse local publicity, limited damage with legal implications, elected members become involved.	Moderate disruption to building, facilities or equipment (loss of use of building for medium period).	Security support and performance of service/system borderline.	Legal, regulatory, or contractual breach, moderate impact to Council.
Minor	2	Minor impact on service objectives.	Moderate impact on budgets (can be contained within service head's budget)	Lost time due to employee injury or small compensation claim from service user or public (First aid treatment required).	Some - between 2 and 6 months to recover.	Some public embarrassment, no damage to reputation or service users.	Minor disruption to building, facilities or equipment (alternative arrangements in place and covered by insurance).	Reasonable back-up arrangements, minor downtime of service/system.	Legal, regulatory, or contractual breach, minor impact to Council.
Minimal	1	Minimal impact, no service disruption.	Minimal impact on budgets (can be contained within unit's budget)	Minor injury to employee, service user or public.	Minimal - Up to 2 months to recover.	Minor impact to council reputation of no interest to the media (Internal).	Minimal disruption to building, facilities or equipment (alternative arrangements in place).	No operational difficulties, back-up support in place and security level acceptable.	Legal, regulatory, or contractual breach, negligible impact to Council.

Risk	Impact				
Likelihood	Minimal (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	5	10	15	20	25
Likely (4)	4	8	12	16	20
Possible (3)	3	6	9	12	15
Unlikely (2)	2	4	6	8	10
Remote (1)	1	2	3	4	5

Key

Risk	Low	Medium	High	Very High
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REPORT TO: Audit and Governance Committee
MEETING DATE: 28 November 2017
BY: Chief Executive
SUBJECT: Health and Social Care Partnership Risk Register

3

1 PURPOSE

- 1.1 To present to the Audit and Governance Committee the Health and Social Care Partnership Risk Register (Appendix 1) for discussion, comment and noting.
- 1.2 The Health and Social Care Partnership Risk Register has been developed in keeping with the Council's Risk Management Strategy and is a live document which is reviewed and refreshed on a regular basis, led by the Health and Social Care Partnership Local Risk Working Group (LRWG).

2 RECOMMENDATIONS

- 2.1 It is recommended that the Audit and Governance Committee notes the Health and Social Care Partnership Risk Register and in doing so, the Committee is asked to note that:
 - the relevant risks have been identified and that the significance of each risk is appropriate to the current nature of the risk.
 - the total profile of the Health and Social Care Partnership risk can be borne by the Council at this time in relation to the Council's appetite for risk.
 - although the risks presented are those requiring close monitoring and scrutiny over the next year, many are in fact longer term risks for Health and Social Care Partnership and are likely to be a feature of the risk register over a number of years.

3 BACKGROUND

- 3.1 The Risk Register has been compiled by the Health and Social Care Partnership LRWG. All risks have been evaluated using the standard (5x5) risk matrix which involves multiplying the likelihood of occurrence of a risk

(scored 1-5) by its potential impact (scored 1-5). This produces an evaluation of risk as either 'low (1-4)', 'medium' (5-9), 'high' (10-19) or 'very high' (20-25).

3.2 The Council's response in relation to adverse risk or its risk appetite is such that:

- Very High risk is unacceptable and measures should be taken to reduce, transfer or treat the risk to a more tolerable position;
- High risk may be tolerable providing the Council is assured that adequate and effective control measures are in place;
- Medium risk is tolerable with control measures that are cost effective;
- Low risk is broadly acceptable without any further action to prevent or mitigate risk.

3.3 The current Health and Social Care Partnership Risk Register includes 6 High risks, 14 Medium risks and 1 Low Risk. As per the Council's Risk Strategy, only the Very High and High risks are being reported to the Committee.

3.4 A copy of the risk matrix used to calculate the level of risk is attached as Appendix 2 for information.

4 POLICY IMPLICATIONS

4.1 In noting this report the Council will be ensuring that risk management principles, as detailed in the Corporate Risk Management Strategy are embedded across the Council.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial - It is the consideration of the Health and Social Care Partnership Local Risk Working Group that the recurring costs associated with the measures in place for each risk are proportionate to the level of risk. The financial requirements to support the Risk Register for the year ahead should be met within the proposed budget allocations. Any unplanned and unbudgeted costs that arise in relation to any of the corporate risks identified will be subject to review by the Corporate Management Team.

6.2 Personnel - There are no immediate implications.

6.3 Other - Effective implementation of this register will require the support and commitment of the Risk Owners identified within the register.

7 BACKGROUND PAPERS

7.1 Appendix 1 – Health and Social Care Partnership Risk Register

7.2 Appendix 2 – Risk Matrix

AUTHOR'S NAME	Scott Kennedy
DESIGNATION	Emergency Planning and Risk Officer
CONTACT INFO	skennedy@eastlothian.gov.uk 01620 827900
DATE	16 November 2017

Health and Social Care Service Risk Register v6

Date reviewed: 01 November 2017

Risk ID	Risk Title and Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures In Place	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures] Target Risk Score			Risk Owner	Timescale for Completion / Review Frequency	SOA Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
H&SC 1	Demographic Pressures Demographic pressures see demand for services outstrip available budgetary and staffing resources leading to unmet client need and risk to client safety and independence, potentially generating reputational risk for the Council.	<p>Service transformation and strategic commissioning to ensure services are targeted to achieve best value and meet the needs of the population, particularly those who are vulnerable.</p> <p>Resource Allocation System (RAS) established with additional short term practitioner capacity to accelerate pace of reviews to ensure resources are allocated according to need within financial constraints.</p> <p>Self Directed Support (SDS) implemented and audited with action plan in place.</p> <p>Effective partnership working to shift the balance of care and support more people to stay at home longer.</p> <p>IJB Strategic Plan directs a number of preventative and early intervention health and wellbeing work programmes and service transformation objectives which should aid reduction in levels of service demand i.e. "Community Wellbeing Programs" e.g. Befriending Services.</p> <p>Good progress being made in partnership working with third sector including Day Centres Association.</p> <p>Ensure Integrated Care and Social Care Funds are utilised to address demographic pressures and fund additional capacity.</p> <p>Budget efficiency plans developed for implementation in 2017/18.</p>	4	4	16	<p>Review the Resource allocation system (RAS), to improve process, eligibility criteria and delegated authority to commit resources.</p> <p>Refresh Self Directed Support (SDS) implementation plan.</p> <p>Collaboration between Corporate Finance service and operational teams to develop new systems and processes to support new management team structure and deliver efficiencies and income recovery.</p> <p>Review investment in Community Partners' contributions to capacity and resilience building within communities, intent on reducing demand on core services.</p>	4	3	12	<p>Director of Health & Social Care</p> <p>Head of Older People Services and Access</p> <p>Head of Children and Adult Services</p> <p>Chief Social Work Officer</p> <p>Group Service Manager – Policy & Performance</p> <p>Service Managers</p>	<p>March 2018</p> <p>March 2018</p> <p>March 2018</p> <p>March 2018</p>	4 5	<p>Risk further reviewed August 2017 with no change to assessment of current score.</p> <p>Risk refreshed by H&SC management June 2017 with current risk score increased from 15 to 16.</p> <p>Risk refreshed March 2017 with no change to assessment of current score.</p> <p>Risk reviewed June 2016 with current score reduced from 20 to 15 due to implemented measures and residual score reduced from 16 to 12 due to new planned measures.</p> <p>Risk reviewed January 2016 and both current (12 to 20) and residual risk (6 to 16) altered to high as a result of the current overspend position.</p>

Risk ID	Risk Title and Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures In Place	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures] Target Risk Score			Risk Owner	Timescale for Completion / Review Frequency	SOA Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
H&SC 2	<p>Access to Primary Medical Services</p> <p>There is a risk that East Lothian Health and Social Care Partnership will be unable to provide a satisfactory level of access to primary medical services for its population.</p> <p>This is due to increasing demand/capacity issues and workloads within GP practices as a result of difficulties in recruiting and retaining general practitioners leading to an increased number of closed and/or restricted lists and resulting impact on other practices with patients unable to register with a practice of their choice, inability to successfully fill practice vacancies and increased pressure on other parts of the healthcare system.</p> <p>Should a GP Practice "fail", this would generate significant financial and resource pressures for the Health & Social Care Partnership who would be required to put "recovery measures" in place to sustain the Practice.</p>	<p>NHS Lothian investment of five million pounds has been prioritised by the IJB and will fund care home team capacity, LEGUP funding, additional nurse practitioner training and I.T. improvement..</p> <p>Development of premises improvement plans at Haddington, Cockenzie and North Berwick.</p> <p>Regular reports at Joint Management Team on Primary Care Capacity.</p> <p>Cluster working has been established in both localities to provide mutual support and risk sharing.</p> <p>Introduction of additional non-GP capacity e.g. nurse practitioners, extended scope physiotherapists, pharmacists, link workers and 'Care Home Team'.</p> <p>Work with other IJBs and NHS Lothian to influence Scottish Government to work towards solutions to improving professional supply chain through academia.</p> <p>Primary Care Transformation Fund is being used to deliver Primary Care Access Hub in Musselburgh.</p> <p>Four Lothian IJBs working together to prioritise investment for 2017 and beyond.</p> <p>Ensuring the directly managed practice at Eskbridge is supported to sustain services during transition.</p> <p>Primary Care practice and Quality Improvement Leads developing service improvements within Primary Care.</p>	4	4	16	<p>The development and appointment to a Primary Care Manager post.</p> <p>The establishment of multi-disciplinary and enhanced skill mix staffing resources within GP Practices e.g. further roll-out of Advanced Nurse Practitioner / Prescribers / GP Link Workers. Using Scottish Government and NHS Lothian Primary Care Investments 18/19 and onwards.</p> <p>IJB development of the general population health improvement agenda to achieve reduced ill health and reducing demand on GP Practices e.g. Start Well/Live Well/Age Well.</p>	3	3	9	<p>Director of Health & Social Care</p> <p>Head of Older People Services and Access</p> <p>Clinical Director</p>	<p>March 2018</p> <p>November 2018</p> <p>March 2018</p>		Risk introduced from H&SCP RR August 2017.

Risk ID	Risk Title and Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures In Place	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures] Target Risk Score			Risk Owner	Timescale for Completion / Review Frequency	SOA Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
H&SC 3	<p>Delayed Discharge</p> <p>National targets on delayed discharge of “no delays over two weeks” have created additional pressures and increased demand.</p> <p>These targets could impact on the health and wellbeing of individual residents and on the reputation of the Health and Social Care Partnership (HSCP) and put pressure on assessment staff and resources.</p> <p>Limited service capacity could result in increased waiting lists for access to local health and social care services e.g. delayed discharge, waiting times, OT response to assessments, Mental Health Officer and capacity for home care leading to poor outcomes for the population and the inability to access the right services timeously.</p>	<p>A weekly delayed discharge taskforce is chaired by the Head of Older People & Access.</p> <p>New emergency care and hospital to home and hospital at home services implemented and dedicated team approach to reducing delays is supporting an improvement position.</p> <p>East Lothian Service for Integrated Care of the Elderly (ELSIE), discharge to assess, help to live at home, collaborative allocations, hospital to home and step up/step down beds all in place.</p> <p>Increased surveillance of care homes and care at home providers to identify spare capacity.</p> <p>Closer working and good co-operation “Collaborative Allocation” with care at home providers to consolidate care support runs and release additional capacity, which has seen significant improvements in delays over 4 weeks over the past year.</p> <p>Weekly performance information is available for service managers. Utilisation of recurrent delayed discharge fund to maximise NHS capacity.</p> <p>Using Integrated Care Fund to extend scope of ELSIE.</p> <p>Re-tendered Help to Live at Home framework, implemented new provider contracts to increase capacity for Care at Home. Establish fortnightly collaborative allocation meetings with providers.</p> <p>20 step down beds available at Liberton wards 9 & 10 as a temporary measure to facilitate the building of the new East Lothian Community Hospital (ELCH).</p> <p>Implementation of living wage and fair work funding for providers.</p> <p>Regular Performance Management Meeting - prioritising KPIs.</p> <p>Review of Mental Health Officer capacity to meet demand for statutory duties and the Adults with Incapacity Act.</p>				<p>Further development of a rehabilitative approach and review of client pathway to assist in streamlining process, releasing capacity and reducing delays.</p> <p>Introduction of 2018/19 increase in Living Wage in Homecare if funded by Scottish Government.</p>				<p>Director of Health & Social Care</p> <p>Head of Older People Services and Access</p> <p>Chief Social Work Officer</p>	<p>December 2017</p> <p>April 2018</p>	9	<p>Risk further reviewed August 2017 with no change to assessment of current score.</p> <p>Risk reviewed June 2016 with current score reduced from 20 to 16 due to implementation of measures while residual score reduced from 16 to 9 due to new planned measure.</p> <p>Risk reviewed and refreshed January 2016 with Residual impact increased from 8 back to 16 due to ongoing capacity issues and the potential implementation of the proposed 72 hour target.</p>
			4	4	16		3	3	9				

Risk ID	Risk Title and Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures In Place	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures] Target Risk Score			Risk Owner	Timescale for Completion / Review Frequency	SOA Outcome Number Link	Evidence held of Regular Review
			Likelihood	Impact	Risk Rating		Likelihood	Impact	Residual Risk Rating				
			L	I	L x I		L	I	L x I				
H&SC 4	<p>Failure of Provider</p> <p>The failure of a major Older Peoples or Specialist Provider e.g. Care Home or Domiciliary Care Service, could result in a loss of capacity and service users being put at risk as a result of their service being withdrawn at short notice.</p> <p>Additional challenges could impact on capacity and service continuity for vulnerable clients such as care home acquisition, poor quality of care or a lack of capacity to deliver care, potentially generating reputational and/or financial risk to the Partnership.</p>	<p>Monitoring of care providers to help to identify potential service failures while working with all providers to gain advance information of any potential failure.</p> <p>Quarterly Multi-Agency quality of care meetings for both Residential and Homecare to provide support with improvement planning.</p> <p>Participation in national working groups to maintain national market intelligence.</p> <p>Contingency protocol established to deal with failure of a major care provider.</p> <p>Joint work with NHS Care Home Team and GP Practices to maintain standards and address concerns.</p> <p>Regulated services regularly inspected by the Care Inspectorate and effective collaborative working over performance of Regulated services.</p> <p>Working with other Partnerships to allow information sharing mutual support and contingency planning.</p> <p>Engagement with carers aids monitoring of performance within care settings and gives an early alert of risks.</p> <p>Retendered Help to Live at Home and specialist support to put an emphasis on outcomes for service users and service quality- for Children, Adult and Older People Services. A transitions plan (up to 6 months with effect from 1st April 2017) and Risk Register is available for this project.</p>	4	3	12	<p>Workforce planning & skill mix being developed within Council Care Homes and Home Care Service.</p> <p>Role re-definition e.g. generic support worker being developed in new rehabilitative team.</p> <p>Workforce of the future H&SC Academy/increasing care workforce in EL.</p>	3	3	9	<p>Director of Health & Social Care</p> <p>Head of Older People Services and Access</p> <p>Head of Children and Adult Services</p> <p>Chief Social Work Officer</p> <p>Group / Service Managers</p>	<p>March 2018</p> <p>March 2018</p> <p>March 2018</p>	9	<p>Risk further reviewed August 2017 with no change to assessment of current score.</p> <p>Risk refreshed June 2017 by H&SC management with current score reduced from 16 to 12 and Residual from 12 to 9 due to control measures now in place.</p> <p>Risk refreshed March 2017 with no change to assessment of current score.</p> <p>Risk reviewed June 2016 and current score Increased from 12 to 16 due to current situation while residual score increased from 6 to 12.</p>
H&SC 5	<p>Duty of Care</p> <p>Failure to fulfil our duty of care could result in the death, serious harm or detriment to a person. This could in turn result in prosecution, having to pay compensation and a negative impact on the reputation of the Council.</p> <p>This failure could be due to a lack of resources (financial, services or staffing), poor practice, a failure to prioritise or non-compliance with procedures/guidance.</p>	<p>Prioritise maintenance of adequate staffing levels for Adult/Child Protection and other work with vulnerable children and adults.</p> <p>Briefing sessions, specialist training and support are in place.</p> <p>Learning from Significant and Initial Case Reviews and embed learning in practice.</p> <p>Regular formal supervision in place for all staff including completion of PRD's and ESKF, focusing on specific and agreed development needs.</p>	3	4	12	<p>Chief Social Work Officer/Chief Nurse/Clinical Director/AHP Lead oversight and review of practice to assess workload allocation and risk management.</p> <p>Care and Clinical Governance Group to be established which will provide strategic oversight within the partnership.</p> <p>Mosaic is being developed to improve the ways cases are recorded and risks identified.</p> <p>Plans for reprovision of Abbey and Eskgreen Care Homes and Edington and Belhaven hospitals under development by IJB.</p>	3	3	9	<p>Chief Social Work Officer</p> <p>Critical Services Oversight Group</p> <p>Director of East Lothian Health and Social Care Partnership</p> <p>Head of Older People Access</p> <p>Head of Children and Adults Service</p>	<p>November 2017</p> <p>November 2017</p> <p>March 2018</p> <p>December 2017</p>	4, 5, 6, 7	<p>Risk further reviewed August 2017 with no change to assessment of current score.</p> <p>Risk refreshed by H&SC management June 2017 with current risk score increased from 8 to 12 and residual from 4 to 9.</p> <p>Risk refreshed March 2017 with current score reduced from 12 to 8.</p> <p>Risk refreshed in June 2015 with Residual Risk score reduced from 8 to 4.</p>

Risk ID	Risk Title and Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures In Place	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures] Target Risk Score			Risk Owner	Timescale for Completion / Review Frequency	SOA Outcome Number Link	Evidence held of Regular Review
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			L	I	L x I		L	I	L x I				
		<p>Services comply with required professional registration standards for all staff e.g. SSSC, HCPC, NMC etc.</p> <p>"Safer Recruitment" practices and PVG Checks embedded.</p> <p>Mosaic and TRAK are used to identify/record risk.</p> <p>Follow up of service user feedback.</p> <p>Public Protection Office and Committee oversee all aspects of Child Protection and Adult Support and Protection performance and improvement.</p> <p>Regular monitoring and learning from incidents including through Significant Adverse Event investigation outcomes</p> <p>Regular environmental inspections e.g. Patient Quality Indicators (PQI) in Health and Social Care e.g. Care Inspectorate</p> <p>All Regulated Services inspected, improvement plans produced with regular quality assurance review meetings.</p> <p>H&SCP Asset Management overview and review assures all our facilities are fit for purpose.</p> <p>Reprovision plans being implemented for Roodlands and Herdmanflat Hospitals.</p>										<p>Risk refreshed in March 2015 with Residual Risk score reduced from 12 to 8.</p> <p>Risk reviewed and refreshed by SMG in April 2014. Risk score reduced from 16 to 12 thanks to measures in place.</p>	
H&SC 6	<p>Substance Misuse</p> <p>Risk to the delivery of National Standards and potential impact on drug related deaths in East Lothian following a national 23% reduction on funding for drugs and alcohol. This Introduces vulnerability into delivery of treatment support and recovery pathways and to delivery of performance against the HEAT A11 Standard [90% of people seen within 3 week referral to treatment] and the "Take Home Naloxone" [THN] programme requirements.</p> <p>Emerging performance data indicates that there is an increased likelihood of Drug Related Deaths associated with certain client groups particularly in the older population [over 35] of drug users.</p>	<p>MELDAP is accountable to and reports to the HSCP and to the East Lothian Partnership through the Resilient People Partnership. Key MELDAP outcomes from the MELDAP 2015-18 Delivery Plan are included in the East Lothian Local Outcome Improvement Plan; progress against performance measures are reported on a quarterly or annual basis.</p> <p>The MELDAP Commissioning and Performance Group and MELDAP Strategic Group monitor performance against standards and identify actions to minimise risks as they are identified.</p> <p>Continue regular meetings between MELDAP, SMS Manager and Head of Service to improve performance against HEAT A11 and delivery of THN programme requirements.</p>	3	4	12	<p>Develop an assertive outreach response to "seek, keep and treat" individuals who are at higher risk of DRD and not currently in contact with services.</p> <p>The development, implementation and delivery of a Recovery Hub response into the East and West sectors of East Lothian. This will bring together NHS, Council and 3rd Sector staff to work together to deliver national and local priorities and mitigate the identified risks.</p> <p>In a further phase of service development, synergies will be identified between substance misuse service and mental health services.</p> <p>Improving the reach of Take Home Naloxone to higher risk groups, including Intravenous opiate users, and opiate users who are at risk of opiate overdose.</p>	2	3	6	<p>Head of Children and Adult Services/ Joint Chair of MELDAP</p> <p>MELDAP Strategic Group</p> <p>MELDAP Support Team Manager</p> <p>Substance Misuse and Mental Health Group Service Manager</p> <p>Group service Manager Adult</p>	<p>March 2018</p> <p>April 2018</p> <p>June 2018</p> <p>March 2018</p>		

Risk ID	Risk Title and Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures In Place	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures] Target Risk Score			Risk Owner	Timescale for Completion / Review Frequency	SOA Outcome Number Link	Evidence held of Regular Review
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			L	I	L x I		L	I	L x I				
	<p>Staffing pressures within the Substance Misuse Service affect effective service delivery and compliance with standards and impact on the service's ability to implement an effective Recovery Orientated System of Care for all substance misusers in EL.</p> <p>Failure to mitigate these risks could see an increase in the number of substance misusers, with higher levels of risk and increased death rate related to substance misuse. In turn, this could affect the reputation of the East Lothian area as a safe place to live and may also impact particularly on local drug-related crime as demand for, supply of and usage of drugs permeate community wellbeing across the county.</p>	<p>Provide time limited MELDAP support resource to support the delivery of HEAT A11 in the SMS.</p> <p>The MELDAP Delivery Plan identifies priorities for the partnership with progress reported to the Scottish Government in an Annual Report. The MELDAP Strategic Group also reports on national standards, ministerial priorities and ADP outcomes as required.</p> <p>Programme of Quality Improvement visits to all commissioned services monitor performance and compliance with national standards and delivery of service improvement plans following the ADP Care Inspection 2016 process.</p> <p>Annual programme of service presentations to the MELDAP Commissioning and Performance Group; a key theme is always 'service impact'.</p> <p>Following the successful re-negotiation of the NHSL PCNRAC funding formula for drugs and alcohol, East Lothian has secured a 1% increase [from 10 to 11%] in the share of funding to East Lothian for 2017/18 (to increase to 12% in 18/19). As a consequence, MELDAP have been able to suspend the planned local savings identified following the 23% reduction in national funding.</p> <p>Partnership collaboration, particularly with Police Scotland, to disrupt and prosecute the suppliers and providers of drugs within East Lothian.</p> <p>Increased focus on substance misuse within the Education's Health and Wellbeing PSE Curriculum.</p> <p>The MELDAP local Drug Related Death (DRD) Review group considers DRD's currently on a monthly basis, identifying learning to be implemented by practice teams and MELDAP.</p>				<p>Opiate users may not be involved with specialist services, so there is a need to provide Take Home Naloxone as part of an assertive outreach approach and to maximise opportunities to focus on carers of opiate misusers to be trained and prescribed a Take Home Naloxone kit.</p> <p>MELDAP is considering options for developing a young people's SMS support service in East Lothian, to provide support, advice and assistance to young people in relation to their own substance misuse and work in partnership with Health Services and Education to maximise opportunities.</p> <p>To discuss with Police Scotland and its intelligence branches disruption activities to the sale of drugs from the internet. To continue to seek opportunities to work with Education and ELC e.g. to Increase Public Awareness and Information Campaigns highlighting the risks and impacts of substance misuse, particularly targeting Parent, Community Councils and Area Partnerships.</p> <p>DRD Group members to review current process of analysis of case reviews.</p>				<p>Community services</p> <p>Managers of Service Delivery within and out with the Health and Social Care Partnership</p> <p>Small Sub group of the MELDAP Children, Young People and Families [CYPF] Group will take this work forward.</p> <p>MELDAP Support Team</p> <p>MELDAP Support Team and MELDAP CYPF Group</p> <p>MELDAP local DRD Group/Chair - Nicki Cochrane</p>	<p>March 2018</p> <p>Ongoing, Project by Project</p> <p>March 2018</p>		
Original date produced (Version 1)		1st March 2012											
File Name		Health and Social Care Partnership Risk Register										Risk Score	Overall Rating
Original Author(s)		S Kennedy										20-25	Very High
Current Revision Author(s)		S Kennedy										10-19	High

Risk ID	Risk Title and Description (Threat/Opportunity to achievement of business objective)	Risk Control Measures In Place	Assessment of Current Risk			Planned Risk Control Measures	Assessment of Residual Risk [With proposed control measures] Target Risk Score			Risk Owner	Timescale for Completion / Review Frequency	SOA Outcome Number Link	Evidence held of Regular Review
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			L	I	L x I		L	I	L x I				
Version	Date	Author(s)	Notes on Revisions						5-9	Medium			
Original	July 2016	S Kennedy	Full Adult Wellbeing and Children's Wellbeing Risk Registers reviewed by Managers and then brought together to form the new Health and Social Care Partnership Service Risk Register.						1-4	Low			
2	March 2017	S Kennedy	Refreshed with Head of Children and Adults										
3	June 2017	S Kennedy	Refreshed at H&SC meeting with D Small, A McDonald, Lesley, G Neill, M Drew, S Cameron										
4	July 2017	S Kennedy	Further amalgamated with NHS Register and new risks added										
5	August 2017	S Kennedy	Updated Version 4 reviewed by D Small, S Saunders & A McDonald										
6	August 30 2017	S Kennedy	New risk added on Substance Misuse followed by full register reviewed by S Saunders 31/10/17										

East Lothian Council

Risk Matrix

Likelihood Description

Likelihood of Occurrence	Score	Description
Almost Certain	5	Will undoubtedly happen, possibly frequently >90% chance
Likely	4	Will probably happen, but not a persistent issue >70%
Possible	3	May happen occasionally 30-70%
Unlikely	2	Not expected to happen but is possible <30%
Remote	1	Very unlikely this will ever happen <10%

Impact Description

Impact of Occurrence	Score	Description							
		Impact on Service Objectives	Financial Impact	Impact on People	Impact on Time	Impact on Reputation	Impact on Property	Business Continuity	Legal
Catastrophic	5	Unable to function, inability to fulfill obligations.	Severe impacts on budgets (emergency Corporate measures to be taken to stabilise Council Finances)	Single or Multiple fatality within council control, fatal accident enquiry.	Serious - in excess of 2 years to recover pre-event position.	Highly damaging, severe loss of public confidence, Scottish Government or Audit Scotland involved.	Significant disruption to building, facilities or equipment (Loss of building, rebuilding required, temporary accommodation required).	Complete inability to provide service/system, prolonged downtime with no back-up in place.	Catastrophic legal, regulatory, or contractual breach likely to result in substantial fines or other sanctions.
Major	4	Significant impact on service provision.	Major impact on budgets (need for Corporate solution to be identified to resolve funding difficulty)	Number of extensive injuries (major permanent harm) to employees, service users or public.	Major - between 1 & 2 years to recover pre-event position.	Major adverse publicity (regional/national), major loss of confidence.	Major disruption to building, facilities or equipment (Significant part of building unusable for prolonged period of time, alternative accommodation required).	Significant impact on service provision or loss of service.	Legal, regulatory, or contractual breach, severe impact to Council.
Moderate	3	Service objectives partially achievable.	Significant impact on budgets (can be contained within overall directorate budget)	Serious injury requiring medical treatment to employee, service user or public (semi-permanent harm up to 1yr), council liable.	Considerable - between 6 months and 1 year to recover pre-event position.	Some adverse local publicity, limited damage with legal implications, elected members become involved.	Moderate disruption to building, facilities or equipment (loss of use of building for medium period).	Security support and performance of service/system borderline.	Legal, regulatory, or contractual breach, moderate impact to Council.
Minor	2	Minor impact on service objectives.	Moderate impact on budgets (can be contained within service head's budget)	Lost time due to employee injury or small compensation claim from service user or public (First aid treatment required).	Some - between 2 and 6 months to recover.	Some public embarrassment, no damage to reputation or service users.	Minor disruption to building, facilities or equipment (alternative arrangements in place and covered by insurance).	Reasonable back-up arrangements, minor downtime of service/system.	Legal, regulatory, or contractual breach, minor impact to Council.
Minimal	1	Minimal impact, no service disruption.	Minimal impact on budgets (can be contained within unit's budget)	Minor injury to employee, service user or public.	Minimal - Up to 2 months to recover.	Minor impact to council reputation of no interest to the media (Internal).	Minimal disruption to building, facilities or equipment (alternative arrangements in place).	No operational difficulties, back-up support in place and security level acceptable.	Legal, regulatory, or contractual breach, negligible impact to Council.

Risk	Impact				
Likelihood	Minimal (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	5	10	15	20	25
Likely (4)	4	8	12	16	20
Possible (3)	3	6	9	12	15
Unlikely (2)	2	4	6	8	10
Remote (1)	1	2	3	4	5

Key

Risk	Low	Medium	High	Very High
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REPORT TO: Audit and Governance Committee

MEETING DATE: 28 November 2017

BY: Depute Chief Executive (Resources and Peoples Services)

SUBJECT: Treasury Management Strategy Statement and Annual Investment Strategy – Mid Year Review 2017/18

4

1 PURPOSE

- 1.1 To update the Committee on Treasury Management activity during the first half of 2017/18.

2 RECOMMENDATIONS

- 2.1 The Committee are asked to note the content of the report.

3 BACKGROUND

- 3.1 The Council operates a balanced budget, which broadly means cash raised during the year will meet its cash expenditure. Part of the treasury management operations ensure this cash flow is adequately planned, with surplus monies potentially being invested in low risk counterparties, providing adequate liquidity initially before considering optimising investment return.
- 3.2 A further important function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending obligations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses, and on occasion any debt previously drawn may be restructured to meet Council risk or cost objectives.
- 3.3 Accordingly, treasury management can be defined as:

“The management of the local authority’s investments and cash flows, its banking, money market and capital market transactions; the effective control

of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”

- 3.4 The Chartered Institute of Public Finance and Accountancy’s (CIPFA) Code of Practice on Treasury Management (revised 2011) has been adopted by the Council.
- 3.5 The primary requirements of the Code are as follows:
1. Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council’s treasury management activities.
 2. Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
 3. Receipt by the full council of an annual Treasury Management Strategy Statement - including the annual Investment Strategy for the year ahead, a Mid-year Review Report and an Annual Report (stewardship report) covering activities during the previous year.
 4. Delegation by the Council of responsibilities to the Chief Finance Officer (Head of Council Resources) for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.
 5. Delegation by the Council of the role of scrutiny of treasury management strategy and policies to a specific named body. For this Council, the delegated body is Audit and Governance Committee:
- 3.6 This mid-year report has been prepared in compliance with CIPFA’s Code of Practice on Treasury Management, and covers the following:
- An economic update for the first part of the 2017/18 financial year;
 - A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
 - The Council’s capital expenditure (prudential indicators);
 - A review of the Council’s investment portfolio for 2017/18;
 - A review of the Council’s borrowing strategy for 2017/18;
 - A review of any debt rescheduling undertaken during 2017/18;
 - A review of compliance with Treasury and Prudential Limits for 2017/18.

Economics and interest rates update (provided directly by the Council's appointed Treasury Advisors, Capita Asset Services)

- 3.7 After the UK economy surprised on the upside with strong growth in 2016, growth in 2017 has been disappointingly weak; quarter 1 came in at only +0.3% (+1.7% y/y) and quarter 2 was +0.3% (+1.5% y/y) which meant that growth in the first half of 2017 was the slowest for the first half of any year since 2012. The main reason for this has been the sharp increase in inflation, caused by the devaluation of sterling after the referendum, feeding increases in the cost of imports into the economy. This has caused, in turn, a reduction in consumer disposable income and spending power and so the services sector of the economy, accounting for around 75% of GDP, has seen weak growth as consumers cut back on their expenditure. However, more recently there have been encouraging statistics from the manufacturing sector which is seeing strong growth, particularly as a result of increased demand for exports. It has helped that growth in the EU, our main trading partner, has improved significantly over the last year. However, this sector only accounts for around 11% of GDP so expansion in this sector will have a much more muted effect on the average total GDP growth figure for the UK economy as a whole.
- 3.8 The Monetary Policy Committee (MPC) meeting of 14 September 2017 surprised markets and forecasters by suddenly switching to a much more aggressive tone in terms of its words around warning that Bank Rate will need to rise. The Bank of England Inflation Reports during 2017 have clearly flagged up that they expect CPI inflation to peak at just under 3% in 2017, before falling back to near to its target rate of 2% in two years' time. Inflation actually came in at 2.9% in August, (this data was released on 12 September), and so the Bank revised its forecast for the peak to over 3% at the 14 September meeting MPC.
- 3.9 On the 2nd November the MPC increased the Bank Rate to 0.5%. The big question now is whether this will be a one off increase or the start of a slow, but regular, increase in Bank Rate. While there is so much uncertainty around the Brexit negotiations, consumer confidence, and business confidence to spend on investing, it is far too early to be confident about how the next two years will pan out.
- 3.10 Following the increase in Bank Rate the Council's treasury advisor, Capita Asset Services, provided the following updated forecast:

Table 3.1

	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20
Bank Rate	0.50%	0.50%	0.50%	0.50%	0.50%	0.75%	0.75%	0.75%	0.75%	1.00%
5yr PWLB rate	1.50%	1.60%	1.60%	1.70%	1.80%	1.80%	1.90%	1.90%	1.50%	1.50%
10yr PWLB rate	2.10%	2.20%	2.30%	2.40%	2.40%	2.50%	2.60%	2.60%	2.70%	2.70%
25yr PWLB rate	2.80%	2.90%	3.00%	3.00%	3.10%	3.10%	3.20%	3.20%	3.30%	3.40%
50yr PWLB rate	2.50%	2.60%	2.70%	2.80%	2.90%	2.90%	3.00%	3.00%	3.10%	3.20%

Treasury Management Strategy Statement and Annual Investment Strategy update:

- 3.11 The Treasury Management Strategy Statement (TMSS) for 2017/18 was approved by this Council on 28th March 2017.
- 3.12 There are no policy changes to the TMSS; the details in this report update the position in the light of the updated economic position and budgetary changes already approved.

Table 3.2

<i>Prudential Indicator 2017/18</i>	<i>Approved £m</i>	<i>Current Estimated Prudential Indicator £m</i>
Authorised Limit	£478	£468
Operational Boundary	£447	£438
Capital Financing Requirement	£407	£398

The Council's Capital Position (Prudential Indicators)

3.13 This part of the report provides an update on:

- The Council's capital expenditure plans;
- How these plans are being financed;
- The impact of the changes in the capital expenditure plans on the prudential indicators and the underlying need to borrow; and
- Compliance with the limits in place for borrowing activity.

Prudential Indicator for Capital Expenditure

3.14 This table shows the revised estimates for capital expenditure and the changes since the capital programme was agreed at the Budget.

Table 3.3

Capital Expenditure by Service	2017/18 Approved Limits £m	2017/18 Revised Estimate £m
General Services	£48	£39*
HRA	£23	£23
Total capital expenditure	£71	£62

**Re-profiled General Services Capital Budget presented to Cabinet 14th November 17.*

Changes to the Financing of the Capital Programme

3.15 The table below draws together the main strategy elements of the capital expenditure plans (above), highlighting the original supported and unsupported elements of the capital programme, and the expected financing arrangements of this capital expenditure. The borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt. This external borrowing need may also have additional increases due to maturing debt and other treasury requirements.

Table 3.4

Capital Expenditure	2017/18 Original Estimate £m	Current Position £m
Total capital expenditure	£71	£62*
Financed by:		
Capital receipts	£26	£17
Capital grants	£15	£16
Capital reserves		
Revenue	£2	£3
Total financing	£43	£36
Borrowing requirement	£28	£26

**Re-profiled General Services Capital Budget presented to Cabinet 14th November 17.*

Changes to the Prudential Indicators for the Capital Financing Requirement (CFR), External Debt and the Operational Boundary

3.16 The table below shows the CFR, which is the underlying external need to incur borrowing for a capital purpose. It also shows the expected debt position over the period, which is termed the Operational Boundary.

Table 3.5

	2017/18 Approved Limits £m	2017/18 Revised Estimate £m
Prudential Indicator – Capital Financing Requirement		
CFR – non housing	£223	£219
CFR – housing	£184	£179
Total CFR	£407	£398
Net movement in CFR	£13	£11
Prudential Indicator – the Operational Boundary for external debt		
Borrowing	£407	£398
Other long term liabilities*	£40	£40
Total debt (yearend position)	£447	£438

** On balance sheet PFI/PPP schemes and finance leases etc.*

Limits to Borrowing Activity

- 3.17 The first key control over the treasury activity is a prudential indicator to ensure that over the medium term, net borrowing (borrowings less investments) will only be for a capital purpose. Gross external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2017/18 and next two financial years. This allows some flexibility for limited early borrowing for future years.

Table 3.6

	2017/18 Original Estimate £m	2017/18 Revised Estimate £m
Borrowing	£367	£362
Other long term liabilities*	£40	£40
Total external debt	£407	£402
CFR* (year end position)	£447	£438

* Includes on balance sheet PFI/PPP schemes and finance leases etc.

- 3.18 The Head of Council Resources reports that no difficulties are envisaged for the current or future years in complying with this prudential indicator.
- 3.19 A further prudential indicator controls the overall level of borrowing. This is the Authorised Limit which represents the limit beyond which borrowing is prohibited, and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government in Scotland Act 2003.

Table 3.7

Authorised limit for external debt	2017/18 Approved Limit £m	Current Position £m
Borrowing	438	428
Other long term liabilities*	40	40
Total	478	468

* Includes on balance sheet PFI/PPP schemes and finance leases etc.

Investment Portfolio 2017/18

- 3.20 In accordance with the Code, it is the Council's priority to ensure security of capital and liquidity, and to obtain an appropriate level of return which is consistent with the Council's risk appetite. As shown by forecasts in section

3.2, it is a very difficult investment market in terms of earning the level of interest rates commonly seen in previous decades as rates are very low and in line with the current 0.25% Bank Rate. The continuing potential for a re-emergence of a Eurozone sovereign debt crisis, and its impact on banks, prompts a low risk and short term strategy. Given this risk environment and the fact that increases in Bank Rate are likely to be gradual and unlikely to return to the levels seen in previous decades, investment returns are likely to remain low.

- 3.21 Investment decisions during the first 6 months of 2017/18 were taken in accordance with the approved strategy. There were no new investments during the period and surplus cash balances were held in the Council's bank account, East Lothian Council Common Good funds and Charitable Trust funds are managed in two separate portfolios by an external investment management company, Investec. At 30th September 2017, the East Lothian Charitable Trust portfolio was valued at £3.361m, which represents an increase of £0.072m over the 6 month period. The Common Good portfolio was valued at £3.445m which represents an increase of £0.082m over the 6 month period.

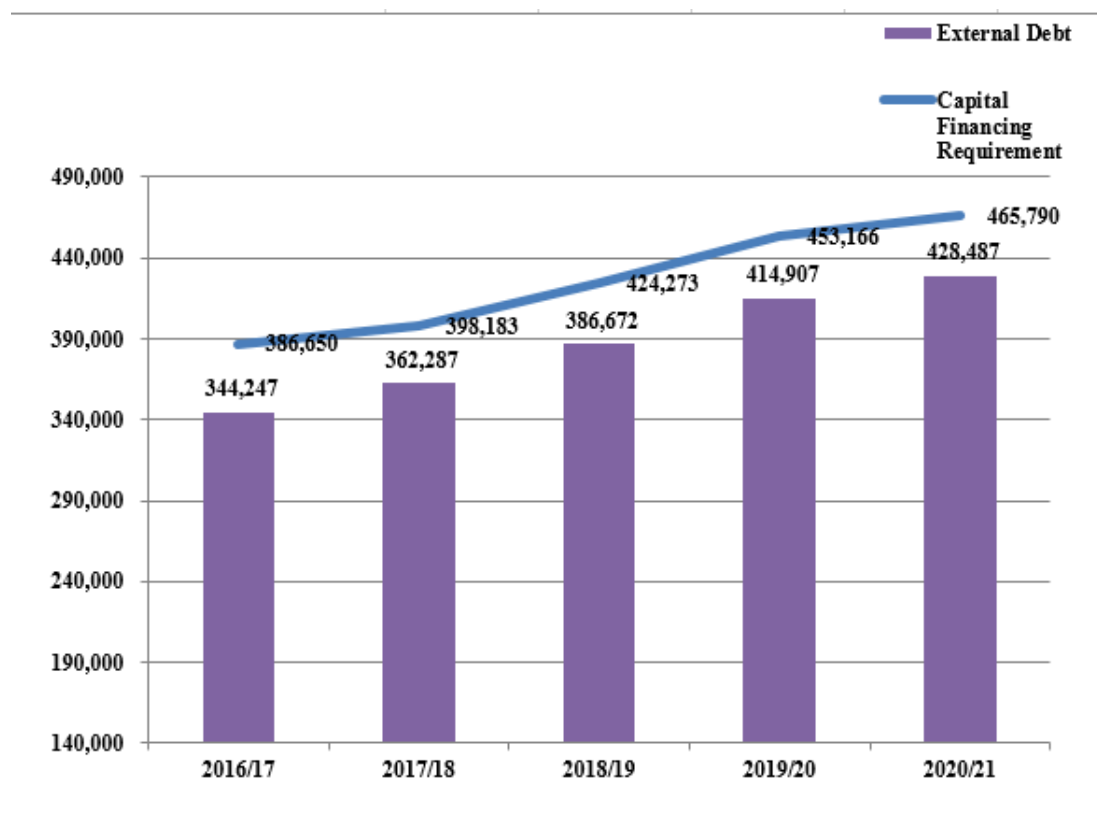
Investment Counterparty criteria

- 3.22 The current investment counterparty criteria selection approved in the TMSS is meeting the requirement of the treasury management function

Borrowing

- 3.23 The Council's capital financing requirement (CFR) for 2017/18 is projected to be £398m. The CFR denotes the Council's underlying need to borrow for capital purposes. If the CFR is positive the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The balance of external and internal borrowing is generally driven by market conditions. Table 3.6 shows the Council expects to have borrowings of £362m and to utilise £36m of cash flow funds in lieu of borrowing. This is a prudent and cost effective approach in the current economic climate but will require ongoing monitoring in the event that upside risk to gilt yields prevails.

Comparison of Capital Financing Requirement to actual/estimated external borrowing



Graph 3.1

3.24 Due to the overall financial position and the underlying need to borrow for capital purposes (the capital financing requirement - CFR), new external borrowing of £26m is estimated to be undertaken during the second half of this financial year.

3.25 The graph and table below show the movement in PWLB certainty rates for the first six months of the year to date:

PWLB certainty rates 1 April 2017 to 30 September 2017

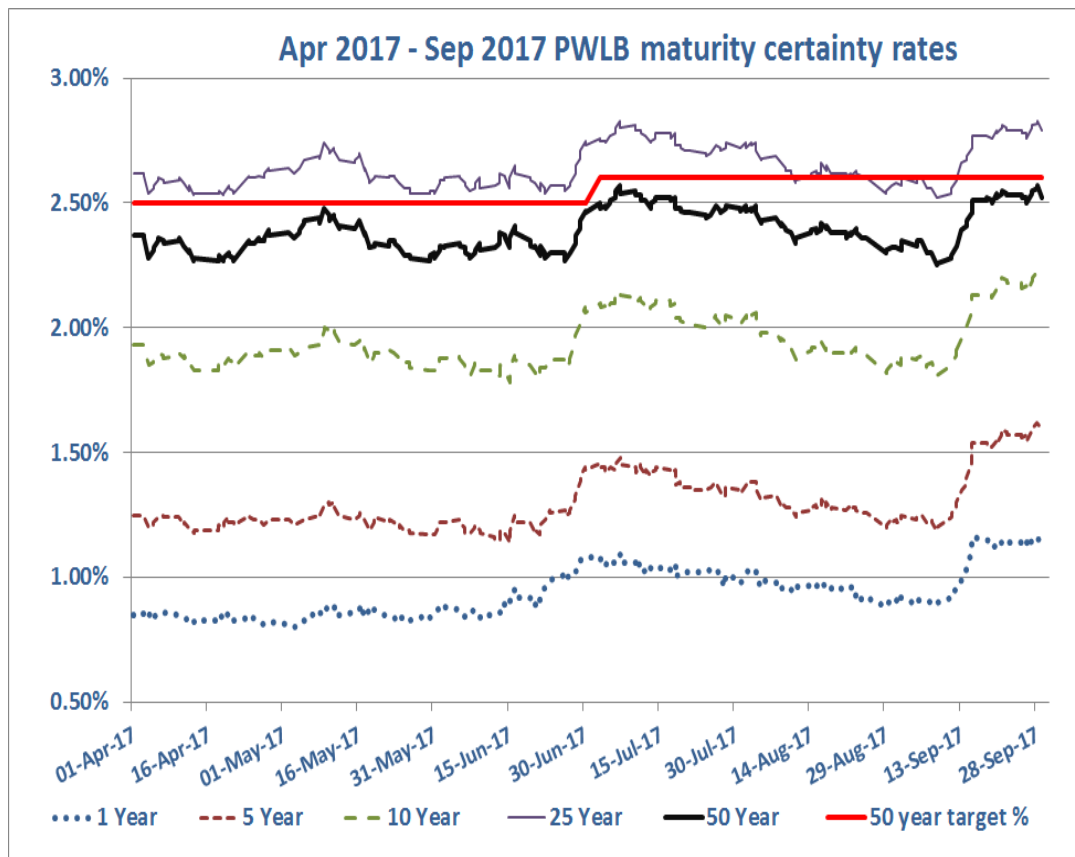


Table 3.8

	1 Year	5 Year	10 Year	25 Year	50 Year
Low	0.8	1.14	1.78	2.52	2.25
Date	03/05/2017	15/06/2017	15/06/2017	08/09/2017	08/09/2017
High	1.16	1.62	2.22	2.83	2.57
Date	15/09/2017	28/09/2017	28/09/2017	07/07/2017	07/07/2017
Average	0.9408	1.2981	1.9470	2.6475	2.3917

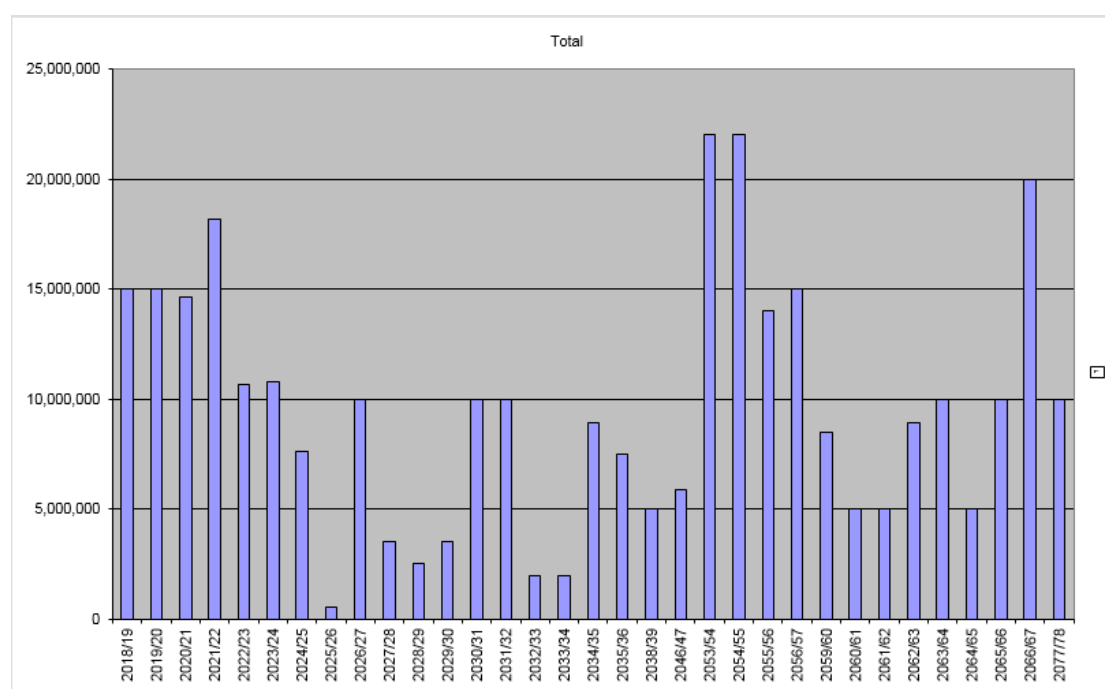
3.26 Two PWLB loans matured during the first six months and were repaid:

Table 3.9

Date repaid	Principal	Maturity	Interest rate
21/04/17	£0.662m	22 years	8.5%
24/09/17	£5m	8 years	4.02%

There were no short term loans taken or repaid

Current Maturity Profile



Debt Rescheduling

3.27 Debt rescheduling opportunities have been very limited in the current economic climate given the consequent structure of interest rates, and following the increase in the margin added to gilt yields which has impacted PWLB new borrowing rates since October 2010.

3.28 No debt rescheduling has therefore been undertaken to date in the current financial year.

Other Matters

a) Revised CIPFA Codes

3.29 The Chartered Institute of Public Finance and Accountancy, (CIPFA), is currently conducting an exercise to consult local authorities on revising the Treasury Management Code and Cross Sectoral Guidance Notes, and the Prudential Code. CIPFA is aiming to issue the revised codes during November 2017.

3.30 A particular focus of this exercise is how to deal with local authority investments which are not treasury type investments e.g. by investing in purchasing property in order to generate income for the authority at a much higher level than can be attained by treasury investments. One recommendation is that local authorities should produce a new report to members to give a high level summary of the overall capital strategy and to enable members to see how the cash resources of the authority have been apportioned between treasury and non-treasury investments. Officers are

monitoring developments and will report to members when the new codes have been agreed and issued and on the likely impact on this authority.

b) MIFID II

3.31 The EU has now set a deadline of 3 January 2018 for the introduction of regulations under MIFID II. These regulations will govern the relationship that financial institutions conducting lending and borrowing transactions will have with local authorities from that date. This will have little effect on this authority apart from having to fill in forms sent by each institution dealing with this authority and for each type of investment instrument we use apart from for cash deposits with banks and building societies

4 POLICY IMPLICATIONS

4.1 There are no direct policy implications associated with this report however the Council's treasury management activity is determined by the policy framework set out in the approved Treasury Management Strategy.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the well-being of equalities groups and Equality Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial - There are no direct financial implications associated with this report however the Council's Treasury Management activity clearly has a significant impact on the management of the Council's financial resources.

6.2 Personnel – None

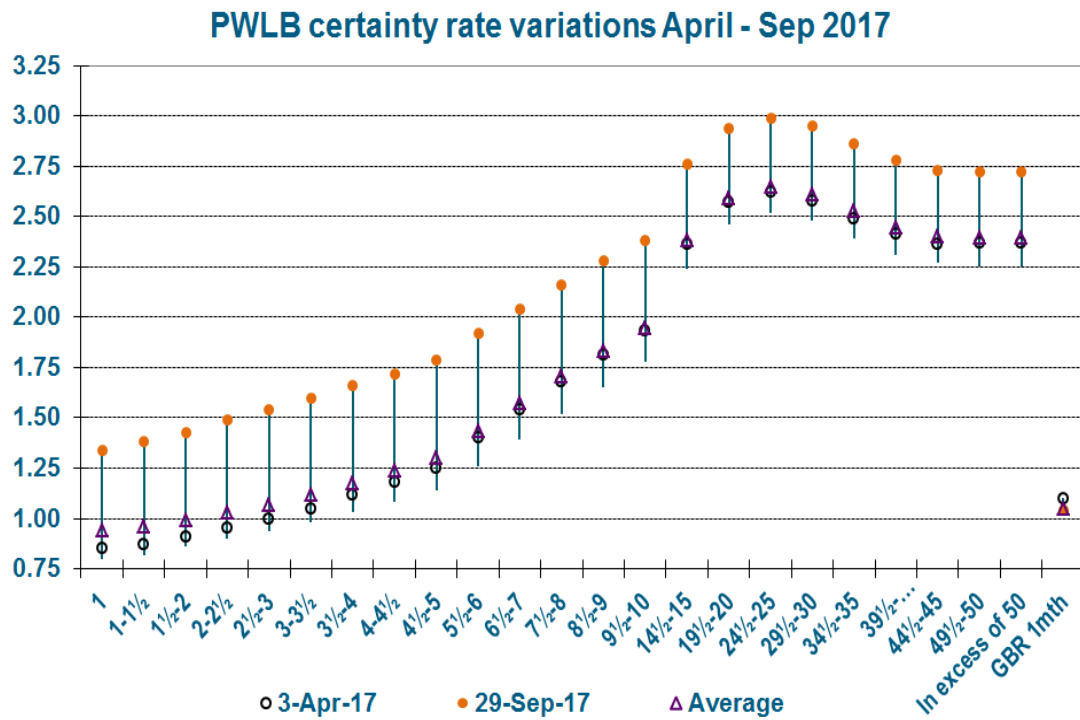
6.3 Other – None

7 BACKGROUND PAPERS

7.1 Treasury Management Strategy 2017/18 to 2019/2020 – East Lothian Council 28 March 2017

AUTHOR'S NAME	Liz Shaw
DESIGNATION	Corporate Finance Manager
CONTACT INFO	lshaw@eastlothian.gov.uk
DATE	15 th November 2017

APPENDIX 1: borrowing



Graph 3.4

APPENDIX 2: Investing

	Bank Rate	7 day	1 mth	3 mth	6 mth	12 mth
High	0.25	0.12	0.13	0.21	0.37	0.61
High Date	01/04/2017	02/08/2017	19/04/2017	11/04/2017	28/09/2017	28/09/2017
Low	0.25	0.10	0.12	0.14	0.27	0.46
Low Date	01/04/2017	04/07/2017	10/08/2017	07/08/2017	07/09/2017	06/09/2017
Average	0.25	0.11	0.13	0.18	0.32	0.53
Spread	0.00	0.02	0.01	0.08	0.09	0.15

APPENDIX 3: Approved countries for investments

Based on lowest available rating

AAA

- Australia
- Canada
- Denmark
- Germany
- Luxembourg
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

AA+

- Finland
- Hong Kong
- U.S.A.

AA

- Abu Dhabi (UAE)
- France
- U.K.

AA-

- Belgium
- Qatar

THIS PAGE IS CORRECT AS AT 30.9.17

REPORT TO: Audit and Governance Committee

MEETING DATE: 28 November 2017

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Council Governance Arrangements with enjoyleisure ALEO

5

1 PURPOSE

- 1.1 To update members on Council's governance arrangements with its ALEO enjoyleisure and highlight areas of work that enjoyleisure is contributing to wider Council objectives.

2 RECOMMENDATIONS

- 2.1 Members are asked to note, consider and discuss the contents of the report.

3 BACKGROUND

- 3.1 In 2011 The Accounts Commission published "Arms – Length Organisations: Are you getting it right?" This report was linked to the requirement of "Following the public pound" the code that was produced by the Audit Commission along with COSLA in 1996.
- 3.2 Within that Audit Scotland report was a toolkit to assist Council's and ALEOs who were either being formed or building improvements to their existing governance arrangements.
- 3.3 There has been over the last decade and longer, a significant increase in the use of ALEO's across Scotland. ALEO's are now playing an integral part to local government delivery.
- 3.4 The Council in 2009 upon the creation of enjoyleisure as an ALEO was clear in its purpose and captured this in respective documents in particular

the Funding Agreement and Leisure Specification. These two documents set out the expectation and clarity of roles on the council and enjoyleisure at the outset.

3.5 The Council ensures that its prepared governance arrangements are applied accordingly in the following ways :

1. Company governance - The structure allows 4 councillors to be on the board and no decisions can be made without at least one councillor being present. The Council also have 2 observers who attend the board meetings. These are the Council's Head of Infrastructure and Service Manager for Sport, Countryside & Leisure.

2. Funding Agreement – This agreement details the arrangements for agreeing what services are to be provided and the mechanism for agreeing the annual committed funding by the council. It also contain mechanism for reporting, requests for further information performance management and requests for further funding or changes to the service specification.

3. There are quarterly contract meetings between senior officers of the council and enjoyleisure. The contract meetings allow for performance discussions that would typically include but not be limited to finance, operational performance, SLA's, Health and safety, facility maintenance and capital spend.

4. Annual reporting of enjoyleisure finance and operational performance to the Council's Audit & Governance Committee.

3.6 It is important to note that while ALEO's are responsible for services they provide, councils remain responsible for the public money they give to ALEO's and the quality of services the ALEO provides.

3.7 The quarterly meetings between senior officers of the council and enjoyleisure has enabled both parties to present and monitor the ALEO's performance .Quarterly finance reports , Health and safety reports and the development of key performance measures and reporting has provided a greater focus on agreed areas. These have included but not been limited to:

- Number of visits per annum
- Number of dry visits per annum
- Number of wet visits per annum
- Health and Fitness membership numbers
- Number of fitness classes offered
- Number of low intensity classes offered
- % of Council subsidy against income and expenditure
- Golf club visits and rounds played
- Swimming lessons – number of participants

- 3.8 It is important to note that whilst we have formal governance arrangements as described above it is important to highlight wider benefits of the ALEO's work in East Lothian. enjoyleisure continues to play its part in supporting the council in achieving its stated objectives within the Council Plan and East Lothian Plan. Enjoy is represented and active on a number of strategic and operational groups that are in place to enhance the quality of services for the people of East Lothian.
- 3.9 Enjoy are supporting the council in a number of areas, particularly in increasing physical activity within the county. Supporting our communities grow and become more resilient, providing inclusive opportunities for a range of hard to reach groups. Supporting the council in the delivery of its Physical Education, Physical Activity and School Sport agenda (PEPASS)
- 3.9 There is and has been a concern that ALEO's in Scotland have become or are at threat of becoming purely financial vehicles and focussed purely on commercial gain. The strong evidence in East Lothian would push back against that particular concern. There is without doubt alignment with council policies and objectives as set out in initial documentation in enjoy delivering and supporting the delivery of council objectives.
- 3.10 In addition to Enjoy supporting the council in its wider objectives, Value For Money (VFM) is an important focus for ALEO's. The evidence has been that the council has been able to reduce the level of subsidy to Enjoy year on year ranging from mid 50% subsidy at formation to low 30% subsidy right now. This has been achieved at the same time as record levels of users have been recorded by Enjoy. Simply more for less.
- 3.11 Audit Scotland wrote to all Council Chief Executives in July this year 2017. Advising that they are carrying out a performance audit of Scottish councils' use of ALEOs. The aim is to support councils by identifying good practice and also lessons learned, and give assurance to the public over this means of service delivery. The audit is planned to be reported in spring next year 2018 and we look forward to the contents of the report and any continuous improvements identified within it.

4 POLICY IMPLICATIONS

- 4.1 This report is aligned with good governance practice as identified in Audit Scotland report – ALEOs are you getting it right?

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 An equalities impact assessment is not required for this report.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None

6.2 Personnel – None

6.3 Other – None

7 BACKGROUND PAPERS

7.1 None

AUTHOR'S NAME	Eamon John
DESIGNATION	Service Manager, Sport Countryside & Leisure
CONTACT INFO	Extn 1400
DATE	14 November 2017

Report	East Lothian Council Audit and Governance Committee
Author	Bill Axon
Date	November 2017
Action	To note

1. Background

6

1. In October 2009, Enjoy East Lothian was established to manage, under contract, sport and leisure facilities and services on behalf of East Lothian Council (ELC).
2. The contract was extended until 30th September 2021 through negotiations and agreement between Enjoy and ELC.
3. The management of the leisure services contract, covers five major sites owned by East Lothian Council. Four having swimming pools:
 - Aubigny Sport Centre, Haddington.
 - Loch Centre, Tranent.
 - Musselburgh Sport Centre
 - North Berwick Sport Centre

There is one facility, which has no associated swimming pool:

- Meadowmill Sport Centre, Tranent

With a sixth facility owned wholly and entirely by Enjoy East Lothian Ltd:

- Dunbar Leisure Pool

There are a significant number of other managed satellite facilities throughout the county, which include:

- Various Grass Pitches and Pavilions.
- Synthetic Pitches (2G, 3G and water based).
- Seasonal Facilities (putting, pitch and putt, Bowling etc.).
- Various Tennis Courts.
- Golf Courses (Musselburgh Old Course and Winterfield, Dunbar).
- Athletics Track
- Climbing Wall

4. Enjoy is a charitable organisation limited by guarantee. Its specific objects are contained within its Memorandum and Articles of Association.

Bill Axon, General Manager
0131 653 5202
baxon@enjoyleisure.com

www.enjoyleisure.com

Delivering services for East Lothian Council. Enjoy East Lothian Ltd, also known as 'enjoy' and 'enjoyleisure'. Scottish Registered Charity Number: SC040527



5. The objectives are expressly established “for the benefit of East Lothian”.
6. In order to secure charitable status, it has to be demonstrated that Enjoy is entirely independent of ELC and that the relationship between the two parties is genuinely at “arm’s length”. Anything that might be perceived to be a degree of control by the ELC over Enjoy’s business activities would/could lead to a failure to be registered as a Charitable Organisation and a consequent inability to secure acknowledged community and financial benefits.
7. The Council does, however, exercise a level of contractual control over Enjoys management of the agreed leisure sites. A contract is in place between the Council and Enjoy whereby Enjoy provides the Council with leisure services as required in return for payment of a contract payment.
8. Accordingly the various services are to be provided to an adequate quality and there is a default mechanism, common with most leisure management contracts, applying should service levels fail to meet required standards.
9. The leisure sites are leased to Enjoy (with the exception of Dunbar Leisure Pool), by East Lothian Council. In general Enjoy is responsible for the day-to-day upkeep of the premises, and the Council is responsible for the structure.
10. All of the employees engaged in the provision of the services are directly employed by Enjoy.
11. In terms of contract governance:
 - i. There are four Director’s appointed by East Lothian Council to the Board of Enjoy (all Elected Members).
 - ii. The Council have an appointed contract monitoring officer at Senior Level and there is a quarterly contract meeting chaired by ELC.
 - iii. Communication regarding service delivery between Enjoy, the Council and where necessary all local Elected Members is maintained at all times.
 - iv. Senior Council staff are also invited to attend Board Meetings as observers.



How enjoyleisure is Governed

The Business Executive is responsible for the day to day management of Enjoys affairs, and they are accountable to the Board of Directors.

The Non-Executive Board of Directors ensures that Enjoy conducts its affairs in accordance with its stated purpose. It sets the policies, strategies and objectives, and then preside over the Executive and his staff who are responsible for delivering them. The Board is Chaired by Gordon Wales, and consists of 4 Elected Members of East Lothian Council and a maximum of eight Community Representatives who, when appointed, are residents of East Lothian.

Business Context

Enjoy has like all other public services within the Local Government framework continued to be extremely challenged by the uncertain economic outlook and the current positioning of public service funding. Enjoy has seen continuing growth in our membership numbers, which are paid by direct debit on a monthly basis, however, due to a number of factors including facility capacity issues, this has now began to level out. Nonetheless, Enjoy continues to grow even in these circumstances, and it takes foresight and faith in the **enjoy**leisure brand to positively face up to these challenges and continue to provided services and facilities that meet not only the requirements of East Lothian communities and individual residents but also to catch the attention and attract many visitors to East Lothian, especially to the community of Dunbar.

Furthermore, **enjoy**leisure is advancing and is committed to investing in the health of the communities of East Lothian by providing a foundation for participation in an entire breadth of activities, which provide opportunities for everyone to benefit from participation in sport and physical activity and to enjoy a healthier lifestyle.

Nonetheless, it needs to be stated that our ability to do any meaningful short/medium-term planning has become extremely difficult due to the current complex decision making process regarding future public financing. This only allows a brief period of time for Enjoy to approve its plans for the next fiscal year, which on that basis are mostly financially based and not necessarily a full programme of development.

One further major issue of concern is the age of the current building portfolio and the ability to maintain a standard that customers would expect, which on occasions is compromised as the capacity to meet the demands of planned maintenance cannot be met. This also necessitates a more reactive approach by the Council with regards standard day-to-day maintenance, which has meant longer delays in carrying out some necessary repairs. Whilst, our professional working partnership with ELC property colleagues is exceptional it would be wrong not to highlight this as a potential significant risk going forward, as this may lead to increased service reduction at some point in the near future.

Since its creation Enjoy has become a very successful business in its own right within East Lothian and we have seen continuing growth in our income streams since 2009, which is a continuing trend. This has allowed Enjoy to more readily cope with the reduction in the contract payment made by East Lothian Council, which between 2009/10 and the financial year ending 31 March 2018 is £535,412 (19.4% reduction in grant since our inception). This is a significant saving for the Council and Council Tax payers, however, with a positive outcome of increased, accessibility, business activity and users.

During this stage of our business development, the contract income as a percentage of total income has reduced year-on-year and currently equates to 33.06% for the financial year 2017/18. This is a reduction from the previous year of 34.85% (at the end of our first 6 months of trading the same ratio was 56.46%). The same applies to contract income as a percentage of total costs, which is currently 33.18% from the previous year of 35.26% (at 2009/10 the ratio was 59.43%).

The current contract payment from ELC is **£2,224,600**, however, the current annual budgeted turnover is **£6,729,192**.



Enjoy currently offers employment opportunities for **346** staff:

- 53 full time
- 120 part time
- 90 casual/relief staff
- 83 coaches

Last year we had visitor numbers of **1,287,360** visits, which is projected to rise to **1,362,548** for the period 2017/2018.

We currently have membership numbers, which are grouped as follows:

1. Gym membership (averaging) **5000**
2. Access to Leisure (low income scheme) **2488**
3. Sports award scheme (free access to elite athletes approved by ELC) **247**
4. Leisure Pass Discount Card **881**
5. Golf Course Membership (two courses) **1004**
6. Young people learn to swim membership **2100**

This gives Enjoy a total of **11,720** individual affiliates within East Lothian, which is in excess of **10%** of the population.

Business Challenges 2017/2018

The major challenge for all Trusts in Scotland would be the Implementing of recommendation 24 of the Barclay Review on Non-Domestic Rates by the Scottish Government, which would have potentially catastrophic implications for our ability to deliver for our communities, and our capacity to improve health and wellbeing outcomes. The main plank of this recommendation is to withdrawn business rate relief from trusts such as Enjoy on the basis that it is unfair on the private sector. However, I would hope the information produced in this report clearly demonstrates to members there is no real comparison to be made. Enjoy is a not-for-profit organisation with the provision of safe, appropriate, clean, accessible and most importantly affordable facilities to all sections of our communities being at the forefront of what we do at all times. With all surplus being spent on improving what we offer and increasing public, community wellbeing and physical activity levels.

The impact of such a decision has been evidenced below by responses to a survey taken by the national (Scottish Region) body for Trusts (Sporta), which had a 100% response rate:

- a) 92% of all Sporta trusts stated that they would be forced to close leisure centres and swimming pools – the remaining 8% declined to state which facilities would close
- b) Nearly 70% reported a threat to the trust's viability as an organisation
- c) Of the remaining trusts, 15% stated that they would be forced into major service redesign
- d) 92% reported that the vast majority of services could not or would not be delivered by the private sector for various reasons

It is also worth noting that **NO** trust in Scotland was contacted by the author prior to the report being prepared and going public.

The expectation is that an announcement will be made in the Scottish Parliament during the budget statement, which will be delivered on December 14th 2017.

Headline Achievements

COUNCIL OBJECTIVE: INCLUSION/SOCIAL BENEFIT

Across East Lothian, **enjoy**leisure actively supports and encourages the participation of all ages and abilities within our Sports facilities. Through specialist websites: www.disabledgo.com and www.euansguide.com we provide detailed descriptions of the access and facilities available within our Sports Centres for disabled users visiting us on a casual basis.

The disability coached activity programme provided by **enjoy**leisure and local clubs, offers customers access to athletics, badminton, archery, bowling, multi-sports, fitness classes, swimming lessons (for both infants and children) and a dedicated swimming club which has members that compete at a national level.

The percentage of our overall spending during 2016/2017 that targets people who traditionally face barriers to participation (i.e. low income, older people, people with disabilities etc.) is in the region of 8% through the access to leisure scheme.

Additionally a 9% is invested in programmes that are aimed at improving the negative impact of physical and mental health issues and anti-social behaviour. This includes free school swimming during the summer holiday period for all under 16's and free or reduced rate access for community groups, ELC sport development team, ELC active schools team, colleges, disabled groups etc.

Whilst, we are aware of the impact of the excellent work carried out by Enjoy staff, in terms of increasing overall usage in physical activity (which, makes for healthier lifestyles) we have not as yet measured the overall beneficial effect we are having in our communities. However, the above demonstrates a significant hidden financial benefit of more the **£700,000** for not only East Lothian Council but the whole of East Lothian.

This does not include the undoubted benefit both financial and time required to treat patients by the NHS made through programmes and access offered by Enjoy.

We are also committed to providing Vocational Volunteer opportunities within our communities and currently have a significant number placed in all our major facilities.

Administering the Access to Leisure Scheme

enjoyleisure manages all of the Access to Leisure Applications on behalf of East Lothian Council.

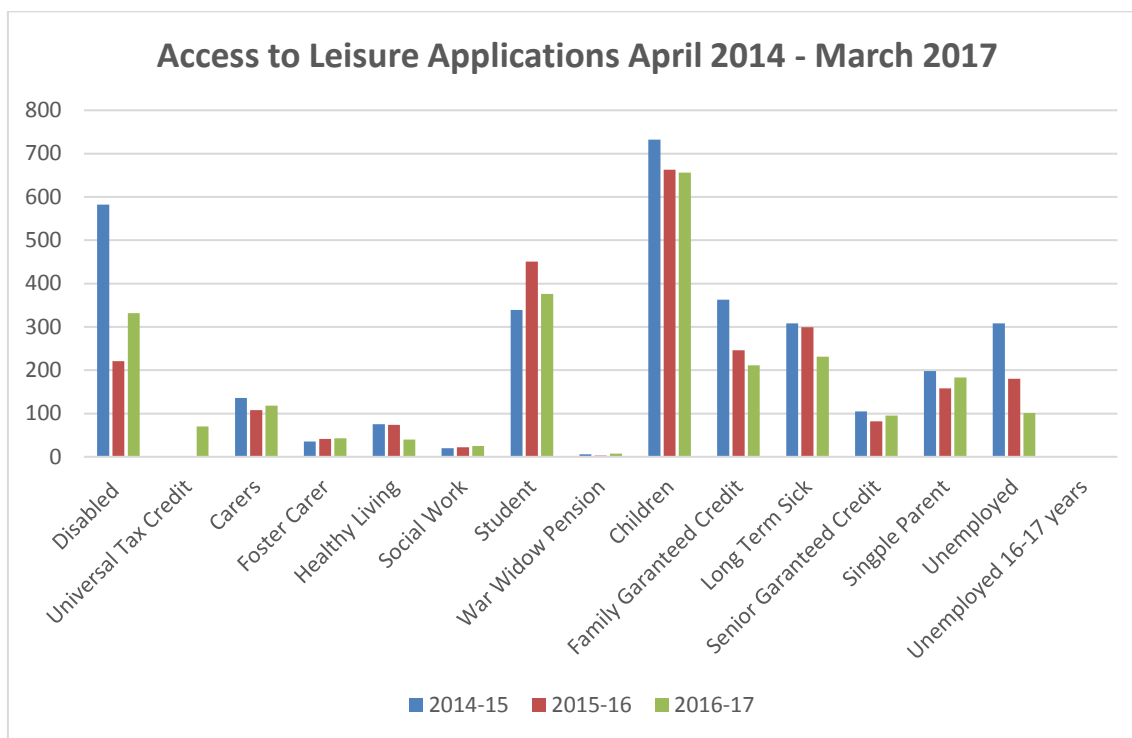
The Access to Leisure Scheme provides entry to **enjoy**leisure facilities for **£1** per activity between 9:30am – 4:30pm Monday - Friday and discounted entry at all other times for individuals who qualify for the scheme.

Applications for the last 3 years are as follows:

Applications to date	2014-2015	2015-16	2016-17
Total	3208	2548	2488

In October 2013, the "Access to Leisure" Scheme, replaced the previous Leisure Pass Plus initiative. The new scheme amended the validity of the 'Disabled Criteria' from 1 year to 3 years. This subsequently is reflected in the number of applications received for this category fluctuating year on year depending on the time of renewal for each applicant.

We have additionally seen an impact in the number of applications due to the introduction of Universal Credit in East Lothian. Since this introduction, we have identified a decrease in the number of applications across the categories of Guaranteed Credit, Long Term Sick and Unemployment, as these benefits are now awarded collectively under the Universal Credit banner.



Access to Leisure Admissions


		2015-2016	2016-17
Access to Leisure		49,638	48,191
Single Admissions	Bodyworks Gym	9805	9328
	Free Weights Room	891	811
	Swimming	14847	13946
	Health Suite	3838	3634
	Racket Sports	2742	2168
	Crèche	1457	1400
	NB Trampolines	649	631
Classes	ASN Activities	823	582
	Fitness Classes	6302	6622
Booked Activities	Gymnastics	2239	2140
	Climbing Wall	20	44
	Swimming Lessons	5721	6597
	Summer Activities	304	288

Female Only Sessions

The number of female only swimming sessions has decreased over the years, as more focus has been made to provide evening swim sessions to accommodate both our male and female customer base. This change has been welcomed by our customers and with increased pressure to provide access to swimming pools for clubs; adult only sessions appeal to both our male and female customers.

We do however continue to offer Ladies only nights at North Berwick Sports Centre (Monday evening 8:30pm – 9:30pm).

Senior Activities

In conjunction with our partners within East Lothian Council and NHS via the HALP group, the **enjoy**leisure fitness class timetable actively highlights and promotes the “Low Impact” fitness classes available within our sports centres across the county. Indicated with a  these low-impact classes have been identified as being suitable for those individuals who are looking to improve their health or activity levels.

These classes include: Aqua Circuits | AquaFit | Ballet Stretches | BodyBalance | Fitness for All Funky Fitness | Fitness Fun | Fitness Pilates | Functional Fitness | Pilates | Power Stretch | Seats & Beats | Stretch & Strength | Swimming | Yoga | Zumba Gold.

In April 2017 there were 79 ‘Low Impact’ Classes on the Fitness Class Programme: over 25% of the classes on offer.

In addition we offer dedicated Senior Only Swim Sessions at North Berwick Sports Centre.

COUNCIL OBJECTIVE: HEALTH & WELLBEING

Free Swims

enjoyleisure has continued to support an initiative to award Free Child Swim sessions to under 18s throughout the 6 week summer holiday period.

Total Free Swim Attendances

	2013	2014	2015	2016	2017
Aubigny Sports Centre	3,675	3,035	3,679	7,733	4,809
Dunbar Leisure Pool	15,625	15,252	14,628	13,003	14,151
Loch Centre	1,587	2,161	1,583	1,842	1,963
Musselburgh Sports Centre	4,711	5,375	3,820	4,054	4,286
North Berwick S C	2,478	1,882	1,642	2,099	1,914
Grand Total	28,076	27,705	25,352	28,731	27,123

Sports Centre User Numbers

Total visitor numbers, including school use, clubs, spectators and café visitors in 2016-17 totalled **1,359,570** across all Sports Centres, Seasonal Facilities and both Golf Courses.

When comparing ‘transactional customers’ – those customers who physically interact with reception (listed below) Enjoy benefitted from an overall increase of 5% (over 39k visitors).

Areas of increase worth noting include the Climbing Wall which saw an increase of 114%, largely due to the increase of children’ coached classes as well as a successful link up with Active Schools who are also running classes at the facility on a weekly basis. The arrival of two new golf professionals at Winterfield has significantly boosted the Golf Visitor numbers, and their memberships, which saw an overall increase of 25% year on year – approx 10k. Fitness Classes continue to be a massive draw, which is highlighted in the 15% annual increase. Likewise Swimming Lessons also saw an increase of 15% year on year.

	2016-17	2015-16	
3g Synthetic Pitch	2,756	5,434	
ASN Activities - Dry	9,841	9,068	
Athletics	219	399	
Birthday Party Activities	12,617	10,672	
Bodyworks Gym	119,580	111,702	
Climbing Wall Activities	3,840	1,793	
Crèche Activities	4,528	4,733	
Dry Coached Activities	1,204	1,613	
FASIC	273	237	
Free Weights Room	12,740	14,941	
Golf Visits	48,055	38,419	
Grass Pitch & Pavilion	14,103	14,192	
Gymnastics	23,883	25,167	
Hall Events	1,413	1,007	
Hall Hire	11,261	13,964	
Health Suite	24,455	23,748	
Keep Fit Classes	146,721	127,568	
NB Trampolines	12,167	12,494	
NPLQ Courses	176	65	
Racket Sports	39,324	40,308	
Room Hire	12,935	15,065	
Seasonal Facilities	13,829	17,291	
Soft Play	17,421	23,572	
Summer Activities	2,888	3,030	
Swimming	262,278	250,677	
Swimming Lessons	66,887	58,386	
Synthetic Pitch	2,744	3,466	
Grand Total	868,138	829,011	5%

Membership Schemes

Fitness Memberships

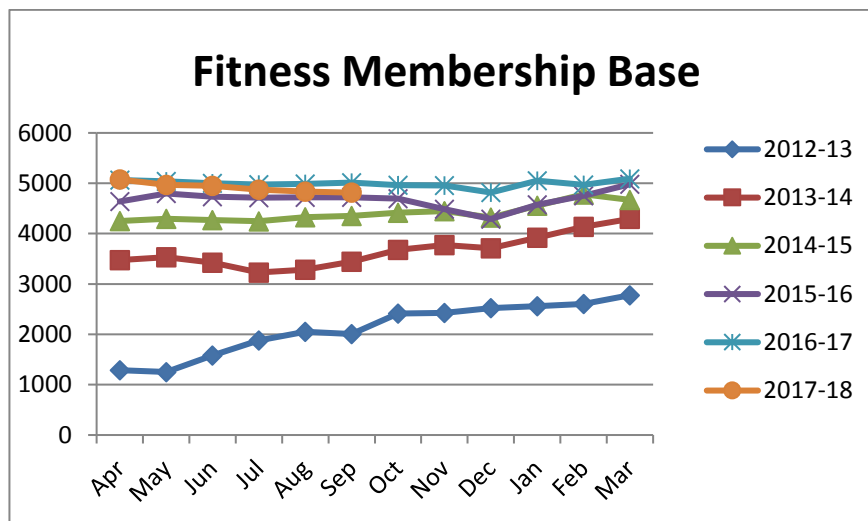
In April 2012, **enjoy**leisure revised its membership scheme, introducing an all-inclusive membership package offering access to the Gyms, Swimming Pools, Fitness Classes and Health Suites at all 7 East Lothian Sports Centres.

Since its initial launch, the membership scheme has grown from strength to strength.

Monthly income from membership payments across 2016-17 on average was £130,910 compared to £29,461 on April 2012.

The total number of direct debit paying members:

	April 2012	October 2017
Fitness Memberships	1289	4880



The above graph above indicates a levelling-off of the membership base circa the 5000 mark.

Many of the Sports Centres are close to approaching their membership base capacity and as such the focus for the fitness memberships is retention. To increase further in these centres would actually be a detriment to the business as members become unable to gain access to the facilities.

We are subsequently looking at our product offering in terms of fitness class provision, scheduling of public swim sessions, quality and maintenance of gym equipment and identifying ways in which to better engage and communicate with our membership base.

Swimming Lessons Membership Scheme

In order to generate additional income, we continuously look at all areas of the business to identify opportunities which could be exploited further. Behind fitness memberships, our second largest income stream is swimming lessons.

Over the past 18 months we have been working closing with Scottish Swimming and other Leisure Trusts across the county to share best practice and identify areas of improvement for enjoy. The output from this was the creation of an Aquatic Strategy for East Lothian, which included the introduction of Scottish Swimming's new

National Learn to Swim Framework, moving to a rolling 48 week lesson schedule and with that a direct debit membership scheme for participants.

We officially launched our new “Get in the Swim” membership package in September 2017, which provides members with a weekly group swimming lesson and unlimited casual free swims across each of East Lothian’s pool. The monthly fee for this membership is £17.50, with a 50% discount (£8.75) offered to Access to Leisure Card Holders.

There were approx 1800 children attended swimming lessons between April – June 2017 (the last “block” of lessons. By the first week of the new lesson programme we had **1957** members enrolled in the scheme, with occupancy at 85%.

The lesson programme continues to grow as we introduce additional lessons to the programme to meet demand. We are also currently recruiting for additional Leisure Assistants so we can add further lessons to the programme.

Fitness Classes

Fitness classes continue to be the biggest draw for fitness membership applications. It is therefore not surprising to see that consistently more than 86% of fitness class attendees come from our membership base.

Keep Fit Classes	2016-17	%
Access to Leisure	6622	5%
Casual Customers	10362	7%
Discounted Customers	508	0.4%
Leisure Pass	2337	1.6%
Membership Inclusive	126,892	86%
Grand Total	146,721	100%

With a strategic focus in driving membership sales over the last few years, we made a conscientious effort to improve the membership offering both in response to customer demand and to ensure customer retention, which is reflected in the increase in fitness classes offered:

	April 2012	April 2013	April 2014	April 2015	April 2016	April 2017
Total Number of classes	158	229	261	288	303	309

The fitness class programme is reviewed quarterly. At these points we revise the class timetable, introducing new classes in response to fitness trends and customer interest and popularity. At all times, we strive for a balance between cardio, endurance, low impact and strength and conditioning classes to appeal to as large a customer base as possible.

Online Booking

The ever-growing increase of fitness class and class attendances, although extremely positive for overall visitor numbers, was starting to apply more and more pressure on our reception staff, as all bookings were made either at the centre or over the phone. **enjoyleisure** subsequently made the decision to invest in an online booking portal offered by Gladstone which linked directly to the existing EPOS system so customers could book themselves into fitness classes.

The online booking portal launched in September 2016 and have proven to be invaluable to the organisation ever since. In the first month alone 7850 online transactions (both bookings and cancellations) were carried out



online, 47% of the total transactions that month. A year later in September 2017 there were 11,829 online transactions equating to 70% of all fitness class transactions for the month.

Our customers love the flexibility of being able to search, view, book and cancel classes online. As the booking portal is available 24 hours a day, they can book classes at a time that is convenient to them without the confines of centre opening hours.

Furthermore, since the immediate introduction of the online bookings system, our reception staff identified a significant drop in the number of telephone calls coming into the centre. Thus enabling our reception teams to provide an enhanced level of customer service to customers, and reducing the number of complaints about getting through to reception via telephone.

	Sep 16	Sept 17
Online Booking Transactions	7,850	11,829
As % of all Booking Transactions	47%	70%



Service Level Agreements with ELC

These are reviewed annually, with agreement being reached to continue a partnership with ELC payroll and IT.

These are viewed by all concerned as being positive arrangements at present, however, the overriding factor for future arrangements will be the continuance of meeting Enjoys future business needs.

With regards the current arrangement with HR, it is our intention to withdraw from this agreement from 2018. This is to allow Enjoy to implement an HR strategy that can support business goals making our business more efficient through the planned use of human resources. This will include our ability to target improved performance management, provide direct guidance with regards employment legislation, training and development of staff for growth, employee engagement, support any future change programme and develop a reward scheme relevant for our business.

Health and Safety

The Health & Safety Policy is reviewed annually each year and submitted to the Board for approval. A summarised version of the report has been developed in A5 form, which is issued to all employees as part of their induction welcome pack, to ensure that they are fully aware of their roles and responsibilities when it comes to Health and Safety.

Health & Safety reports are submitted to the Board quarterly. Since Sept 15, there has only been one major incident where a customer went into respiratory distress and members of staff were required to provide CRP while an ambulance was called. Ambulance crews applauded members of staff for their immediate actions and training indicating that they had significantly enhanced the customer's chance of survival.

NPLQ Courses

Enjoy has maintained the Institute of Qualified Lifeguard Approved Training Centre Status, which allows our professionally trained staff to maintain their qualifications through in-house training.

It also allows Enjoy to offer National Pool Lifeguard Qualifications to the general public and through this the opportunity to explore additional income streams. In 2016-17 we offered 3 x NPLQ courses to the public which resulted in 27 people (75% occupancy) attending the course. These courses generated £4692 worth of income for the business.

Continuing on this success, we have developed a training calendar for NPLQ courses for 2017-18, and have already delivered 4 courses this year with 98% occupancy – with more to following in the new year.

Community Economic Investment

Between Oct 2015 – Feb 2016 Enjoy invested £1.6 million in to the upgrade of Dunbar Leisure Pool. Fully funded by Enjoy, the works ensured that we would be could dramatically extend the existence of one of East Lothians most visited attractions and thus securing the contribution that Dunbar Leisure Pool makes to the local economy is sustained for years to come.

The major works included the replacement of the air handling units which regulate the air temperature through the centre; electrical rewiring throughout and the installation of a new switch board.

Refurbishments to the flume; including relining of the flume itself and structural repairs to the supporting staircase and a drain down of the pool to allow a deep clean and re-grouting were also carried out.

The works, although commissioned by the Board of Enjoy could not have been undertaken without the professional support of our partners East Lothian Council, and more specifically Property Colleagues led by Paul Iannetta and his team.

The above works have been acknowledged by the community of Dunbar as being of significance to the economic prosperity of Dunbar.

Enjoy is proud that Dunbar Leisure Pool is consistently identified as one of the leading tourist attractions in the whole of East Lothian, which has a noteworthy benefit for secondary spend in the town centre and beyond.

Bodyworks Gym Refurbishments

As part of Enjoy's and East Lothian Council's ongoing commitment to provide state-of-the-art Gym equipment the Bodyworks facilities at Aubigny, Loch Centre and Musselburgh all received brand new Pulse equipment as well as a room refit, including new flooring and interior paint refresh. This total an investment of £171.5k, from the Council Capital Expenditure Fund. A staged approach was taken with the timing of the refurb, which was carried out between Thurs 3rd Nov – Thurs 1st December.

Spin-Bikes

Alongside this refurbishment, customers were able to benefit from the purchase of 106 new spin bikes which were distributed across the county to each of the Sports Centres; an investment totalling £55k. These were delivered in two stages initially in April and the remainder in June 2017.

Loch Centre Dry-side Changing Refurbishment

Enjoy is currently working alongside East Lothian Council to refurbish the 'dry side' changing facilities at the Loch Centre in Tranent.

Due to take place in Jan/Feb 2018, this refurbishment will include a complete refit of the existing Male & Female changing areas, with toilet and showering provisions. It will also include the construction of a new accessible changing facilities with toilet and shower, which has not previously been available on the ground floor of the building. The water tank which services the dry area of the building is also being replaced. Unfortunately this will result in one of the dance studios being taking out of commission for the duration of the works, however we are looking to accommodate the spin classes in other areas of the building to continue offering these classes.

Maintenance on 2G Synthetic Pitch Facilities

The 2G Synthetic Pitch facility at Forester Park, Tranent was previously split into two in order of offer 2 x 5-side football pitches. As the surface gets replaced, we will be restructuring this provision to offer a full 2G pitch facility at this site, which has the capability of being sectioned off for multiple use.

The water based 2G synthetic facility at Meadowmill Sports Centre, which is primarily used for hockey has also benefitted from a upgrade, as a replacement carpet was fitted earlier in January 2016.

Financial and Governance Performance

An annual and rigorous audit of Enjoy was undertaken by an external auditor (Scott-Moncrieff), which highlighted no real areas of concern. It also provided considerable reassurance to both the Executive Management team and the Board of Directors in terms of financial good practice and business governance. Extracts from latest audited accounts are shown below.

Group Statement of Financial Activity For the year ended 31 March 2017

Notes	Unrestricted Funds £	Restricted Funds £	Year to 31 March 2017 £	Year to 31 March 2016 £
Incoming and endowments from:				
<i>Donations and legacies</i>				
Voluntary income	5	34,179	-	34,179
<i>Charitable activities</i>				
Membership fees		1,784,550	-	1,784,550
Services		1,921,511	-	1,921,511
Management service fee	6	2,319,600	-	2,419,600
<i>Other trading activities</i>				
Trading subsidiary		586,918	-	586,918
<i>Investments</i>				
Investment income	7	-	-	17,713
Total		6,646,758	-	6,646,758
Expenditure on:				
<i>Charitable activities</i>				
Membership services	9	(6,277,431)	-	(6,277,431)
<i>Other</i>				
Trading Subsidiary	24	(638,159)	-	(638,159)
Net interest defined benefit scheme	8	(35,000)	-	(78,000)
Total		(6,950,590)	-	(6,820,262)
Net gains/(losses) on investments		-	-	-
Net income/(expenditure)		(303,832)	-	(473,330)
Transfer between funds		-	-	-
Other recognised gains/(losses):				
Gains/(losses) on revaluation of fixed assets		(17,949)	-	(17,949)
Actuarial gains/(losses) on defined benefit pension schemes	12	(2,179,000)	-	(2,179,000)
Other gains/(losses)		-	-	-
Net movement in funds		(2,500,781)	-	2,103,338
Reconciliation of funds:				
Total funds brought forward		6,641,863	15,855	6,657,718
Fund balances carried forward		4,141,082	15,855	4,156,937



ENJOY EAST LOTHIAN LIMITED
Group and Charity Balance Sheet
As at 31 March 2017

	Notes	Group		Charity	
		2017 £	2016 £	2017 £	2016 £
Fixed Assets					
Tangible fixed assets	13	6,784,163	7,028,679	6,784,163	7,028,679
Current assets					
Stock		51,556	49,113	38,574	34,699
Debtors	14	200,825	106,617	346,675	161,617
Cash at bank and in hand		1,289,612	992,253	1,100,145	916,400
		<u>1,541,993</u>	<u>1,147,983</u>	<u>1,485,393</u>	<u>1,112,716</u>
Creditors: Amounts falling due within one year	15	<u>(808,219)</u>	<u>(717,944)</u>	<u>(751,621)</u>	<u>(682,678)</u>
Net current assets		<u>733,774</u>	<u>430,039</u>	<u>733,772</u>	<u>430,038</u>
Total assets less current liabilities excluding retirement benefit scheme		<u>7,517,937</u>	<u>7,458,718</u>	<u>7,517,936</u>	<u>7,458,717</u>
Retirement benefit scheme (deficit)/asset	12	<u>(3,361,000)</u>	<u>(801,000)</u>	<u>(3,361,000)</u>	<u>(801,000)</u>
Net assets including retirement benefit scheme asset/(deficit)		<u>4,156,937</u>	<u>6,657,718</u>	<u>4,156,936</u>	<u>6,657,717</u>
Funds	17				
Unrestricted funds		4,423,993	4,346,825	4,423,992	4,346,824
Unrestricted- Revaluation Reserve		3,078,089	3,096,038	3,078,089	3,096,038
Unrestricted- Pension Reserve		(3,361,000)	(801,000)	(3,361,000)	(801,000)
Restricted funds		15,855	15,855	15,855	15,855
Total funds		<u>4,156,937</u>	<u>6,657,718</u>	<u>4,156,936</u>	<u>6,657,717</u>

Recommendations

That the Committee notes the information contained within this report.

REPORT TO: Audit and Governance Committee

MEETING DATE: 28 November 2017

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Audit Scotland – Equal Pay

7

1 PURPOSE

- 1.1 To inform the Audit and Governance Committee of the key findings of the Accounts Commission’s recent national review on how effectively Councils have implemented the Single Status Agreement.

2 RECOMMENDATIONS

- 2.1 That the Committee note the contents of the Accounts Commission’s Equal Pay in Scottish Councils Report in relation to East Lothian Council.

3 BACKGROUND

- 3.1. In 1997, a UK wide agreement was reached to unify the pay structures of former Manual Workers and Administrative, Professional, Technical and Clerical (APT&C) staff. This became known as the Single Status Agreement (**SSA**). Scottish Councils and Trades Unions, through Cosla, negotiated the Scottish version of the Single Status Agreement in 1999, this became known as “the Red Book”. The aim of the Agreement was to harmonise pay and terms and conditions of employment to eliminate pay inequality between these two groups of employees by 2004. Each Council then had to develop, negotiate and agree their own pay and grading structure.
- 3.2. Over previous decades, woman have commonly received less pay than men for undertaking work of comparable value, through the use of bonus schemes which applied to typically male dominated jobs. The Equal Pay Act 1970 was the first piece of legislation enshrining the right to pay equality between men and women in all contractual terms of employment, including pay. The Equality Act 2010 replaces the Equal Pay Act 1970.
- 3.3. Implementing SSA was an onerous process and only one Council managed to implement their new pay and grading structure by the 2004, and the last Council implemented theirs in 2010.

- 3.4. Councils received no additional funding to implement their new pay and grading structures. Single Status brought significant costs by way of higher salaries for some and conservation of salaries for others, and some Councils and Trades Unions found themselves balancing the risk of industrial unrest with affordability. This meant that some councils when implementing Single Status did not always prioritise pay equality and the evaluation of some posts or their local pay and grading structure was later found to be discriminatory. East Lothian Council, utilising the national job evaluation structure, developed a robust pay and grading structure, in conjunction with the Trades Unions which was implemented in 2008.
- 3.5. As part of the negotiations with the Trades Union's compensation was offered to employees who were identified as historically being unfairly paid by offering payments if they signed a compromise agreement. All Councils however did receive equal pay claims following implementation, for a variety of reasons, including claims against pay and bonus protection given to male workers and discrimination inadvertently built into job evaluation schemes.
- 3.6. Since 2004, around 70,000 equal pay claims have been lodged against Councils. The costs of compensation agreements, settling claims and legal fees amounts to around £750m.
- 3.7. To mitigate any risk of future claims, Councils need to ensure they continue to have an equality proofed pay structure in place that takes account of changing factors, such as the living wage, and have appropriate measures in place e.g. equal pay audits to monitor pay equality, in line with their public sector equality duty.
- 3.8. Taking account of the above, the Accounts Commission undertook an audit of equal pay activity across Scottish Local Government, focusing on five main themes:
 - How councils implemented the Single Status Agreement.
 - How much councils have spent settling equal pay claims.
 - How councils demonstrate that they are dealing effectively with equal pay claims and minimising future risk.
 - How effective the governance and oversight arrangements of the Single Status Agreement are.
 - What lesson can be learned for the future?
- 3.9. The audit was carried out using a mixture of face to face meeting with six sample Councils and requested specific information from all 32 Councils. The survey for costs covers the financial periods 2004/05 to 2015/16. The outcome report was published in September 2017, a copy of which is attached as Appendix 1.

4 KEY FINDINGS – EAST LoTHIAN

- 4.1 **Exhibit 1** shows that out of the 32 councils, 9 councils implemented up to 2 years after East Lothian. East Lothian Council implemented the Single Status Job Evaluation Scheme for the new combined Local Government Employee Group, along with revised terms and conditions of employment with effect from 1 June 2008. Whilst this was 4 years beyond the nationally agreed implementation date, the lengthy negotiations over changes to terms and conditions and the development of an equality proofed pay and grading structure have proved to be more robust than those in some other Scottish Councils.
- 4.2 **Exhibit 2** of the report highlights the cost of the compensation payments made by each Council. East Lothian is shown as the 10th highest, but this has to be off-set against the fact that whilst we paid out a higher level of claims, this subsequently mitigated the Councils exposure to future equal pay claims lodged at tribunal, in comparison to other Councils.
- 4.3 **Exhibit 4** details the number of tribunal claims by Council showing East Lothian with 158 claims, the 5th lowest of the 32 Councils. The reduced number of actual tribunal claims lodged was down to the mitigation work undertaken by the Council in respect of settlements offered to employees reducing the necessity for claims to be lodged.
- 4.4 **Exhibit 5** shows the total cost of compensation and equal pay claims. East Lothian is identified as the 12th lowest Council in terms of costs, when you read this in conjunction with Exhibit 7, we are one of only 5 Councils who have no outstanding equal pay claims. In addition 9 of those sitting lower than us still have a number of outstanding claims to settle and therefore their costs are likely to increase and they are still exposed to further claims.

5 POLICY IMPLICATIONS

- 5.1 All Council HR policies are subject to an Integrated Impact Assessment.

6 INTEGRATED IMPACT ASSESSMENT

- 6.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

7 RESOURCE IMPLICATIONS

- 7.1 **Financial** - there are no financial implications directly associated with this report but the settlement of East Lothian cases had significant financial costs totalling £6.4m. This has however been accounted for in previous years and there is no ongoing liability in relation to these cases.
- 7.2 **Human Resources** - HR continue to monitor and report on equality issues within the Council. The Council undertakes an Equal Pay Audit on an annual basis which is reported into, the Joint Consultative Committee and published on the Council's website. In addition we have trained Trades Union members undertaking quality assurance of posts being evaluated, as well as Trades Union representation on the Job Evaluation Appeals Panel.
- 7.3 **Other** - none

8 BACKGROUND PAPERS

- 8.1 Appendix 1 – Accounts Commission – Equal Pay in Scottish Councils

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DATE	15/11/2017

Equal pay in Scottish councils



ACCOUNTS COMMISSION 

Prepared by Audit Scotland
September 2017


The Accounts Commission

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

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

Our work includes:

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


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

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

About equal pay



What is equal pay?

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

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

- like work – work that is the same or broadly similar
- work rated as equivalent – when a job evaluation has rated two jobs as being the same or similar
- work of equal value – work found to be of equal value, for example in terms of effort, skill or decision-making.

Equal pay in councils

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



What is the Single Status Agreement (SSA)?

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



Guiding principles

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

- High-quality services delivered by a well-trained, motivated workforce with security of employment. To this end, councils are encouraged to provide training and development opportunities for their employees.
- Equal opportunities in employment; equality as a core principle that underpins service delivery and employment relations; and removing all discrimination and promotion of positive action.
- A flexible approach to providing services to the communities while meeting the needs of employees, as well as employers.
- Stable industrial relations and negotiation and consultation between councils as employers and recognised trade unions.

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

About the audit

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

- how councils implemented the Single Status Agreement (SSA)
- how much councils have spent settling equal pay claims
- how councils demonstrate that they are dealing effectively with equal pay claims and minimising future risks
- how effective the governance and oversight arrangements of the SSA are
- what lessons can be learned for the future.

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

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

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

[Appendix 1](#) has more information about our methodology.

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

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

- occupational segregation, where women are still more likely to be in low-paid jobs
- unequal caring responsibilities
- a lack of flexible working, which makes it difficult to combine caring with employment
- men continuing to make up the majority of those in the highest paid and most senior roles.

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

Key messages


- 1** Under equality legislation all employers have a legal responsibility to ensure that women and men receive equal pay for equal work. In 1999, Scottish councils and trade unions reached the Single Status Agreement. The aim of the agreement was to harmonise local government pay and employment terms and conditions, and eliminate pay inequality.
- 2** Implementing the Single Status Agreement was a complex process that required all councils to undertake a large-scale job evaluation exercise. Councils underestimated the challenges involved and all but one missed the agreed implementation date of 2004. It was not until 2010 that all councils in Scotland had single status in place. This was 11 years after the agreement was signed, with implementation taking twice as long as initially planned.
- 3** There has been a lack of collective national leadership to overcome the challenges and address equal pay issues in a timely way.
- 4** Councils initially worked on the basis that they could offset the costs of implementing single status with savings from changes to staff conditions and by improving staff productivity. Councils received no additional funding to implement their new pay and grading structures. In reality, single status brought significant costs and some councils and trade unions found themselves balancing the risk of industrial unrest with affordability. This meant that some of the approaches taken by councils when implementing single status did not always prioritise pay equality and were later found to be discriminatory.
- 5** Councils sought to compensate workers who had historically been unfairly paid by offering payments if they signed compromise agreements. Councils paid around £232 million to approximately 50,000 workers in this way. The payments made were often of a relatively low value compared with the difference in pay over time, so some people refused them. Even while councils were implementing single status, they continued to receive thousands of equal pay claims for historical pay discrimination.
- 6** All councils received equal pay claims after implementation. There were many reasons for these claims, for example claims against pay and bonus protection given to predominately male workers and discrimination in job evaluation schemes. Since 2004, around 70,000 equal pay claims have been lodged against councils. The cost of compensation agreements and settling claims, along with legal fees, amounts to around £750 million. The number of claims made against councils varies widely. Some of this variation can be explained by how actively 'no-win no-fee' lawyers have encouraged claims in different council areas. There are almost 27,000 live equal pay claims and workers could potentially still make new claims against councils.
- 7** Councils need to be confident they have fair and transparent pay arrangements and take necessary action, such as regular equal pay audits, to deliver pay equality in line with their public sector equality duty. Elected members need to continue to oversee, scrutinise and challenge councils' approaches to delivering equal pay and reducing the gender pay gap.

Single Status Agreement

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

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

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

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

Background to bonus schemes

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

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

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

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

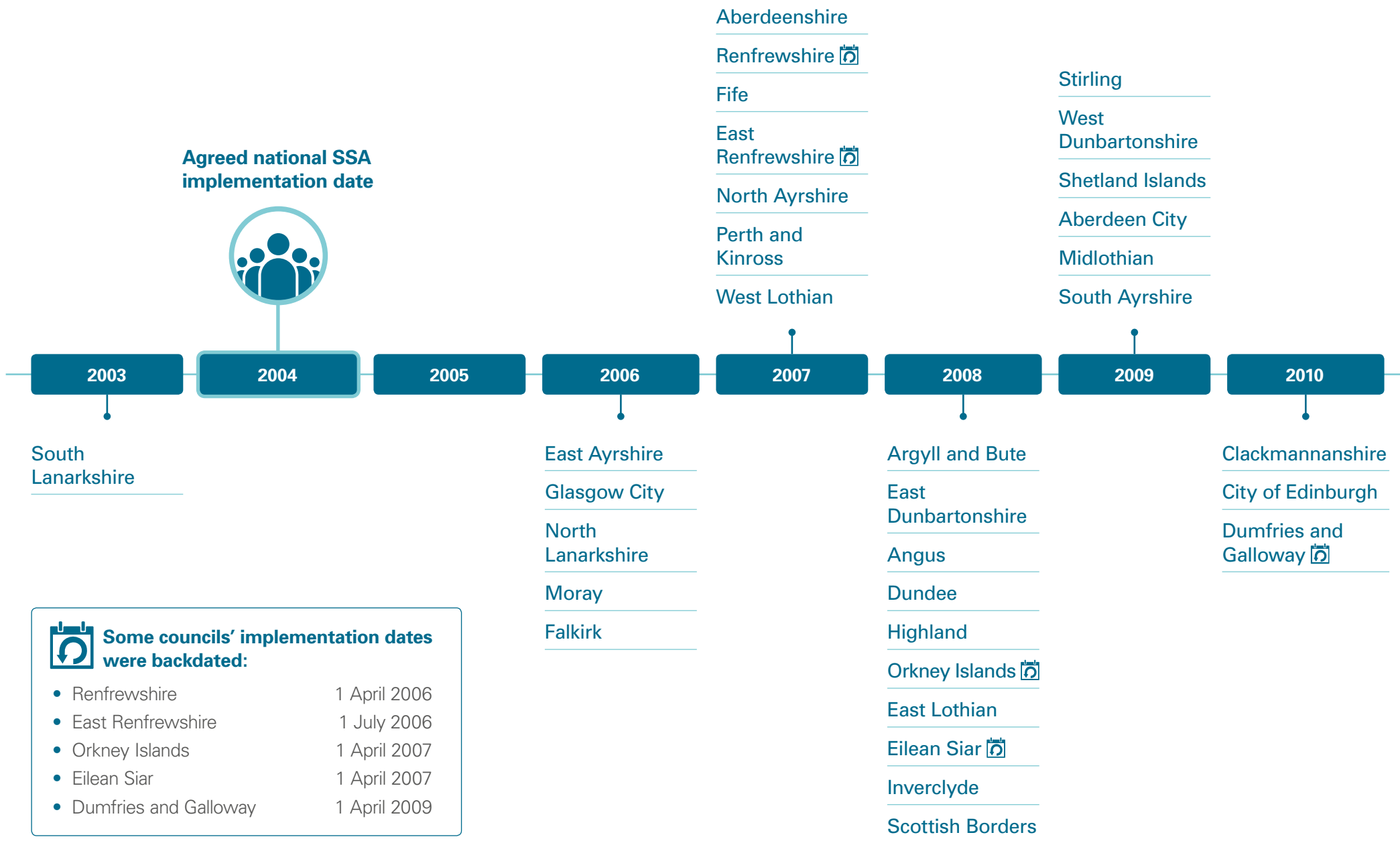
Before the SSA, councils used different pay and grading structures across manual workers and administrative and clerical workers (APT&C); this made it difficult to identify and eliminate pay inequalities for similar work between these workers. In the 1990s, equal pay claims resulted in expensive settlements,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

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

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


Exhibit 1

Councils' Single Status Agreement implementation dates



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

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

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

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

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



What does job evaluation entail?

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

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

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

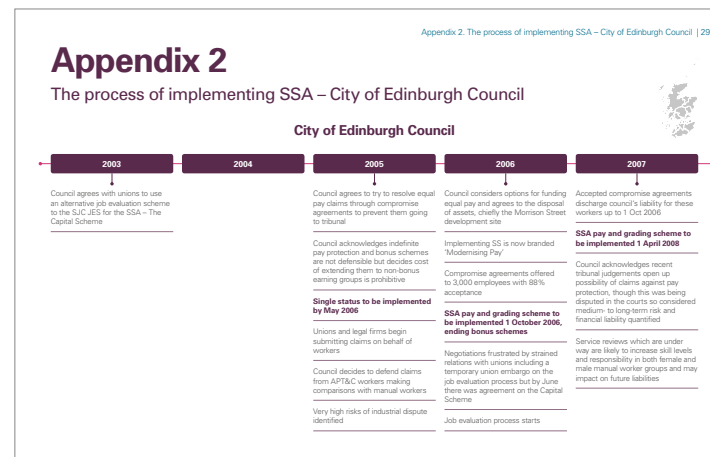
Once each council had completed its job evaluation exercise for single status, it transferred manual and APT&C employees to the new single pay and grading structure.

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

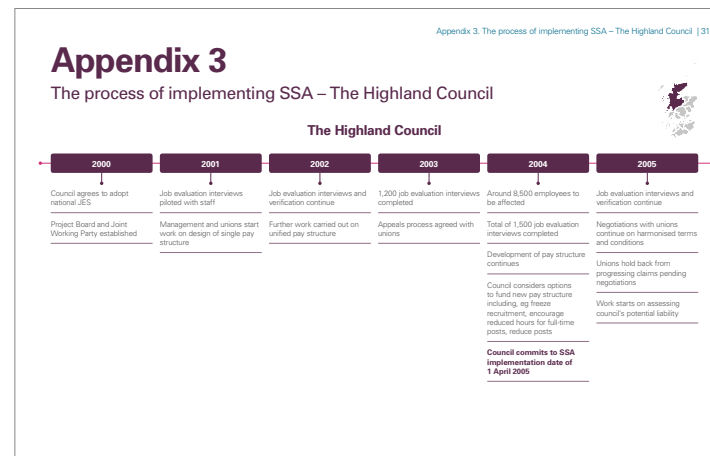
Councils were expected to evaluate jobs and implement their pay and grading structures under the SSA in agreement with trade unions.

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

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



City of Edinburgh Council
Appendix 2



The Highland Council
Appendix 3

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

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

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

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

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

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

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

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

4. *Industrial Relations: 1/2000, 2000 pay negotiations – local government employees*, Personnel Services Circular, COSLA, February 2000.

5. *4th Report, 2006 (Session 2): Report on the Financial Implications of the Local Authority Single Status Agreement*, Finance Committee, Scottish Parliament, 2006.

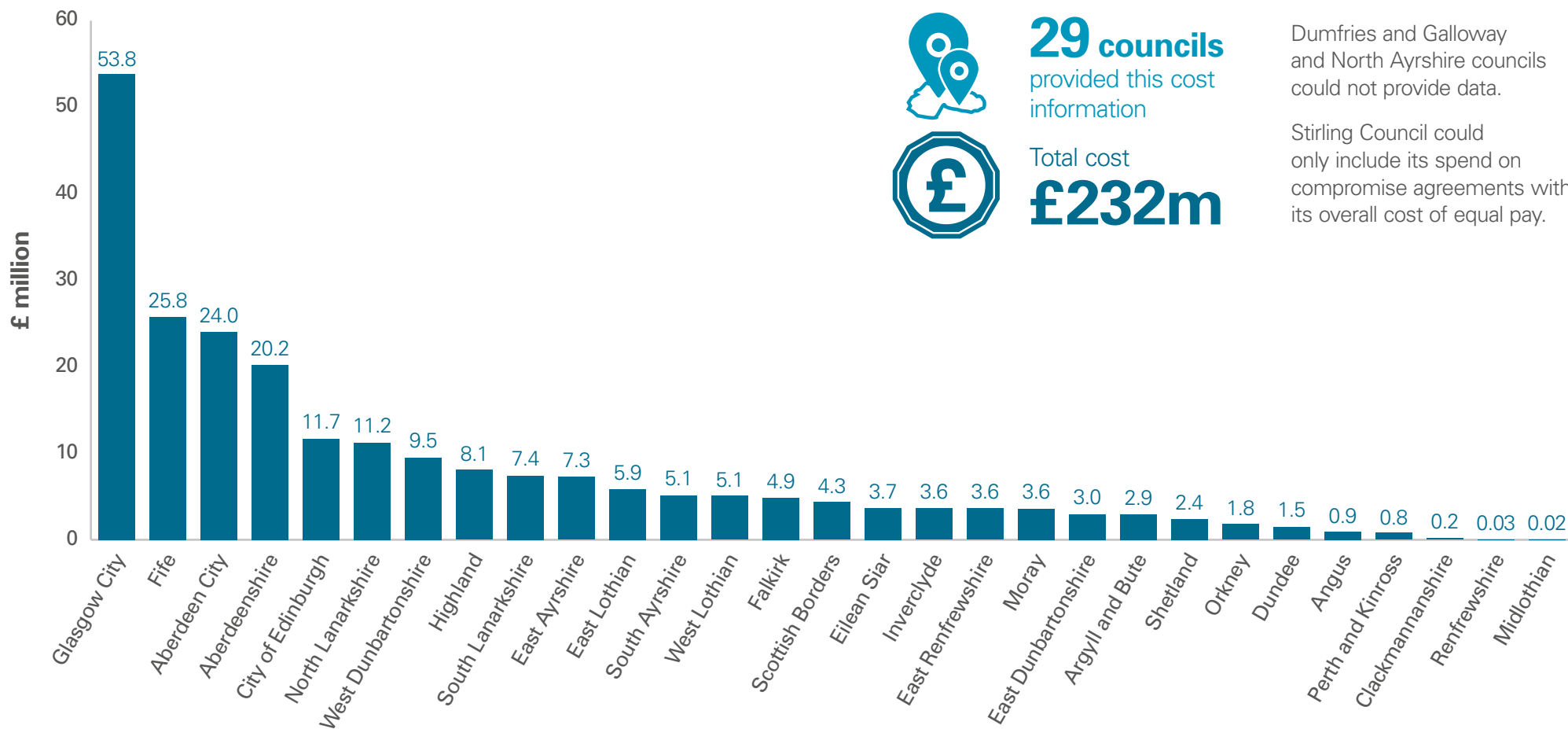
6. *Efficiency Statement 2006/07*, South Lanarkshire Council, 12 September 2007.

7. *12th Report, 2009 (Session 3): Equal Pay in Local Government*, Local Government and Communities Committee, Scottish Parliament, June 2009.

8. *Allen and others v GMB* [2008] EWCA Civ 810; [2008] ICR 1407.


Exhibit 2

Cost of compensation payments by council



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

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

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

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

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

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

Protected pay



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

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

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

Pay protection arrangements were the focus of various legal cases

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

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

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

9. *Redcar and Cleveland Borough Council v Bainbridge and others; Surtees and others v Middlesbrough Borough Council* [2008] EWCA Civ 885 CA.

10. *12th Report, 2009 (Session 3): Equal Pay in Local Government*, Local Government and Communities Committee, Scottish Parliament, June 2009.

Equal pay claims

Workers made equal pay claims after councils had implemented single status


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

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

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

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

- payment protection
- job evaluation scheme issues including job grading.

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

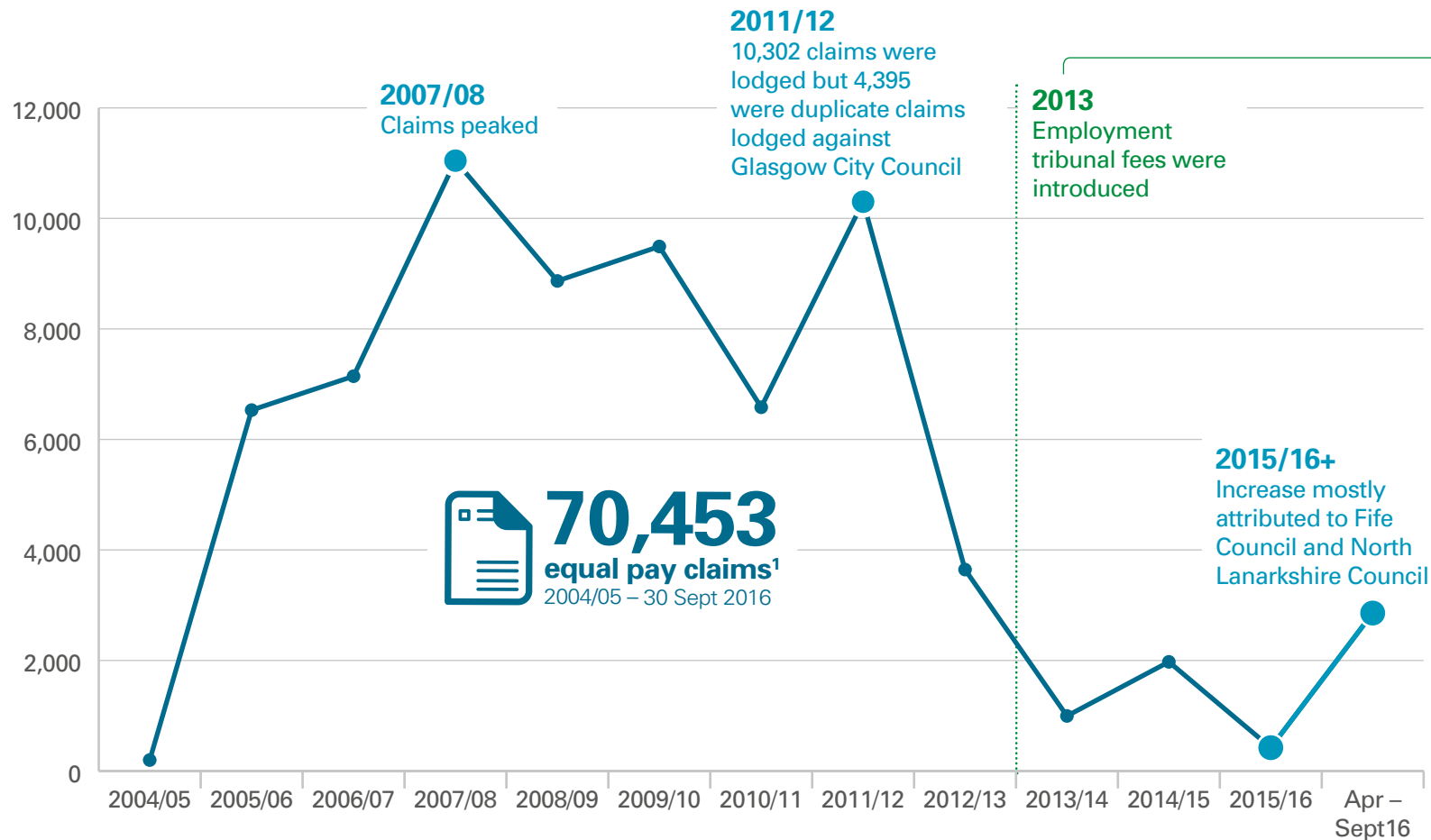
From 2004/05 to September 2016, the total cost of settling claims, including all compromise agreements and legal costs, has been around £750 million across all Scottish councils. [Exhibit 5 \(page 18\)](#) shows the cost by council over this period.

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

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

Exhibit 3

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



Employment tribunal fees

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

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

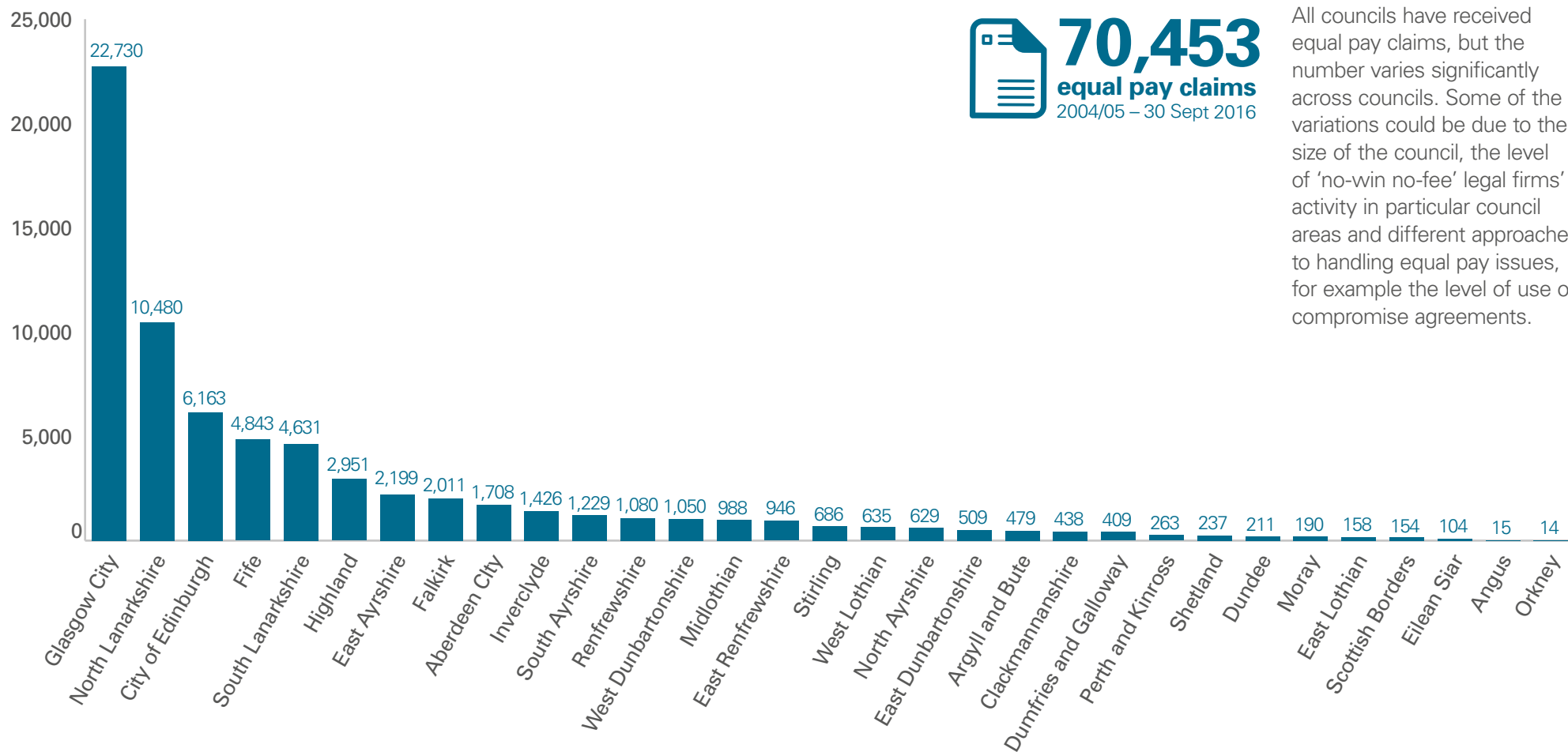
The UK government has agreed to take immediate steps to stop charging fees.

Notes:

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

Exhibit 4

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



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

Notes:

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

Source: Audit Scotland information request to Scottish councils, 2016

Exhibit 5

Total cost of equal pay claims and compensation, by council 2004/05 to 2015/16

This includes legal costs, costs of equal pay claims and settlement/compromise agreements

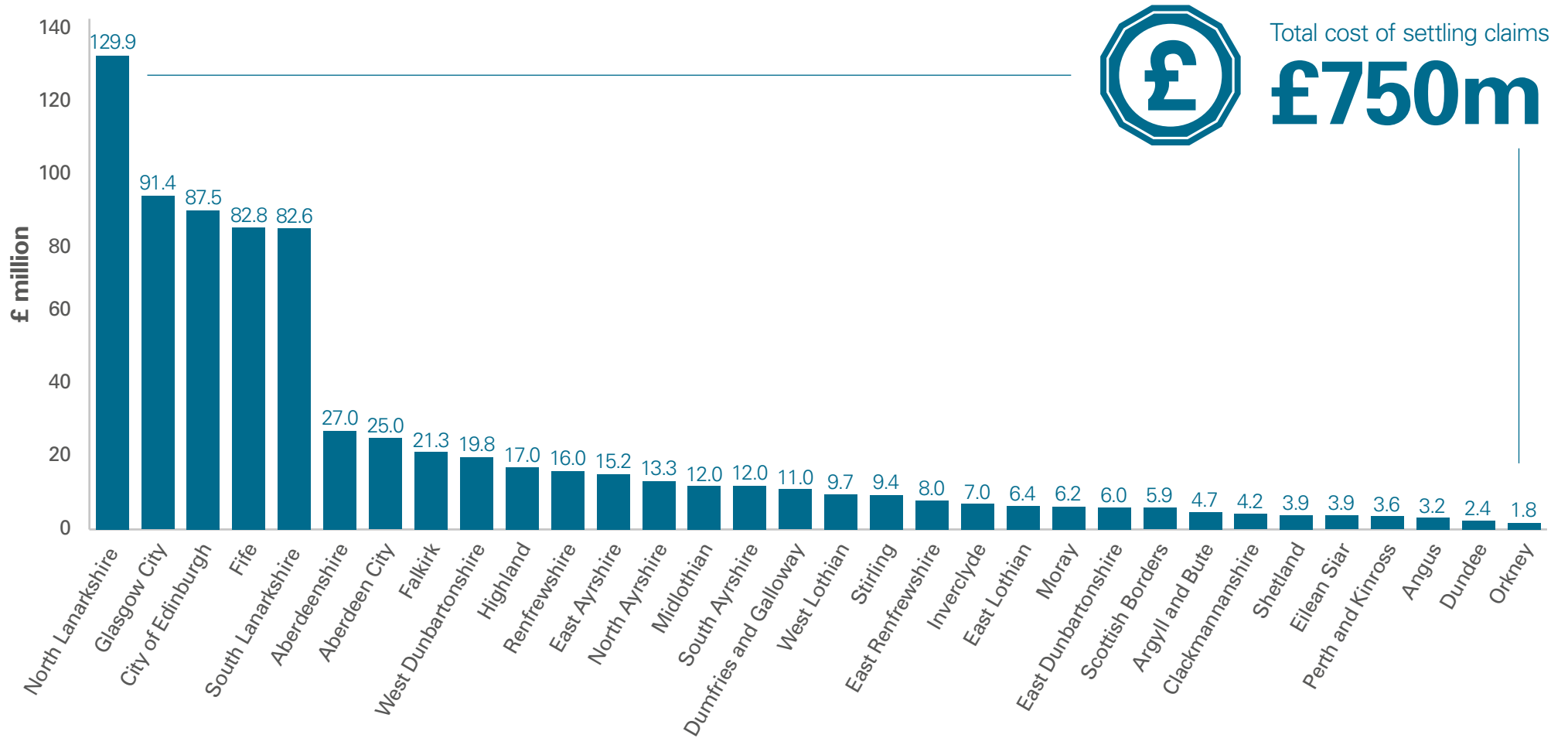
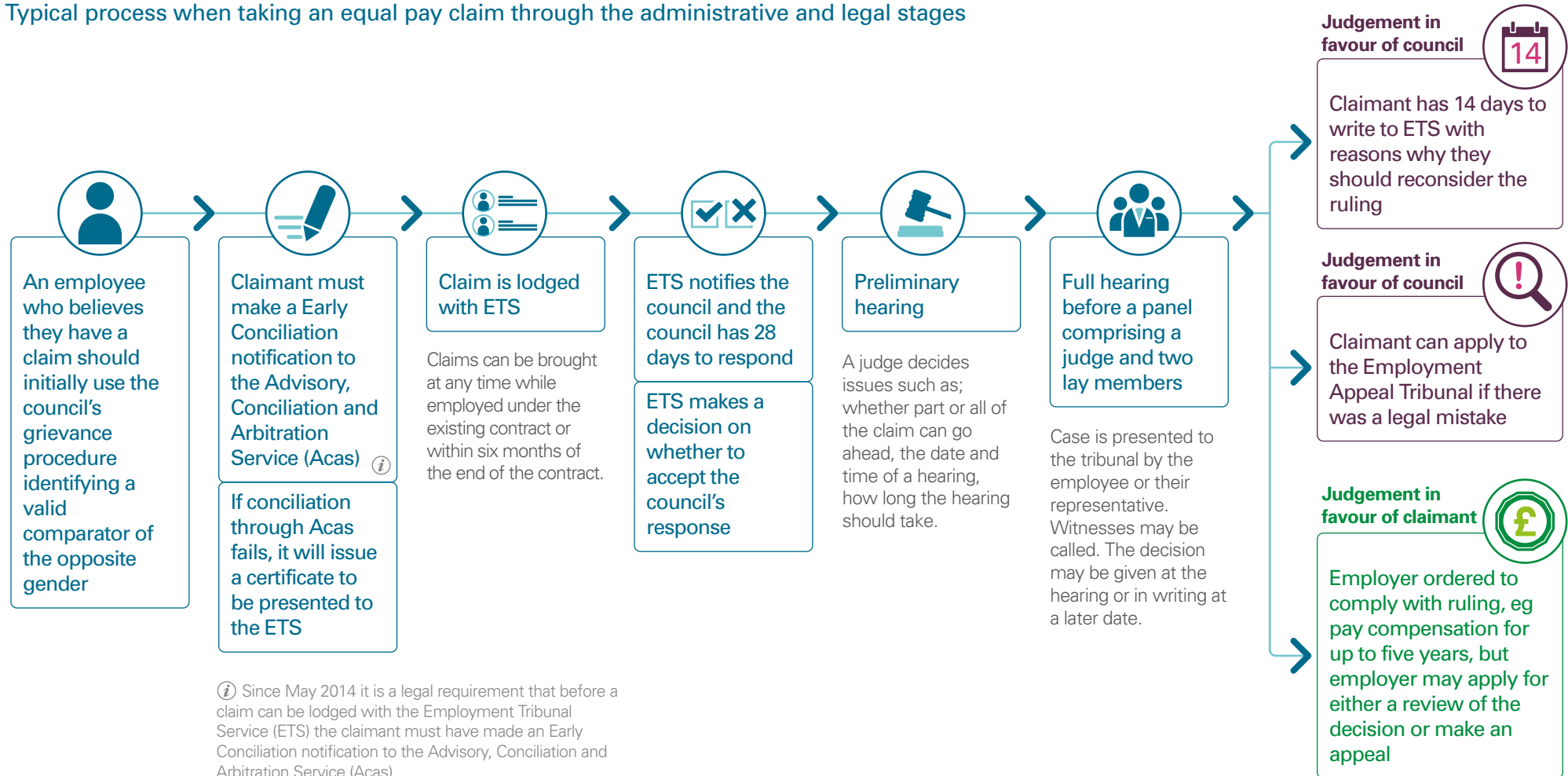


Exhibit 6

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



Source: Audit Scotland, 2017

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

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

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

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

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

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

- processing and assessing the validity of claims
- waiting for full information on the nature of the legal challenge
- the grounds for a claim changing, for example if an individual changes their legal representation
- time taken for claims to progress through the ETS
- waiting for the outcome of tribunals.

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

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

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

12. *Cannop and others v Highland Council* [2008] CSIH38; [2008] IRLR 634

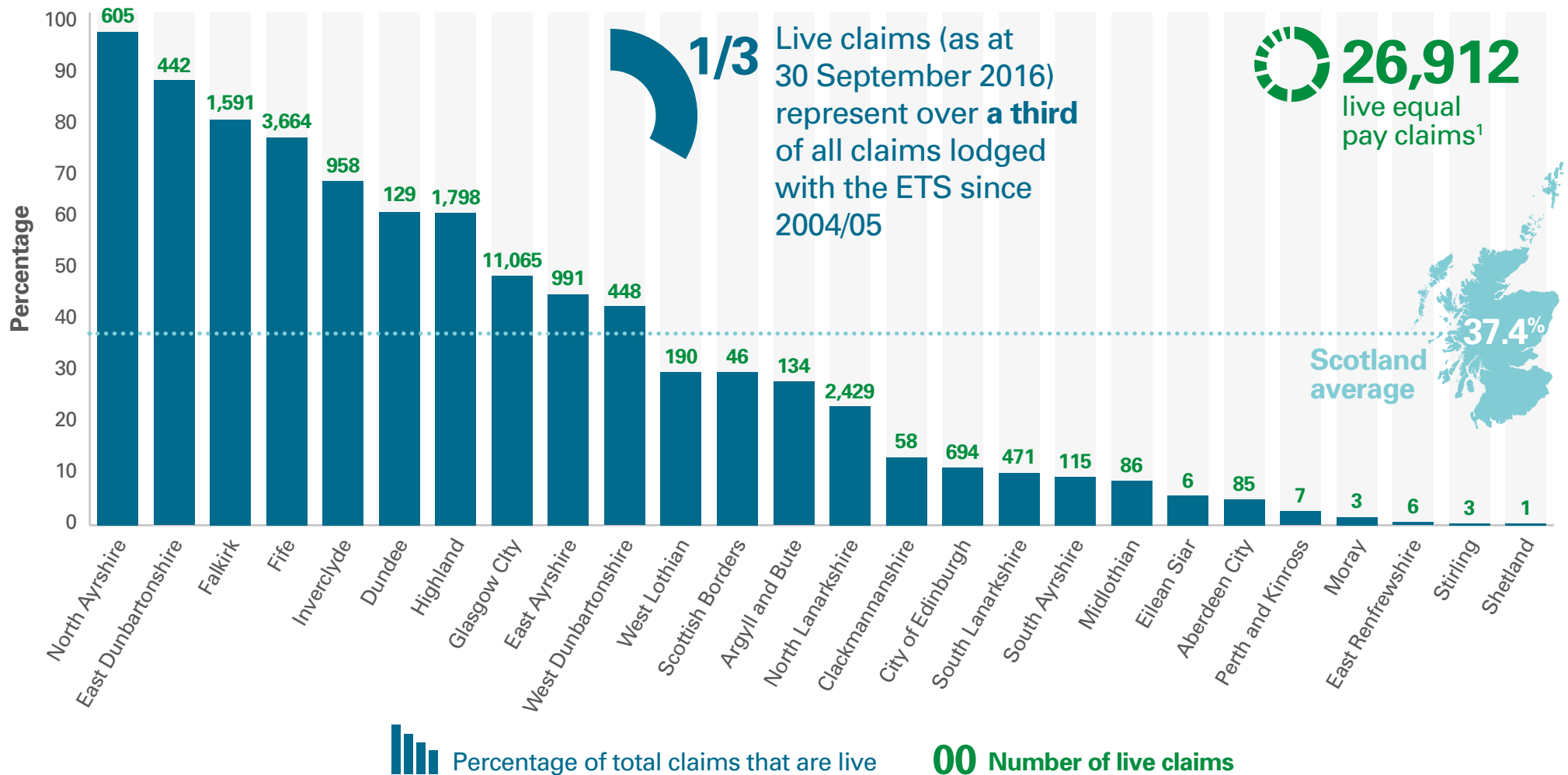
13. *North v Dumfries and Galloway Council* [2013] UKSC 45

14. *City of Edinburgh Council v Wilkinson* [2011] CSIH 70

15. *Glasgow City Council v Unison and Fox Cross Claimants* [2017] CSIH 27

Exhibit 7

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



Notes:

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

Reducing the gender pay gap

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

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

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

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

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

- develop a suite of indicators to measure the underlying causes of the gender pay gap, using comprehensive data
- change the way it measures and reports the gender pay gap in its National Performance Framework (NPF) to take into account part-time workers in Scotland.¹⁷

Close the Gap



Close the Gap works in Scotland to influence and enable action to address the causes of women's inequality at work. Along with the Equality and Human Rights Commission (EHRC), it has highlighted limitations in the way public sector bodies calculate and report the gender pay gap. For example, in 2015 Close the Gap found that:

- only 50 per cent of the public bodies it examined published adequate gender pay gap information
- 35 per cent published inadequate gender pay gap information
- 15 per cent did not publish any gender pay gap information.

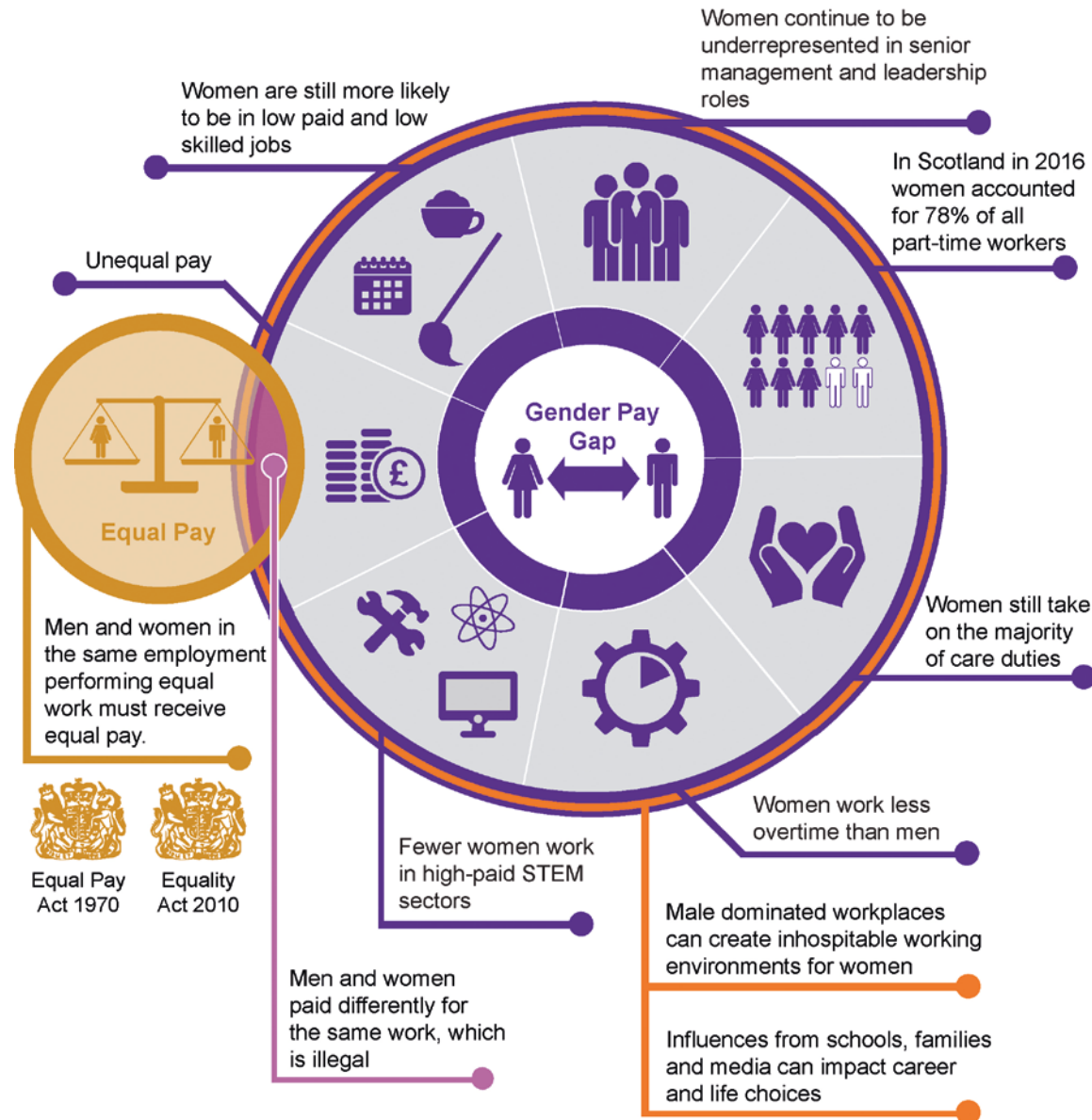
It also found there was limited evidence of the specific actions taken by public sectors bodies to tackle the causes of the gender pay gap. In 2016, Close the Gap published revised guidance to help improve compliance and promote good practice. It also recommended publishing an appropriate suite of measures, including both the mean and median pay gap figures for all employees, the full-time pay gap and the part-time pay gap.

16. *Annual Survey of Hours and Earnings (ASHE) – gender pay gap by country April 1997 to 2016*, Office for National Statistics, October 2016. This was calculated on the median hourly earnings excluding overtime.

17. *No Small Change: The Economic Potential of Closing the Gender Pay Gap*, Economy, Jobs and Fair Work Committee, June 2017.

Exhibit 8

What's the difference between equal pay and the gender pay gap?



Governance and oversight of equal pay

The public sector equality duty was created under the Equality Act 2010 and came into force in April 2011. The public sector equality duty requires public authorities to take a proactive approach to tackling discrimination. Scottish specific duties were introduced in 2012. These set out a number of steps that employers must take to meet their public sector equality duty. For example, they must publish an equal pay statement every four years which contains their equal pay policy. They must also publish equality impact assessments on new or revised policies or practices. The Equality and Human Rights Commission (EHRC) guidance states that the equal pay policy should contain:

- a commitment to monitoring pay regularly in partnership with trade unions or employee representatives
- objectives and actions the council will take on equal pay, with a named senior manager responsible for implementation of the policy
- a commitment that the organisation will apply appropriate resources to achieve equal pay.

The EHRC also highlights that the most effective way of checking compliance with equal pay obligations is to carry out an equal pay audit. An equal pay audit involves comparing the pay of men and women doing equal work. Employers should look at the causes of any differences in pay. Where there are no valid reasons for the differences, they should take action to eliminate the inequality. Only 20 councils provided us with their latest equal pay audit but not all audits met with EHRC guidance.

Councils, along with all public bodies, published their most recent equal pay statements in April 2017. Close the Gap is assessing public bodies' compliance with the gender and employment aspects of the duty. The findings will be published in October 2017.

Councils should ensure that their pay system delivers equal pay, particularly as they go through periods of organisational change. For example, when delivering services through integration authorities for health and social care and ALEOs. Councils should take appropriate steps and follow good practice to go beyond legal compliance, to ensure they are meeting all their equalities duties ([Exhibit 9, page 25](#)).

Elected members have a corporate responsibility to ensure that the council is taking all the necessary steps to comply with equal pay legislation. As part of that responsibility, elected members should ensure that the council has appropriate arrangements in place to manage outstanding equal pay claims. Elected members need to know how many equal pay claims are outstanding at any one time and how the council is dealing with these claims. Of the 21 councils that have more than ten live claims, only four provided elected members with routine update papers on equal pay litigation between September 2015 and September 2016.

Elected members also have a broader duty to promote equality. As part of discharging their equality obligations, elected members should regularly receive monitoring information on the progress their councils and, where appropriate, integration authorities and ALEOs that deliver services on their behalf, are making in reducing the gender pay gap. They should use this information to challenge officers on this progress.

Exhibit 9

Actions for councils and elected members

Councils must ensure they are fulfilling their public sector equality duties in relation to equal pay

This includes:

- publishing an equal pay statement and equal pay policy
- assessing the impact of any changes that may affect equal pay
- publishing gender pay gap information.

In complying with good practice, councils should:

- use EHRC guidance for example when undertaking equal pay audits and developing equal pay policies
- use Close the Gap's guidance on meeting the public sector equality duty
- ensure their risk registers are up to date.

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

Questions for elected members in overseeing, challenging and scrutinising equal pay


- Have I been updated on the number of ongoing equal pay claims at my council? Am I satisfied they are being dealt with effectively?
- Have I been updated on the potential cost of equal pay claims?
- Have I been updated on the steps my council is taking to mitigate against the risks of equal pay claims? For example:
 - Have I seen my council's equal pay audit? Did it meet EHRC good practice guidance? Are there any pay gaps? Can we sufficiently justify any differences in pay gaps?
 - Have I seen action plans and progress reports against my council's equal pay policy?
 - Have I been updated on changes in case law that might affect my council?
 - Have I seen equality impact assessments on any changes to my council's pay and grading system?
 - Has my council fully implemented the SJC third edition guidance and recommendations?
- Have I been informed about whether my council has allocated adequate resources to proactively carry out equality work around equal pay/gender pay gap beyond responding to equal pay claims?

Appendix 1

Methodology

Documents we reviewed for our audit

We reviewed a wide range of documents during our audit, including the following:

- *The National Agreement on Pay and Conditions of Service for Local Government Employees* (The Red Book), which includes guidance on implementing Single Status.
- [The Equality Act 2010](#) 
- Financial audit information and other work already carried out by local auditors.
- Delivering Equal Pay in Scottish Local Government, Unison Scotland submission to the Accounts Commission, May 2017.
- Scottish court papers.
- Inquiries carried out by Parliamentary committees in 2006 (Finance Committee), 2008 (Equal Opportunities Committee) and 2009 (Local Government and Communities Committee).

We asked councils for copies of:

- relevant minutes, papers and agendas for council meetings and appropriate council committees such as the Resources or Policy and Strategy Committee
- equality impact assessments and audits
- information on their gender pay gap.

Research

We commissioned an employment law specialist to independently review the historical development of equal pay law.

Data analysis

There is limited published information on equal pay in local government. We collected information from 32 councils across Scotland on the following:

- the number of equal pay claims lodged with the ETS (2004-16), how many are still live, and the outcome of those settled
- the cost of claims to councils
- when they implemented single status pay and grading structures
- if they used compromise agreements and how much they cost if they did
- information about how councils monitored progress with equal pay
- what challenges councils faced and lessons they learnt from implementing equal pay.

Councils record equal pay data in different ways, which made it difficult for us to directly aggregate and compare data. For example:

- some councils record claims by calendar year, others by financial year
- one council only maintained information on live claims on its database and did not hold information about claims that had been settled
- some councils could identify and quantify duplicate claims, while others could only indicate that their data included duplicates without specifying how many or when they had been lodged
- one council recorded data by the date settlements were made rather than when claims were lodged
- one council recorded the number of claimants rather than the number of claims.

Interviews we carried out for this audit

We selected six councils to visit to further our understanding of how single status had been implemented. These were Angus Council, East Ayrshire Council, the City of Edinburgh Council, The Highland Council, North Lanarkshire Council and South Lanarkshire Council. These councils represent a mix in terms of size, rurality, the number and cost of claims, the job evaluation scheme used, and the length of time they took to implement single status.

At each of these councils we conducted interviews with typically:

- the chief executive
- the director or head of finance
- the director or head of human resources and legal
- other appropriate council officers
- the council leader and conveners of relevant committees
- union representatives from Unite and Unison.

We also interviewed the following stakeholders:

- The Convention of Scottish Local Authorities
- Trade unions at national level, including the Scottish Trades Union Congress and Unison (STUC), and some local representatives
- The Scottish Government
- Close the Gap
- The Society of Personnel and Development Scotland
- A Queen's Counsel, specialising in employment and discrimination law
- HM Court and Tribunal Service

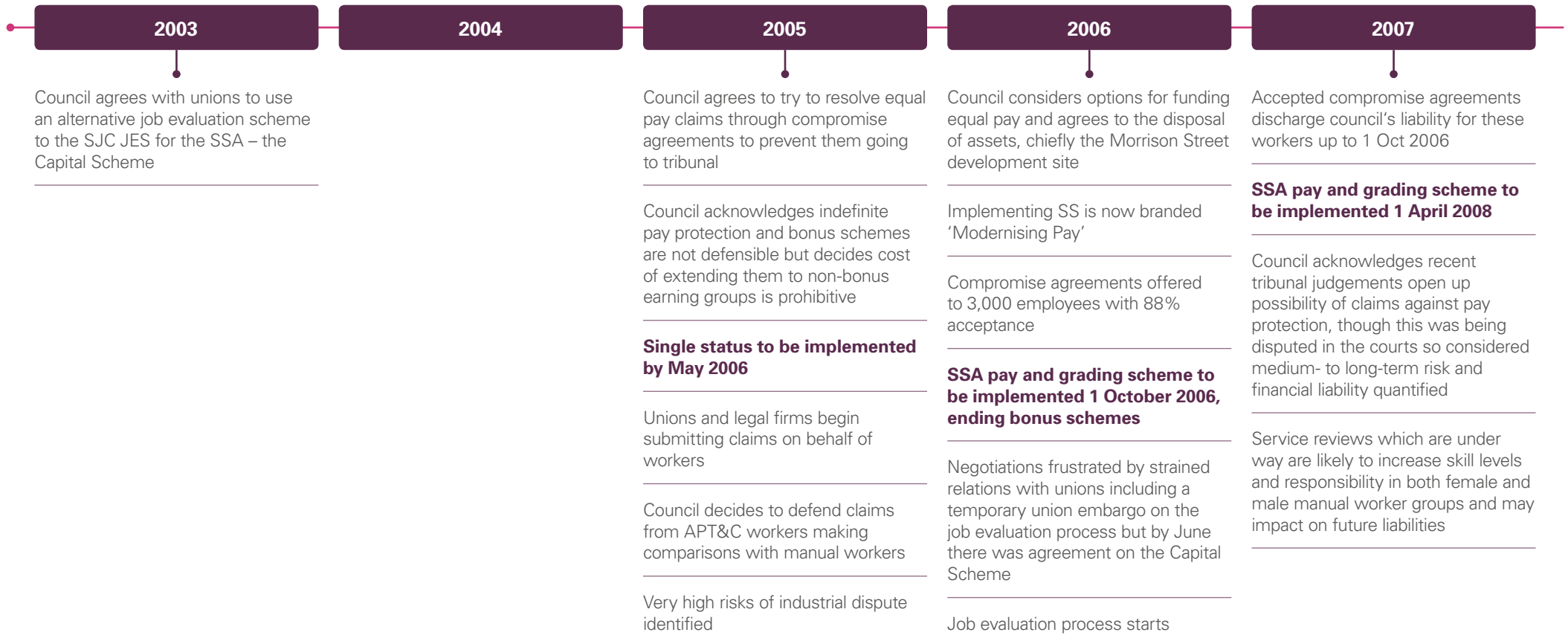
- Consultant to the COSLA job evaluation consortium
- Legal Office of the NHS
- A lawyer and an independent equal pay consultant.

Appendix 2

The process of implementing SSA – City of Edinburgh Council



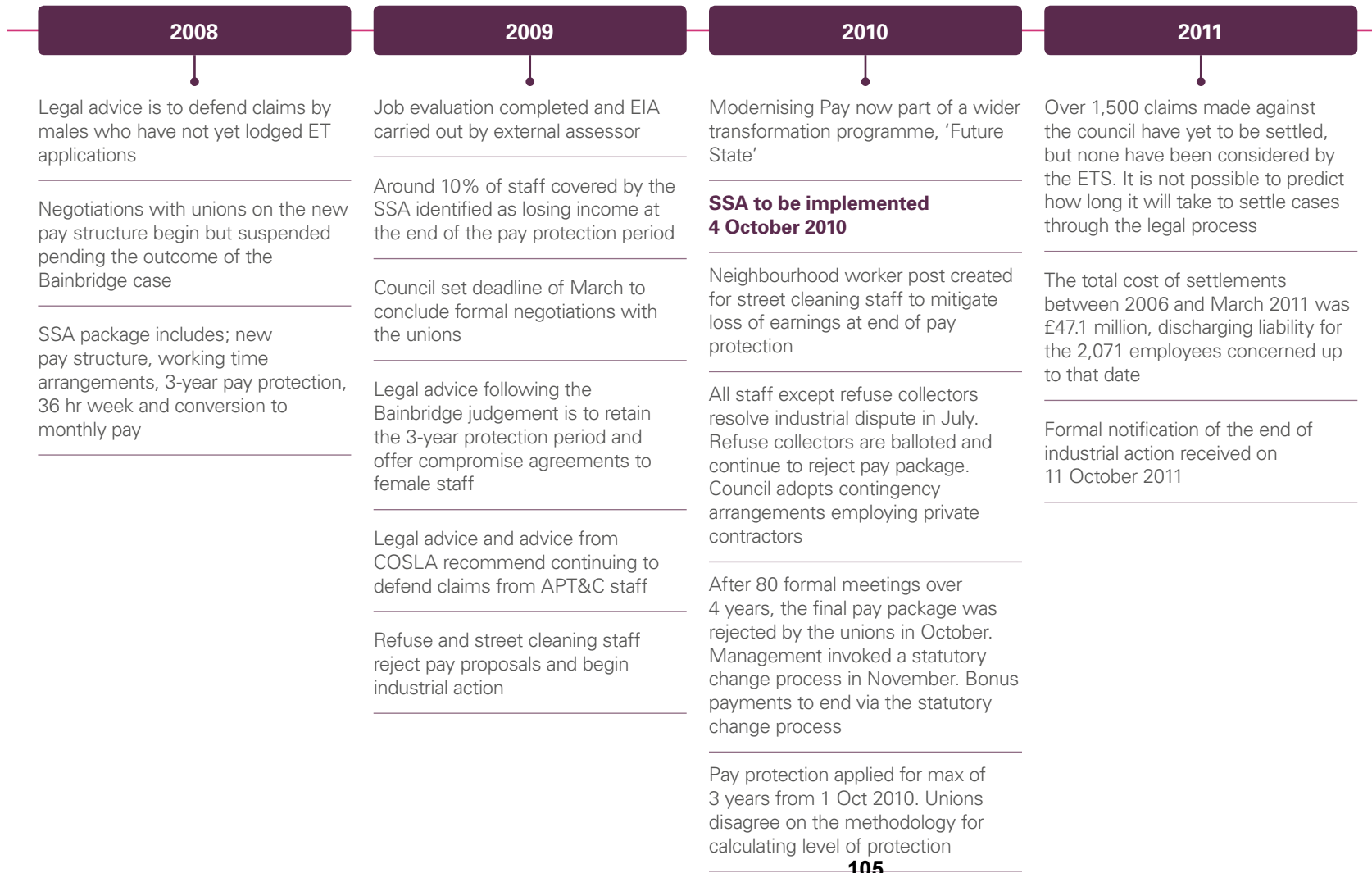
City of Edinburgh Council





The process of implementing SSA – City of Edinburgh Council (continued)

City of Edinburgh Council



Appendix 3

The process of implementing SSA – The Highland Council



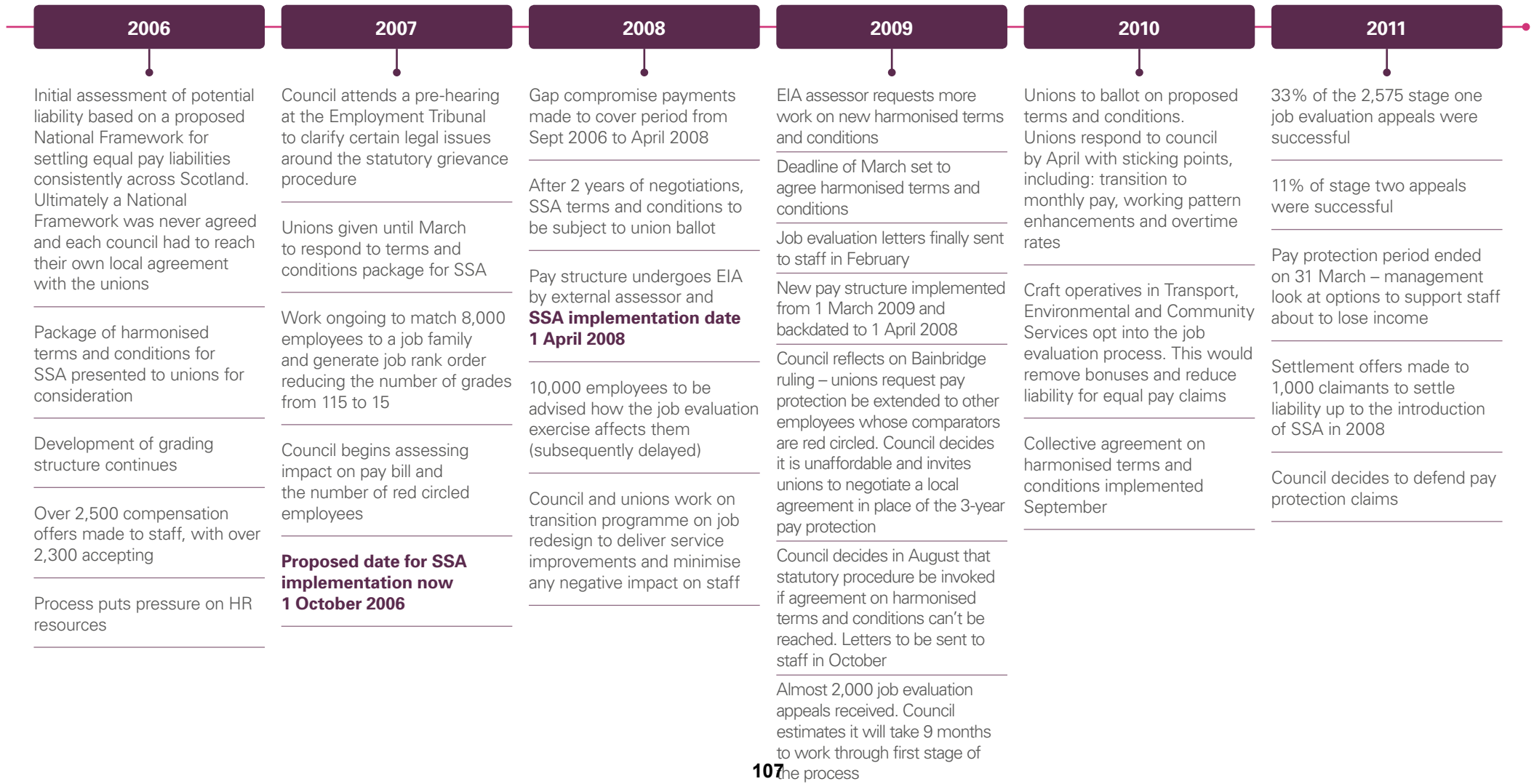
The Highland Council





The process of implementing SSA – The Highland Council (continued)

The Highland Council



Equal pay in Scottish councils

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REPORT TO: Audit and Governance Committee

MEETING DATE: 28 November 2017

BY: Depute Chief Executive (Resources & People Services)

SUBJECT: Internal Audit Report – Homelessness

8

1 PURPOSE

- 1.1 To inform the Audit and Governance Committee of the recently issued audit report on Homelessness.

2 RECOMMENDATION

- 2.1 That the Audit and Governance Committee note the contents of the Executive Summary and Action Plan.

3 BACKGROUND

- 3.1 A review of the internal controls surrounding Homelessness was undertaken as part of the Audit Plan for 2017/18.
- 3.2 The main objective of the audit was to ensure that the internal controls in place were operating effectively.
- 3.3 The main findings from our audit work are outlined in the attached report.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 None

AUTHOR'S NAME	Mala Garden
DESIGNATION	Internal Audit Manager
CONTACT INFO	01620 827326
DATE	16 November 2017

EAST LOTHIAN COUNCIL – INTERNAL AUDIT HOMELESSNESS

1. EXECUTIVE SUMMARY

1.1 Introduction

As part of the Audit Plan for 2017/18, a review was undertaken of Homelessness. A summary of our main findings is outlined below.

1.2 Areas where Expected Controls were Met

- The Council has in place an approved Charging for Homeless Services Policy – the Policy sets out the contributions that homeless clients, placed in Bed and Breakfast accommodation, are required to make.
- Payments made by the Council to Bed and Breakfast providers were in accordance with the contract rates.

1.3 Areas with Scope for Improvement

- In some cases, homeless clients were placed in Bed and Breakfast accommodation, although the provider was operating without the appropriate Houses in Multiple Occupation (HMO) licence. *Risk – failure to comply with legislation.*
- There was a failure by the Council to maintain independent records of all rental income received in respect of homeless clients placed in private sector accommodation. *Risk – loss of income to the Council.*
- There had been a failure by the Council to ensure that all amounts due in respect of end of tenancy liabilities had been fully recovered from the private sector leasing contractor – for tenancies that have ended since August 2016 significant amounts remain outstanding at the contract end date. *Risk – loss of income to the Council.*
- For private sector leased properties returned to landlords, there was a lack of evidence to indicate that rents paid in advance had been fully recovered. *Risk – loss of income to the Council.*
- There had been a failure to resolve ongoing issues that had been identified in respect of the private sector leasing contract, resulting in potential liabilities to the Council at the contract end date. *Risk – loss of income to the Council.*
- In some cases, homeless clients were being placed in non-contract accommodation (e.g. hotels or holiday parks) where the rates charged were higher than the rates for the Bed and Breakfast contract. *Risk – overspends may occur.*

1.4 Summary

Our review of Homelessness has identified a number of areas with scope for improvement. Detailed findings and recommendations are contained in our main audit report.

**Mala Garden
Internal Audit Manager**

November 2017

**EAST LOTHIAN COUNCIL – INTERNAL AUDIT
HOMELESSNESS**

ACTION PLAN

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.1.1	Management should ensure that both the Local Housing Strategy and the operational policy are finalised and formally approved.	Medium	Homelessness Manager	Agreed		April 2018
3.3.1	Management should ensure that a consistent approach is adopted for the receipt and evaluation of all tenders received – tenders should be evaluated in line with the Council's Statement of Requirements.	Medium	Homelessness Manager	Agreed		Next tendering exercise
3.3.2	Management should ensure compliance with the reporting requirements detailed in the Council's Corporate Procurement Procedures.	Medium	Homelessness Manager	Agreed		Next tendering exercise
3.3.3	Management should review the procedures in place for logging applications and payments received for HMO licences.	Medium	Team Manager – Democratic and Licensing	Agreed		March 2018

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.3.3 (cont)	<p>Management should ensure that all relevant Bed and Breakfast providers hold a valid HMO licence.</p> <p>Management should ensure compliance with legislation – homeless clients should only be placed in establishments that hold a valid HMO licence.</p>	High	Homelessness Manager	Agreed		January 2018
3.4.1	Management should explore all options available to minimise the use of non-contracted accommodation.	Medium	Homelessness Manager	Agreed		Ongoing – action commenced November 2017
3.5.1	<p>Management should ensure that adequate records are maintained of all rental income received in respect of homeless clients.</p> <p>Management should ensure that for each property a reconciliation is undertaken between the rent amounts due and the actual amounts received.</p>	High	Homelessness Manager	Agreed – all properties now within Orchard Housing Management rent structure.		In Place
3.5.2	Management should ensure that resources are prioritised to enable staff to identify all amounts due in respect of end of tenancy liabilities.	High	Homelessness Manager	Agreed		Ongoing – process commenced November 2017

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.5.2 (cont)	<p>Management should ensure that appropriate action is taken to recover all sums due from the contractor as a matter of urgency.</p> <p>Management should seek legal advice to help resolve the outstanding issues in respect of end of tenancy liabilities.</p>					
3.5.3	Management should review the current arrangements for calculating lease fee refunds for void properties to ensure compliance with contract conditions.	Medium	Homelessness Manager	Agreed		Ongoing – action underway since November 2017
3.5.4	Management should ensure that all rent overpayments are identified and that urgent action is taken to recover the overpayments from the contractor.	High	Homelessness Manager	Agreed		Ongoing – process commenced November 2017
3.5.5	<p>Management should ensure that urgent action is taken to inspect all leased properties prior to the contract end date.</p> <p>Management should ensure that all properties are returned by the contractor to the Council in the same condition as they were initially let.</p>	High	Homelessness Manager	Agreed		Ongoing – process for securing temporary member of staff commenced, service review reflects need for member of staff for this service.

Grading of Recommendations

In order to assist Management in using our reports, we categorise our recommendations according to their level of priority as follows:

Level	Definition
High	Recommendations which are fundamental to the system and upon which Management should take immediate action.
Medium	Recommendations which will improve the efficiency and effectiveness of the existing controls.
Low	Recommendations concerning minor issues that are not critical, but which may prevent attainment of best practice and/or operational efficiency.

REPORT TO: Audit and Governance Committee

MEETING DATE: 28 November 2017

BY: Depute Chief Executive (Resources & People Services)

9

SUBJECT: Internal Audit Report – ALEO (Enjoy East Lothian Limited)

1 PURPOSE

- 1.1 To inform the Audit and Governance Committee of the recently issued audit report on Enjoy East Lothian Limited.

2 RECOMMENDATION

- 2.1 That the Audit and Governance Committee note the contents of the Executive Summary and Action Plan.

3 BACKGROUND

- 3.1 As part of the Audit Plan for 2017/18, a review was undertaken of the arrangements in place for funding external bodies and Following the Public Pound. Our review focused on Enjoy East Lothian Limited.
- 3.2 The main objective of the audit was to ensure that appropriate governance arrangements were in place.
- 3.3 The main findings from our audit work are outlined in the attached report.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None
6.2 Personnel - None
6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 None

AUTHOR'S NAME	Mala Garden
DESIGNATION	Internal Audit Manager
CONTACT INFO	01620 827326
DATE	16 November 2017

**EAST LoTHIAN COUNCIL – INTERNAL AUDIT
ALEO – ENJOY EAST LoTHIAN LIMITED**

1. EXECUTIVE SUMMARY

1.1 Introduction

As part of the Audit Plan for 2017/18, a review was undertaken of the arrangements in place for funding external bodies and Following the Public Pound. Our review focused on Enjoy East Lothian Limited. A summary of our main findings is outlined below.

1.2 Areas where Expected Controls were Met

- A Funding Agreement is in place between East Lothian Council and Enjoy East Lothian Limited for the delivery and management of sport and leisure services.
- Regular contract meetings are held between Senior Officers of the Council and Senior Officers of Enjoy East Lothian Limited to review financial and operational performance, planned maintenance works and health and safety.
- A number of performance measures have been developed to demonstrate that key objectives are being met and outcomes delivered.

1.3 Areas with Scope for Improvement

- The arrangements in place for obtaining assurance from Enjoy East Lothian Limited on the adequacy of its governance, risk management and control arrangements require review. *Risk – lack of assurance on the control environment.*
- There was a lack of adequate arrangements in place to ensure that an annual Business Plan is submitted by Enjoy East Lothian Limited covering expected income and expenditure; specification of services; internal monitoring systems in place and the achievement of best value in the delivery of services. There was no evidence of Business Plans being submitted to the Council on an annual basis for approval. *Risk – non-compliance with the funding agreement in place.*
- The risk management arrangements in place require review – there is a lack of evidence to indicate that the Council has clearly identified all key risks associated with Enjoy East Lothian Limited, together with the appropriate actions required to mitigate the risks. *Risk – failure to identify key risks.*

1.4 Summary

Our review of the governance arrangements in place for funding external bodies (Enjoy East Lothian Limited) has identified a number of areas with scope for improvement. Detailed findings and recommendations are contained in our main audit report.

**Mala Garden
Internal Audit Manager**

November 2017

**EAST LoTHIAN COUNCIL – INTERNAL AUDIT
ALEO – ENJOY EAST LoTHIAN LIMITED**

ACTION PLAN

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.2.1	<p>Management should ensure that a Business Plan is submitted by Enjoy on an annual basis as set out in the Funding Agreement.</p> <p>Consideration should be given to the Business Plan being formally approved by the Council on an annual basis.</p>	Medium	Service Manager – Sport, Countryside and Leisure	Agreed – Business Plans to be provided annually.		March 2018
3.3.2	Management should ensure that annual performance reports are submitted by Enjoy to demonstrate that key objectives are being met and outcomes delivered.	Medium	Service Manager – Sport, Countryside and Leisure	Agreed		November 2017
3.4.1	<p>Management should ensure that arrangements are in place for obtaining assurance on the adequacy of the governance, risk management and control arrangements within Enjoy East Lothian Limited.</p> <p>Management should ensure that all risks associated with Enjoy are clearly identified and appropriate action taken to mitigate the risks.</p>	Medium	Service Manager – Sport, Countryside and Leisure	<p>Agreed – process to be confirmed.</p> <p>Agreed</p>		<p>December 2017</p> <p>February 2018</p>

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.5.1	Management should ensure that systems are in place to gain an overview of how objectives are being met by Enjoy, in relation to complaints handling.	Medium	Service Manager – Sport, Countryside and Leisure	Agreed – will be part of the agenda for the quarterly meetings.		December 2017

Grading of Recommendations

In order to assist Management in using our reports, we categorise our recommendations according to their level of priority as follows:

Level	Definition
High	Recommendations which are fundamental to the system and upon which Management should take immediate action.
Medium	Recommendations which will improve the efficiency and effectiveness of the existing controls.
Low	Recommendations concerning minor issues that are not critical, but which may prevent attainment of best practice and/or operational efficiency.

REPORT TO: Audit and Governance Committee
MEETING DATE: 28 November 2017
BY: Depute Chief Executive (Resources & People Services)
SUBJECT: Internal Audit Report – Training

10

1 PURPOSE

- 1.1 To inform the Audit and Governance Committee of the recently issued audit report on Training.

2 RECOMMENDATION

- 2.1 That the Audit and Governance Committee note the contents of the Executive Summary and Action Plan.

3 BACKGROUND

- 3.1 A review of the internal controls surrounding training and development was undertaken as part of the Audit Plan for 2017/18.
- 3.2 The main objective of the audit was to ensure that the internal controls in place were operating effectively.
- 3.3 The main findings from our audit work are outlined in the attached report.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 None

AUTHOR'S NAME	Mala Garden
DESIGNATION	Internal Audit Manager
CONTACT INFO	01620 827326
DATE	16 November 2017

EAST LOTHIAN COUNCIL – INTERNAL AUDIT TRAINING

1. EXECUTIVE SUMMARY

1.1 Introduction

As part of the Audit Plan for 2017/18, a review was undertaken of the internal controls in place for training and development. A summary of our main findings is outlined below.

1.2 Areas where Expected Controls were Met

- The Council has adequate arrangements in place to demonstrate its commitment to learning and development. A Learning at Work Policy is in place – the Policy was reviewed and updated in 2015 and seeks to ensure that employee learning and development supports the delivery of the Council's plans, aims and ambitions.
- A comprehensive e-learning system is in place, which provides a flexible opportunity for learning and development – learnPro is the Council's online learning portal and staff have access to a suite of e-learning modules.
- Arrangements are in place for coordinating staff training and development within the Council – the Organisational Development team has responsibility for preparing, coordinating and delivering corporate training, while dedicated development officers are in place within certain service areas (e.g. Education, Health and Social Care Partnership) to support learning and development specific to their service area.
- A Performance Review and Development (PRD) process is in place to support individual employees in their learning and development.
- Our review highlighted examples of good practice in some service areas including a structured approach to training being adopted; an annual Learning and Development Plan being drawn up at service level and the alignment of the Plan to the training budget; training needs analysis identifying the training required for each post being undertaken; and training application forms being completed clearly outlining the relevance of the training being requested and how the training will be used, evaluated and feedback provided.

1.3 Areas with Scope for Improvement

- In some cases, where employees had been granted financial assistance by the Council to undertake further or higher education studies, there had been a failure to complete a Learning/Qualification Contract outlining the employee's obligations and their agreement to repay course fees should they leave the Council within two years of completing their studies. *Risk – loss of income to the Council.*
- There was a lack of a consistent approach for the recording of training and development activities across the Council. *Risk – information held may be incomplete.*

1.4 Summary

Our review of training and development has identified some areas with scope for improvement. Detailed findings and recommendations are contained in our main audit report.

Mala Garden
Internal Audit Manager

November 2017

**EAST LOTHIAN COUNCIL – INTERNAL AUDIT
TRAINING**

ACTION PLAN

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.2.1	Consideration should be given to adopting a consistent approach for the recording of training and development activities across the Council.	Medium	Service Manager – Corporate Policy and Improvement	The new HR / Payroll system will have the capability to record training and development across the Council.		November 2018
3.3.1	For all employees granted financial assistance by the Council to undertake further or higher education studies, Management should ensure that a Learning / Qualification Contract is completed and is passed to HR, as required by the Learning at Work Policy.	Medium	Service Manager – Corporate Policy and Improvement	All Managers to be reminded of the Learning at Work Policy.		December 2017
3.4.1	Management should explore the options available for ensuring that training costs paid via purchase cards are allocated to the appropriate code in the Council's general ledger.	Medium	Service Manager – Business Finance	Agreed – current processes to be reviewed.		March 2018

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	RISK ACCEPTED/ MANAGED	AGREED DATE OF COMPLETION
3.5.1	Management should ensure that appropriate feedback arrangements are in place for evaluating external training/conferences attended by staff, to ensure that the desired impact is being achieved.	Medium	Service Manager – Corporate Policy and Improvement	All Managers to be reminded of the need to ensure staff who attend external training/conferences provide feedback and evaluation – consideration to be given to providing a simple feedback/ evaluation template.		January 2018

Grading of Recommendations

In order to assist Management in using our reports, we categorise our recommendations according to their level of priority as follows:

Level	Definition
High	Recommendations which are fundamental to the system and upon which Management should take immediate action.
Medium	Recommendations which will improve the efficiency and effectiveness of the existing controls.
Low	Recommendations concerning minor issues that are not critical, but which may prevent attainment of best practice and/or operational efficiency.

REPORT TO: Audit and Governance Committee

MEETING DATE: 28 November 2017

BY: Depute Chief Executive (Resources & People Services)

SUBJECT: Internal Audit Follow-up Reports

11

1 PURPOSE

- 1.1 To inform the Audit and Governance Committee of the recent follow-up work undertaken by Internal Audit and the progress made by Management in implementing audit recommendations.

2 RECOMMENDATION

- 2.1 That the Audit and Governance Committee note the findings of Internal Audit's follow-up work on Housing Voids and Home to School Transport.

3 BACKGROUND

- 3.1 Internal Audit presented a follow-up report to the Audit and Governance Committee meeting of 26 September 2017, at which it was agreed that a further update on Housing Voids and Home to School Transport would be brought to the Committee. Our findings are detailed below.

Housing Voids

- 3.2 Internal Audit's report on Housing Voids was issued in September 2016. Our follow-up review has identified that of the nine recommendations made, three have now been fully implemented and the remaining six are currently outstanding.
- 3.3 Management have advised us that difficulties were encountered in recruiting a member of staff to take forward this work, however once the project officer has been appointed and the voids policy project team constituted, it will undertake both a review of the voids policy and address the operational and policy related recommendations of the internal audit report.

- 3.4 An updated action plan outlining the outstanding recommendations and revised dates of completion is attached to this report.

Home to School Transport

- 3.5 Internal Audit's report on Home to School Transport was issued in March 2017. Our follow-up review has highlighted that since the last update provided in September 2017, all five recommendations made have now been implemented.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None
6.2 Personnel - None
6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 None

AUTHOR'S NAME	Mala Garden
DESIGNATION	Internal Audit Manager
CONTACT INFO	01620 827326
DATE	16 November 2017

**EAST LoTHIAN COUNCIL – INTERNAL AUDIT
HOUSING VOIDS**

OUTSTANDING RECOMMENDATIONS

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	AGREED DATE OF COMPLETION	REVISED DATE OF COMPLETION
3.1.1	<p>A detailed review of the Voids Management Policy should be undertaken to ensure that it accurately reflects all revisions approved by Management.</p> <p>Management should ensure that the revised Policy is available to all relevant members of staff and tenants.</p>	Medium	Service Manager - Community Housing	Agreed. This is a major policy review, which will require consultation with our tenants as per Housing (Scotland) Act 2001.	July 2017	December 2018
3.2.1	Management should ensure that clear targets are in place for each stage of the voids management process.	Medium	Service Manager - Community Housing	Agreed – targets will be developed for inclusion in the PMF during the coming months.	Full implementation and reporting from April 2017.	December 2018
3.3.1	<p>Management should review the adequacy and effectiveness of the existing voids management processes in place.</p> <p>Management should ensure that the 28 days End of Tenancy notice period is used as effectively as possible to manage the voids process.</p>	Medium	Service Manager - Community Housing	Agreed	March 2017	December 2018

PARA REF	RECOMMENDATION	GRADE	RESPONSIBLE OFFICER	AGREED ACTION	AGREED DATE OF COMPLETION	REVISED DATE OF COMPLETION
3.4.1	<p>Management should ensure that the process of identifying a new tenant commences as soon as the Council is made aware that the property is to become vacant.</p> <p>Consideration should be given to undertaking pre-void allocations where appropriate.</p>	Medium	Service Manager - Community Housing	Agreed – to be considered as part of the Policy review.	July 2017	December 2018
3.5.1	Management should review the impact on void property re-let periods of housing allocations made to transfer applicants.	Medium	Service Manager - Community Housing	Agreed	July 2017	December 2018
3.6.1	<p>Management should review the current approach adopted for the calculation of performance information in respect of housing voids.</p> <p>Management should ensure that reported performance information is accurate and complete and complies fully with the definition.</p>	Medium	Service Manager - Community Housing	Agreed	September 2016	March 2018

REPORT TO: Audit and Governance Committee
MEETING DATE: 28 November 2017
BY: Depute Chief Executive (Resources & People Services)
SUBJECT: Internal Audit Progress Report 2017/18

12

1 PURPOSE

- 1.1 To inform the Audit and Governance Committee of Internal Audit's progress against the annual audit plan for 2017/18.

2 RECOMMENDATION

- 2.1 That the Audit and Governance Committee note the contents of the Internal Audit Progress Report 2017/18.

3 BACKGROUND

- 3.1 This report is prepared to assist the Committee in their remit to evaluate Internal Audit's work and measure progress against the annual audit plan.
- 3.2 The progress made to date is outlined in the attached report.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial – None

6.2 Personnel – None

6.3 Other – None

7 BACKGROUND PAPERS

7.1 None

AUTHOR'S NAME	Mala Garden
DESIGNATION	Internal Audit Manager
CONTACT INFO	01620 827326
DATE	16 November 2017

INTERNAL AUDIT PROGRESS REPORT 2017/18

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Non-Residential Charging	We will examine the arrangements in place for the assessment and charging of clients receiving non-residential care.	September 2017	Completed
Counter Fraud Arrangements	We will examine the counter fraud arrangements operating within the Council with a view to ensuring that these are robust.	September 2017	Completed
Taxicard Scheme	We will examine the arrangements in place for the Council's Taxicard Scheme, which provides subsidised taxi travel for people with severe and permanent physical disability who do not have regular access to private motorised transport.	September 2017	Completed
Review of Previous Years' Work	Internal Audit will review the outcome of our previous years' work to ensure recommendations have been actioned as agreed and that risks accepted by Management have been properly managed.	September 2017	Completed
Training	We will examine the effectiveness of the controls surrounding training and development activity across the Council including attendance at conferences.	September 2017	Completed
Homelessness	We will review the procurement and payment arrangements in place for accommodation provided to homeless clients.	November 2017	Completed

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
ALEOs	We will review the governance arrangements operating within an Arms Length External Organisation.	November 2017	Completed
Review of Complaints Procedure	We will review the procedures in place for the handling of complaints received by the Council.	November 2017	Completed
School Meals Income	We will examine the arrangements in place for the collection, recording and banking of school meals income.	November 2017	In Progress
Review of Overtime	We will review the adequacy and effectiveness of the monitoring arrangements in place for those employees receiving overtime on a regular basis.	February 2018	In Progress
Performance Bonds	We will review the processes in place within the Council for the use of performance bonds.	November 2017	
Learning and Development	We will review the arrangements in place for community learning and development and the links to the Area Partnerships/Managers.	November 2017	
Housing Rent Arrears	We will examine the processes and controls in place for the recovery of housing rent arrears.	February 2018	

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Throughcare and Aftercare	We will review the arrangements in place for supporting young people looked after by East Lothian Council who are about to leave care or have recently left care.	February 2018	
Social Care Fund	We will review the arrangements in place within Adult Services for monitoring the use of the Social Care Fund.	February 2018	
Common Repairs	We will review the systems and processes in place for dealing with common repairs projects where a statutory notice has been issued by the Council and the Council is required to enforce the notice.	February 2018	
Review of Performance Indicators	Internal Audit will continue to review the systems in place for the preparation and reporting of Performance Indicators.	February 2018	
National Fraud Initiative	Time has been allocated for co-ordinating and reviewing data matches identified following the 2016/17 National Fraud Initiative exercise.	February 2018	
Review of Previous Years' Work	Internal Audit will review the outcome of our previous years' work to ensure recommendations have been actioned as agreed and that risks accepted by Management have been properly managed.	February 2018	

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Internal Audit Plan 2018/19	Internal Audit will present the detailed operational Audit Plan for 2018/19 for approval to the Audit and Governance Committee.	February 2018	
Council Tax – Liability	We will review the arrangements in place for determining Council Tax liability.	June 2018	
Non-Domestic Rates	An audit of Non-Domestic Rates (NDR) will be carried out. The review will focus on the procedures in place for the Billing and Collection of NDR.	June 2018	
Debtors	A review of the systems and processes in place for raising debtor invoices will be carried out to ensure that sundry income due to the Council is properly identified, collected and accounted for.	June 2018	
Procurement of Goods and Services – Property Maintenance	We will review the arrangements in place within the Council's Property Maintenance Section for the procurement of goods and services.	June 2018	
Care at Home Payments	We will review the internal controls in place for payments made to care at home providers used by the Council.	June 2018	

AUDIT REPORTS	SCOPE OF THE AUDIT	TARGET COMPLETION DATE	STATUS
Review of Previous Years' Work	Internal Audit will review the outcome of our previous years' work to ensure recommendations have been actioned as agreed and that risks accepted by Management have been properly managed.	June 2018	
Annual Internal Audit Report 2017/18	We will present the Annual Internal Audit Report based on Internal Audit activity undertaken for financial year 2017/18, as required by the Public Sector Internal Audit Standards.	June 2018	
Controls Assurance Statement 2017/18	Internal Audit will provide an opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control for the financial year 1 April 2017 to 31 March 2018.	June 2018	